

ALASKA LEGISLATURE SPECIAL COMMITTEE/SUBJECT FILES 8672

2576 SCOMM 111: DEFERRED MAINTENANCE TASK FORCE, 1997

Ohio
Fiscal Year 1993

State Tax	Total Collections (millions)	Amount Earmarked (millions)	Percent Earmarked	Recipient
Sales or Gross Receipts				
General sales and use	\$3,960.2	\$186.5	4.7 %	Local government fund and local government revenue assistance fund
Wine and mixed beverages	6.9	0.3	4.3	Ohio grape industries
Public utility excise	647.6	32.3	5.0	Local government fund and local government revenue assistance fund
Fire insurance	6.2	6.2	100.0	State fire marshal's fund
Horse racing (pari-mutuel)	13.7	8.2	59.9	Various racing association funds
		3.1	22.6	Local government
Liquor profits	76.6	2.0	2.6	Alcohol treatment and prevention
		18.1	23.6	Debt service on state economic development bonds
Income				
Personal income	4,718.1	222.7	4.7	Local government fund and local government revenue assistance fund
		268.8	5.7	Library and local government support fund
Corporate franchise	852.9	41.5	4.9	Local government fund and local government revenue assistance fund
		10.0	1.2	Litter control and recycling
Highway User				
Motor fuel	1,121.8	779.5	69.5	Highways—state
		111.3	9.9	Highways—municipal
		96.6	8.6	Highways—county
		52.0	4.6	Highways—townships
		52.0	4.6	Local transportation improvement program
		5.6	0.5	Waterway safety
		2.2	0.2	Ohio Turnpike
		22.6	2.0	Highway bond retirement
Motor fuel use	52.4	28.9	55.2	Highways—state
		23.5	44.8	Highway bond retirement
Miscellaneous				
Severance	9.2	9.2	100.0	Reclamation
Intangible property	13.1	8.2	62.6	Local government fund
Estate	216.2	140.8	65.1	Local governments
Total Tax Revenue:	\$12,245.0			
Total Dedicated Revenue:	\$2,132.1			
Proportion Earmarked to Total:	17.4%			

Oklahoma
Fiscal Year 1993

State Tax	Total Collections (millions)	Amount Earmarked (millions)	Percent Earmarked	Recipient
Sales or Gross Receipts	\$23.6	\$6.8	29.0 %	Cities and towns
Economic Development	59.6	49.8	83.6	Oklahoma bldg. bond sinking fund
Cigarette	0.9	0.9	100.0	Railroad maintenance rev. fund
Weight Car	2.5	2.4	96.5	Oklahoma tourism promotion rev. fund
Tourism Gross Receipts				
Highway User	76.1	18.4	24.2	County roads
Gas Fuel		24.9	32.7	State transportation fund
Excise	260.0	4.9	1.9	Cities and towns
		85.2	32.8	County roads
		142.3	54.7	State transportation fund
		23.6	9.1	Turnpike authority
Motor Vehicle Collections	509.2	12.8	2.5	Cities and towns
		29.9	5.9	Counties for roads
		3.4	0.7	County government
		10.7	2.1	County road fund
		14.9	2.9	County road improvement fund
		5.1	1.0	Oklahoma law enforce. retire. fund
		0.7	0.1	Public safety revolving fund
		149.3	29.3	School districts
		1.3	0.3	State transportation fund
		0.4	0.1	Trucking industry research fund
		0.1	0.02	Wildlife conservation fund
Motor fuel special assessment fee	21.6	13.8	64.0	State transportation fund
Special fuel use	0.4	7.8	36.2	Storage tank indemnity fund
		0.3	75.0	State transportation fund
Miscellaneous				
Occupational health and safety	1.7	1.6	93.8	Special occup. health and safety fund
Unemployment	3.5	0.4	10.7	Corp. commission plugging fund
Petroleum excise on gas		3.1	88.1	Oil conservation fund
Petroleum excise on oil	1.8	0.2	10.5	Corp. commission plugging fund
		1.5	84.9	Oil conservation fund
Severance on gas	259.3	19.0	7.3	Counties for roads
		151.7	58.5	Oklahoma teacher retire. system
		19.1	7.3	School districts
Severance on oil	134.6	10.0	7.4	Counties for roads
		10.0	7.5	School districts
Unclaimed property	10.0	0.3	3.0	Unclaimed property fund
Waste tire recycling	2.0	1.8	92.0	Waste tire recycling indem. fund
Total Tax Revenue	\$3,934.1			
Total Dedicated Revenue	\$828.2			
Proportion Earmarked to Total:	21.1%			

Oregon
Fiscal Year 1993

State Tax	Total Collections (millions)	Amount Earmarked (millions)	Percent Earmarked	Recipient
Sales or Gross Receipts				
Tobacco	\$86.2	\$5.6	6.5 %	Cities
		5.6	6.5	Counties
		5.6	6.5	Elderly transportation
Alcoholic beverage ^a	71.4	22.4	31.4	Cities
		5.2	7.3	Alcoholism programs
		0.1	0.2	Wine industry
		6.6	9.2	Counties
Insurance premiums	61.7	1.1	1.8	Insurance programs
Highway User				
Motor fuel ^b	308.2	181.3	58.8	State highways
		6.3	2.0	Administrative costs
		73.6	23.9	Counties
		47.0	15.3	Cities
Motor vehicle registration ^b	85.1	23.8	28.0	State highways
		10.3	12.1	Counties
		6.2	7.3	Cities
Motor carrier ^b	189.0	98.9	52.3	State highways
		40.2	21.3	Counties
		25.7	13.6	Cities
		24.2	12.8	Administrative costs
Operator's license ^b	19.3	19.3	100.0	Administrative costs
Miscellaneous				
Tire excise ^c	1.0	1.0	100.0	Waste toxic programs
Aircraft fuel	0.7	0.7	100.0	Aeronautics programs
Oil and gas severance	0.3	0.3	100.0	K-12 education
Timber severance	51.8	51.8	100.0	Offset local property tax
Forest products harvest	9.3	9.3	100.0	Forest research, marketing, and protection
Property in-lieu	3.5	3.5	100.0	Local government
Phone access	17.1	14.4	73.3	911 programs
		2.7	26.7	Other phone programs
Amusement device	1.9	0.7	35.3	Counties
		0.6	32.3	Youth conservation corps
Hazardous substance	2.0	2.0	100.0	Hazardous waste programs
Total Tax Revenue:	\$3,498.1			
Total Dedicated Revenue:	\$740.8			
Proportion Earmarked to Total:	21.2%			

Notes:

- a. The alcoholic beverage tax includes liquor store revenue.
- b. Constitutional dedication to highways; dedication to state/cities/counties is statutory.
- c. Tax repealed October 10, 1992.

**Pennsylvania
Fiscal Year 1993**

State Tax	Total Collections (millions)	Amount Earmarked (millions)	Percent Earmarked	Recipient
Sales or Gross Receipts				
Sales and use	\$4,848.3	\$19.5	0.4 %	Public transportation assistance fund
Foreign fire insurance	50.6	50.6	100.0	Firefighters' pensions
Foreign casualty insurance	112.1	112.1	100.0	Police pensions
Cigarette	341.4	11.3	3.3	Children's health fund
Income				
Corporate net income	1,526.1	70.0	4.6	Pa. industrial development fund
Highway User				
Liquid fuels	698.7	669.6	95.8	Motor license fund
		29.1	4.2	Liquid fuels tax fund (local roads)
Motor carriers/motor bus road	13.7	13.7	100.0	Motor license fund
Interstate bus compact	0.5	0.5	100.0	Motor license fund
Fuel surtax	22.2	22.2	100.0	Bridge improvement
Gross receipts ^a	0.7	0.7	100.0	Motor license fund
Oil company franchise	607.5	302.2	49.7	Motor license fund
		16.4	2.7	Local highway turnback program
		288.9	47.6	Misc. road and bridge improvements
Miscellaneous				
Aviation	9.3	9.3	100.0	Aviation grant programs
Capital stock and franchise	913.7	34.8	3.8	Hazardous sites cleanup fund
		3.8	0.4	Pa. state lottery fund
Public utilities realty	218.7	62.4	28.5	Public transportation assistance fund
Lease tax; tire fee; and vehicle rental fee	66.0	66.0	100.0	Public transportation assistance fund
Total Tax Revenue:	\$16,151.2			
Total Dedicated Revenue:	\$1,783.1			
Proportion Earmarked to Total:	11.0%			

Note:

a. This tax is on motor vehicles for hire on routes not located entirely in Pennsylvania.

**Rhode Island
Fiscal Year 1993**

State Tax	Total Collections (millions)	Amount Earmarked (millions)	Percent Earmarked	Recipient
Sales or Gross Receipts				
Sales and gross receipts	\$409.6	\$5.0 ^a	0.5 % ^a	Cities and towns
Income				
Personal income	498.6	•	•	Cities and towns
Highway User				
Motor fuel	109.1	64.1	58.8	Dept. of Transportation for intermodal surface transportation and R.I. Public Transit Authority
Total Tax Revenue:	\$1,359.9			
Total Dedicated Revenue:	\$69.1			
Proportion Earmarked to Total:	5.1%			

Note:

a. General revenue sharing of 6.1% combined sales and income tax revenue was delayed until FY 1994.

**South Carolina
Fiscal Year 1993**

State Tax	Total Collections (millions)	Amount Earmarked (millions)	Percent Earmarked	Recipient
Sales or Gross Receipts				
Sales	\$1,552.6	\$312.3	20.1 %	K-12 and higher education
Admissions	15.1	10.9	72.1	Tourism
Bingo	3.6	0.9	25.0	Local—aging
		2.7	75.0	Local—parks
Accommodation	18.1	18.1	100.0	Local government
Insurance	88.5	1.8	2.1	Workers' compensation claims of employees whose employers are underinsured
Highway User				
Gasoline	291.7	291.7	100.0	Highways
Highway use	3.4	3.4	100.0	Highways
Special fuel	49.2	49.2	100.0	Highways
Miscellaneous				
Documentary	14.8	1.3	8.7	Low-income housing
Fire academy bond	1.5	1.5	100.0	Retire debt
Petroleum inspection	12.0	12.0	100.0	Dept. of Agriculture to be used for inspection, testing, and analyzing petroleum products and other general state purposes
Gasoline county watercraft	1.1	1.1	100.0	Local government
Total Tax Revenue:	\$4,046.8			
Total Dedicated Revenue:	\$706.6			
Proportion Earmarked to Total:	17.4%			

Notes:

- State law requires that an amount equal to revenue from the state sales, alcoholic liquors, soft drinks, and commercial nuclear waste taxes be appropriated for education. In FY 1993, the amount was \$1,597 million. This is a spending requirement, not a revenue dedication.
- State law requires the state to appropriate not less than 4.5% of the latest completed fiscal year's total Budgetary General Fund revenues to local government. This is a spending requirement, not a revenue dedication.

**South Dakota
Fiscal Year 1993**

State Tax	Total Collections (millions)	Amount Earmarked (millions)	Percent Earmarked	Recipient
Sales or Gross Receipts				
Sales and use	\$279.1	\$157.0	56.3 %	K-12 education
Alcoholic beverage	8.8	2.2	25.0	Municipalities
Malt beverage	0.4	0.2	50.0	Local governments ^a
Malt beverage	6.1	1.5	24.5	Municipalities
Liquor	5.7	1.4	25.0	Municipalities
Income				
Bank franchise	5.4	3.9	72.2	Political subdivisions
Credit card operations	27.4	1.4	5.1	Counties with banks offering or doing credit card business
Highway User				
Motor fuel	78.6	78.6	100.0	State highway fund
Motor vehicle registration	26.8	26.8	100.0	State highway fund
License plate fees	30.0	28.8	96.0	Counties
Miscellaneous				
Inheritance	25.3	2.5	9.9	Counties
Mineral	6.3	1.3	20.0	Counties
Mineral severance	2.5	1.2	48.0	Counties
Total Tax Revenue:	\$653.1			
Total Dedicated Revenue:	\$306.8			
Proportion Earmarked to Total:	47.0%			

Note:

a. Distributed among levels of local government by some method such as share of property value.

**Tennessee
Fiscal Year 1993**

State Tax	Total Collections (millions)	Amount Earmarked (millions)	Percent Earmarked	Recipient
Sales or Gross Receipts				
Sales	\$2,900.0	\$1,949.2	67.2 %	Education
		24.1	0.8	Sinking fund
		125.2	4.3	Cities
Gross receipts	166.7	1.7	1.0	Highway fund
		15.0	9.0	Cities
		38.2	22.9	Counties
Beer	13.5	1.7	12.6	Highway fund
		1.4	10.4	Cities
		1.4	10.4	Counties
Alcoholic beverage	27.4	4.8	17.5	Counties
Tobacco	78.9	78.5	99.5	Education
Mixed drinks	23.3	11.2	48.1	Education
		7.3	31.3	Cities
		3.9	16.7	Counties
Income				
Personal income	95.1	24.7	26.0	Cities
		8.8	9.3	Counties
Excise	376.2	61.6	16.4	Sinking fund
		7.0	1.9	Cities
		3.7	1.0	Counties
Highway User				
Gasoline	491.0	185.9	37.9	Highway fund
		120.7	24.6	Sinking fund
		60.6	12.3	Cities
		121.0	24.6	Counties
Motor fuel	105.5	76.6	72.6	Highway fund
		9.3	8.8	Cities
		18.4	17.4	Counties
Special petroleum products	48.3	13.8	28.6	Underground storage tank fund
		22.3	46.2	Highway fund
		7.4	15.3	Cities
		4.6	9.5	Counties
Motor vehicle registration	155.7	139.2	89.4	Highway fund
Motor vehicle title	8.5	0.6	7.1	Sinking fund
Miscellaneous				
Franchise	229.3	18.0	7.8	Sinking fund
Severance	1.0	0.7	70.0	Counties
Total Tax Revenue:	\$5,267.7			
Total Dedicated Revenue:	\$3,168.5			
Proportion Earmarked to Total:	60.1%			

Texas
Fiscal Year 1993

State Tax	Total Collections (millions)	Amount Earmarked (millions)	Percent Earmarked	Recipient
Sales or Gross Receipts				
Utilities	\$182.0	\$45.5	25.0 %	Public education (K-12)
Insurance occupation	384.5	96.1	25.0	Public education (K-12)
Alcoholic beverage	144.2	24.9	17.3	Enforcement
		29.8	25.0	Public education (K-12)
Cigarette	564.4	27.9	4.8	State and local parks
		10.0	1.8	Public education (K-12)
Hotel	135.7	11.2	8.3	Department of Commerce
Mixed drinks gross receipts	248.3	25.6	10.7	Cities
		25.6	10.7	Counties
Highway User				
Motor fuel lubricant sales	19.8	19.8	100.0	State highways
Motor carriers	16.6	4.1	25.0	Public education (K-12)
Motor vehicle sales	1,306.1	326.5	25.0	Public education (K-12)
Motor vehicle use	0.0	0.0	25.0	Public education (K-12)
Motor vehicle registration	588.5	586.0	99.6	State highways
Gasoline, diesel, LPG	2,085.5	21.2	1.0	Enforcement
		7.3	—	\$7.3 million annual dedication to local highways
		504.7	25.0	Public education
		1,506.9	74.0	State highways
		4.1	—	Portion of estimated unclaimed motorboat fuel refunds allocated to public education (statutory dedication)
Miscellaneous				
Cement	4.6	1.1	25.0	Public education (K-12)
Coin-operated amusement	6.6	1.6	25.0	Public education (K-12)
Professional	3.9	1.0	25.0	Public education (K-12)
Oil production	491.3	2.4	0.5	Enforcement
		122.2	25.0	Public education (K-12)
Natural gas	682.9	3.4	0.5	Enforcement
		169.9	25.0	Public education (K-12)
Oil and gas well	4.8	1.2	25.0	Public education (K-12)
Sulphur	2.8	0.7	25.0	Public education (K-12)
Total Tax Revenue:	\$17,010.7			
Total Dedicated Revenue:	\$3,580.7			
Proportion Earmarked to Total:	21.0%			

Utah
Fiscal Year 1993

State Tax	Total Collections (millions)	Amount Earmarked (millions)	Percent Earmarked	Recipient
Sales or Gross Receipts				
Gross receipts	\$4.3	\$4.3	100.0 %	Public education
Income				
Individual income	994.6	994.6	100.0	Public education
Corporate franchise	103.1	103.1	100.0	Public education
Highway User				
Motor fuel	154.1	154.1	100.0	Transportation
Special fuel	37.8	37.8	100.0	Transportation
Motor vehicle registration	21.4	21.4	100.0	Transportation
Miscellaneous				
Mineral production	8.3	8.3	100.0	Public education
Total Tax Revenue: \$2,414.7				
Total Dedicated Revenue: \$1,323.6				
Proportion Earmarked to Total: 54.8%				

Vermont
Fiscal Year 1993

State Tax	Total Collections (millions)	Amount Earmarked (millions)	Percent Earmarked	Recipient
Highway User				
Motor fuel	\$55.6	\$55.6	100.0 %	Transportation fund
Purchase/use	36.9	36.9	100.0	Transportation fund
Gasoline surcharge	3.0	3.0	100.0	Petroleum cleanup fund
Fuel gross receipts	0.9	0.9	100.0	Weatherization trust fund
Miscellaneous				
Property transfer	11.1	3.4	30.6	Housing conservation trust fund; municipal regional planning fund
Total Tax Revenue:	\$797.2			
Total Dedicated Revenue:	\$99.8			
Proportion Earmarked to Total:	12.5%			

Virginia
Fiscal Year 1993

State Tax	Total Collections (millions)	Amount Earmarked (millions)	Percent Earmarked	Recipient
Sales or Gross Receipts				
Sales and use	\$1,679.9	\$480.2	28.6 %	K-12 education
		238.3	14.2	Highways
Alcoholic beverage	26.8	17.9	66.8	Local government
Highway User				
Motor fuel	642.6	642.6	100.0	Highways/transportation
Motor vehicle sales	266.6	266.6	100.0	Highways/transportation
Motor vehicle license	117.4	117.4	100.0	Highways/transportation
Miscellaneous				
Miscellaneous	44.3	44.3	100.0	Highways/transportation
Bank franchise	23.0	18.4	80.0	Highways/transportation
Total Tax Revenue:	\$7,398.8			
Total Dedicated Revenue:	\$1,825.7			
Proportion Earmarked to Total:	24.7%			

**Washington
Fiscal Year 1993**

State Tax	Total Collections (millions)	Amount Earmarked (millions)	Percent Earmarked	Recipient
Sales or Gross Receipts				
Sales and use	\$3,945.5	\$2.8	0.1 %	Water pollution control
		6.4	0.2	Cities
		9.6	0.2	Counties
		135.8	3.4	State general obligation bond retirement
Carbonated beverage	23.5	23.5	100.0	Drug enforcement and education
Cigarette	128.5	11.4	8.8	Drug enforcement and education
		30.2	23.5	Water pollution Control
Foodfish/shellfish	1.8	0.02	1.1	Management of state game and game fish
Alcoholic beverage	154.4	7.1	4.6	Drug enforcement and education
		9.3	6.0	Cities, counties, and drug/alcohol programs
		1.8	1.2	Drug enforcement and education
		11.4	7.4	Cities and counties
		0.1	0.1	Washington wine commission
		0.1	0.1	Wine grape research
		1.1	0.7	Drug enforcement and education
Oil spill administration	3.5	3.5	100.0	Oil spill administration
Oil spill response	2.3	2.3	100.0	Oil spill response
Pari-mutuel	7.6	0.2	3.0	State trade fair assistance
		3.5	46.0	County fair assistance
		3.8	50.1	Horse racing commission
Petroleum products	5.1	5.1	100.0	Pollution liability insurance program
Public utilities disric privilege	22.3	12.2	54.9	Local taxing districts
Public utilities	160.2	4.1	2.5	Local public works assistance
Hotel/motel tax in King County	14.5	12.2	84.0	Convention center—capital
Tobacco products	14.1	4.1	29.2	Water pollution control
Travel trailer/camper excise	5.4	0.3	5.4	Air pollution control
		0.7	12.9	Counties
		0.7	12.9	Cities based on population
		0.5	8.6	Transportation
Watercraft excise (1993-95 only)	6.7	1.0	14.9	Local boating programs

Washington (continued)
Fiscal Year 1993

State Tax	Total Collections (millions)	Amount Earmarked (millions)	Percent Earmarked	Recipient
Insurance premiums tax	\$124.4	\$2.2	1.8 %	Municipal firefighters' pensions
		2.5	2.0	Firemen's pensions
Litter tax	4.4	4.4	100.0	Waste reduction, recycling and litter control
Rental car tax	3.1	3.1	100.0	Same as motor vehicle excise tax
Highway User				
Motor vehicle excise	608.6	49.8	8.2	Transportation
		8.0	1.3	Administration
		8.0	1.3	County sales and use tax equalization
		23.6	3.9	City sales and use tax equalization
		44.0	7.2	Cities for police/fire/public health
		5.9	1.0	Criminal justice assistance for high-crime cities
		5.9	1.0	City population distribution for criminal justice
		29.7	4.9	County criminal justice
		20.3	3.3	Ferries—operating
		40.6	6.7	Ferries—capital
		5.4	0.9	High-capacity transportation
		136.0	22.3	Mass transit
		3.7	0.6	Central Puget Sound public transportation
		1.1	0.2	Public transportation systems
		6.1	1.0	Transportation
		11.3	1.9	Air pollution control
Motor vehicle fuel	596.0	286.3	48.0	State highways
		61.1	10.3	Cit, highways
		140.8	23.6	County highways
		79.9	13.4	Urban highway grants
		27.9	4.7	Ferries
Miscellaneous				
Aircraft excise	0.2	0.02	8.3	Aeronautics
Aircraft fuel	0.8	0.8	100.0	Aeronautics
Hazardous substance	39.3	39.3	100.0	Toxics control
Hazardous waste generators	0.8	0.8	100.0	Hazardous waste disposal and education
Hazardous waste generators planning	1.4	1.4	100.0	Hazardous waste disposal and education

Washington (continued)
Fiscal Year 1993

State Tax	Total Collections (millions)	Amount Earmarked (millions)	Percent Earmarked	Recipient
Real estate excise	\$223.7	\$17.2	7.7 %	Local public works assistance
		207.3	92.7	K-12 education
Refuse collection	17.7	0.3	0.1	Low-income housing assistance
		17.7	100.0	Local public works assistance
Replacement tire (expired 10/1/94)	2.9	2.3	16.0	Convention Center—operations
		2.9	100.0	Vehicle tire recycling
Solid waste (expires 7/1/95)	4.7	4.7	100.0	Solid waste management
State property	883.5	883.5	100.0	K-12 education
Wood stove	0.7	0.7	100.0	Wood stove education and enforcement
Total Tax Revenue:	\$8,284.2			
Total Dedicated Revenue:	\$2,491.4			
Proportion Earmarked to Total:	30.1%			

**West Virginia
Fiscal Year 1993**

State Tax	Total Collections (millions)	Amount Earmarked (millions)	Percent Earmarked	Recipient
Sales or Gross Receipts				
Soft drinks	\$11.1	\$11.1	100.0 %	West Virginia University Medical School
Consumer sales—additional 5% on sales of beverages (alcoholic) outside municipalities	3.8	3.8	100.0	Counties and municipalities
Consumer sales on alcoholic beverages sold by private clubs	0.6	0.6	100.0	State police drunk driving prevention fund
Consumer sales	5.0	5.0	100.0	To pay off loan to General Revenue Fund to cover shortfall
Consumer sales on aviation fuel	0.5	0.5	100.0	Aeronautics Commission for repair and construction of airports
Insurance premium (CY 1993)	11.8	11.8	100.0	Municipal pension and protection fund (police and firefighters)
Insurance premium— additional 1% (CY 1993)	11.8	5.9	50.0	Volunteer fire departments
		5.9	50.0	Teachers retirement system supplemental benefits
Highway User				
Gasoline and motor carrier road	169.5	169.5	100.0	Highways ^a
Sales on fuel—wholesale	61.0	61.0	100.0	Highways ^a
Registration	69.8	68.4	98.0	Highways ^a
		1.4	2.0	Highway litter control
Privilege	96.7	96.7	100.0	Highways ^a
Miscellaneous				
Coal severance	18.5	12.7	68.6	Counties
		5.8	31.4	Municipalities
Portion of marriage and divorce filing fees	0.5	0.5	100.0	Regional domestic violence programs and shelters
Total Tax Revenue:	\$2,404.1			
Total Dedicated Revenue:	\$450.6			
Proportion Earmarked to Total:	18.7%			

Note:

- a. Includes general operations of the Division of Highways and the Division of Motor Vehicles. It includes state and local roads except those that are the responsibility of a municipality.

Wisconsin
Fiscal Year 1993

State Tax	Total Collections (millions)	Amount Earmarked (millions)	Percent Earmarked	Recipient
Highway User				
Motor fuel	\$589.4	\$589.4	100.0 %	State transportation fund
Miscellaneous				
Aeronautical	9.0	9.0	100.0	State transportation fund
Railroad	8.0	8.0	100.0	State transportation fund
Real estate transfer	31.6	6.3	19.9	Counties
Forestry property ^a	43.0	43.0	100.0	State conservation fund
Forest crop severance	1.3	1.3	100.0	State conservation fund
Temporary recycling surcharge	36.8	36.8	100.0	State recycling programs
Total Tax Revenue:	\$7,564.8			
Total Dedicated Revenue:	\$693.8			
Proportion Earmarked to Total:	9.2%			

Note:

a. Includes \$11.1 million of one-time revenues.

Wyoming
Fiscal Year 1993

State Tax	Total Collections (millions)	Amount Earmarked (millions)	Percent Earmarked	Recipient
Sales or Gross Receipts				
Sales and use	\$171.8	\$60.1	35.0 %	Cities, towns, and counties
Cigarette	5.6	4.3	76.8	Cities, towns, and counties
Highway User				
Fuel	37.2	12.0	32.3	Cities, towns, and counties
Miscellaneous				
Severance	253.9	23.3	9.2	Cities, towns, and counties
Total Tax Revenue:	\$586.7			
Total Dedicated Revenue:	\$99.7			
Proportion Earmarked to Total:	17.0%			

Appendix B

State Legislative and Executive Staff Who Provided Information for *Earmarking State Taxes*

The National Conference of State Legislatures thanks the following legislative staff and state revenue department officials for their outstanding cooperation in supplying us with the information that made this report possible.

State	Contact	Office
Alabama	Norris Green	Legislative Fiscal Office
Alaska	Jetta Whittaker	Legislative Finance Division
Arizona	Justin Garosi	Joint Legislative Budget Committee
Arkansas	Gordon Rucker	Bureau of Legislative Research
California	Dan Rabovsky	Legislative Analyst Office
Colorado	Tom Dunn	Department of Revenue
Connecticut	Dan Schnobrich	Office of Legislative Analysis
Delaware	David Bowman	Department of Finance
Florida	Beth Lines	Economic and Demographic Research Division
Georgia	Monnie Sellars	House Ways & Means
Hawaii	Robert Koike	Department of Taxation
Idaho	Gordon Fisher	Legislative Budget Office
Illinois	Ann Sundeen	Economic and Fiscal Commission
Indiana	James Mundt	Fiscal & Management Analysis
Iowa	John Mueller	Legislative Fiscal Bureau
Kansas	Chris Courtwright	Legislative Research Department
Kentucky	Terry Jones	Legislative Research Commission
Louisiana	Greg Albrecht	Legislative Fiscal Office
Maine	Kevin Madigan	Office of Fiscal & Program Review
Maryland	William Ratchford II	Department of Fiscal Services
Massachusetts	Ellen O'Brien	Senate Ways and Means Committee
Michigan	Jay Wortley	Senate Fiscal Agency
Minnesota	Anita Neumann	Senate Tax Committee
Mississippi	Tom Kynerd	Joint Legislative Budget Office
Missouri	Jan Heckemeyer	Division of Accounting
Montana	Clayton Schenck	Legislative Fiscal Analyst Office
Nebraska	Michael Calvert	Legislative Fiscal Office
Nevada	Ted Zuend	Fiscal Analysis Division
New Hampshire	Charles Connor	Legislative Budget Assistant's Office
New Jersey	Alan Kooney	Office of Legislative Services
New Mexico	Laird Graeser	Tax Research Division
New York	Nick Gugie	Department of Taxation and Finance
North Carolina	Ruth Apple	Fiscal Research Division
North Dakota	Allen Knudson	Legislative Council

Appendix B, continued

State	Contact	Office
Ohio	Fredrick Church	Legislative Budget Office
Oklahoma	Carolyn Dennis	Senate Fiscal Staff
Oregon	Jim Scherzinger	Legislative Revenue Office
Pennsylvania	Mark Ryan	Bureau of Fiscal Policy
Rhode Island	James Mahoney	Speaker's Policy Office
South Carolina	Donald Lovett	Office of Comptroller General
South Dakota	Dale Bertsch	Legislative Research Council
	Mark Zickrick	Legislative Research Council
Tennessee	Allen Barron	Senate and House Finance Ways and Means
Texas	Dan Foster	Legislative Budget Board
Utah	Leo Memmott	Legislative Fiscal Analyst
Vermont	Douglas J. Williams	Legislative Fiscal Office
Virginia	James Regimbal	Senate Finance Committee
Washington	Terry Wilson	Senate Ways and Means Committee
West Virginia	Randi Brooks	Legislative Auditors Office
Wisconsin	Dave Loppnow	Legislative Fiscal Bureau
Wyoming	Stephen Sommers	Budget and Fiscal Manager

NOTES

1. The three major previous multistate studies of earmarking are Tax Foundation, *Earmarked State Taxes* (New York, 1965); Glenn Splieth, memorandum to Legislative Fiscal Committee on Earmarking State Tax Revenue (Helena, Mont.: Office of the Legislative Fiscal Analyst, November 30, 1970); and Martha A. Fabricius and Ronald K. Snell, *Earmarking State Taxes, 2nd Edition* (Denver, Colo.: National Conference of State Legislatures, 1990).

2. J. Wilner Sundelson, *Budgetary Methods in National and State Government*, Special Report of the New York State Tax Commission, No. 14 (Albany, N.Y.: J.B. Lyon Company, 1938), pp. 193-236.

3. Tax Foundation, *Earmarked State Taxes*, pp. 26-28.

4. Harold Hovey, "Earmarking Tax Revenues," *State Policy Reports* 8, Issue 9 (May 1990): 6.

5. Mary O. Borg and Paul M. Mason, "The Budgetary Incidence of a Lottery to Support Education," *National Tax Journal* 41, no. 1 (March 1988): 81-82.

ABOUT THE AUTHORS

Arturo Pérez is a policy specialist in NCSL's Fiscal Affairs Program who specializes in state budget policy, including capital budgeting and other general fund programs, and assists with fiscal research projects. He was lead staff for *State Fiscal Outlook 1995* and coordinates efforts for state budget updates issued during legislative sessions. He has represented NCSL on technical assistance assignments to Costa Rica and Chile. Mr. Pérez received his bachelor's degree from Texas A&M University and his master's degree from the L.B.J. School of Public Affairs at the University of Texas at Austin. He has worked for the U.S. House Select Committee on Hunger and the Texas departments of agriculture and human services. He has been at NCSL since 1990.

Ronald K. Snell is director of the Economic, Fiscal, and Human Resources Division of the National Conference of State Legislatures, which comprises the NCSL's programs in education, health, labor, arts and tourism, criminal justice, economic development, and state fiscal affairs. Mr. Snell has been director of NCSL's Fiscal Affairs Program since 1988 and in that capacity conducts research on overall state fiscal conditions, the legislative budget process, and public pensions and retirement systems. His recent publications include *Financing State Government in the 1990s* and *Amending the Federal Constitution to Require a Balanced Budget*. A graduate of Bates College, Mr. Snell received his Ph. D. degree from Princeton University. Before coming to NCSL in 1988, he was director of the fiscal program for the Oklahoma House of Representatives. He has been on the faculties of the University of Oklahoma and San Diego State University.

ATTACHMENT B

**Idaho's Statutes Concerning the Permanent Building Fund
(IC 57-1101 through 57-1113)**

IDAHO CODE

CONTAINING THE

GENERAL LAWS OF IDAHO

ANNOTATED

ORIGINALLY PUBLISHED BY AUTHORITY OF
LAWS 1947, CHAPTER 224

REPUBLISHED BY AUTHORITY OF
LAWS 1949, CHAPTER 167 AS AMENDED

Compiled Under the Supervision of the
Idaho Code Commission

PHILLIP M. BARBER

B. NEWAL SQUYRES, JR.

M. ALLYN DINGEL, JR.

COMMISSIONERS

MAX M. SHEILS, JR.

EXECUTIVE SECRETARY

VOLUME TEN

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CHAPTER 11
PERMANENT BUILDING FUND

SECTION.

- 57-1101. Creation of permanent building fund.
- 57-1102. Transfer of unexpended appropriation for remodeling school buildings.
- 57-1103. Transfer of unexpended appropriation for remodeling hospital buildings.
- 57-1104. Transfer of unexpended balances in certain bond accounts.
- 57-1105. Appropriation — Purpose — Limitations and conditions.
- 57-1105A. Authority of legislature to make grants from permanent building fund to junior college districts.

SECTION.

- 57-1106. [Repealed.]
- 57-1107. Construction of improvement upon approval — Payment.
- 57-1108. Permanent building fund created — Use of fund.
- 57-1109. Net revenues received from abandoned property deposited to credit of general account.
- 57-1110. Additional tax on filing income tax credited to permanent building fund.
- 57-1111. [Repealed.]
- 57-1112. Anticipation of revenues in permanent building fund.
- 57-1113. Refund of tax.

57-1101. Creation of permanent building fund. — There is hereby created in the state treasury, a permanent building fund. [1947, ch. 116, § 1, p. 274.]

Sec. to sec. ref. This chapter is referred to in §§ 46-713 and 67-5710.

Sections 57-1101 — 57-1107 are referred to in § 46-713.

Collateral References. 64 C.J.S., Municipal Corporations, § 1884.

57-1102. Transfer of unexpended appropriation for remodeling school buildings. — All encumbered but unexpended, and unencumbered balances in the appropriations made by Chapter 17, First Extraordinary Session Laws, Twenty-eighth Legislature, are hereby transferred into and made part of the permanent building fund, and the same are hereby reappropriated and set aside in the permanent building fund to be used exclusively for the purposes set forth in said act, without impairment of existing encumbrances. [1947, ch. 116, § 2, p. 274.]

Compiler's notes. Chapter 17, First Extraordinary Session Laws, Twenty-eighth Legislature provided for an appropriation of moneys from the general fund of the state of Idaho to the Board of Regents, University of

Idaho, and State Board of Education for the planning, remodeling and construction of necessary buildings at the U. of I. Southern Branch, the State School for the Deaf and Blind, and Idaho Industrial Training School.

57-1103. Transfer of unexpended appropriation for remodeling hospital buildings. — All encumbered but unexpended, and unencumbered balances in the appropriations made by Chapter 39, First Extraordinary Session Laws, Twenty-eighth Legislature, are hereby transferred into and shall constitute a part of the permanent building fund, and the same are hereby reappropriated and set aside in the permanent building fund to be used exclusively for the purposes set forth in said act, without impairment of existing encumbrances. [1947, ch. 116, § 3, p. 274.]

Compiler's notes. Chapter 39, First Extraordinary Session Laws, Twenty-eighth Legislature provided for an appropriation of moneys from the general fund of the state of Idaho to the Department of Charitable Insti-

tutions for the State Hospital North, the State Hospital South, and the State School and Colony, for the planning and construction of buildings.

57-1104. Transfer of unexpended balances in certain bond accounts. — It is declared hereby that the bond issues heretofore authorized by Chapter 206, 1939 Session Laws, and Chapter 186, 1941 Session Laws have been retired in full by payment; and the balances remaining unexpended in the bond accounts created by reason of such bond issues are hereby transferred into and made part of the permanent building fund and disposed of as follows: The residue in the bond account for State Hospital North, Orofino, \$664.10 more or less, is transferred into the permanent building fund and the bond account is closed, the project having been completed; the residue in the bond account for equipping and furnishing the new Boy's Dormitory, Industrial School, St. Anthony, \$621.24 more or less, is transferred into the permanent building fund and the bond account is closed, the project having been completed; the residue in the bond account for fire escapes, Idaho State School for the Deaf and the Blind, Gooding, \$1,058.20 more or less, is transferred into the permanent building fund and the bond account is closed, the project having been completed; the residue in the bond account for remodeling the Boys' dormitory at the State School for the Deaf and the Blind, Gooding, \$13.85 more or less, is transferred into the permanent building fund, and the bond account is closed, the project having been completed; the residue in the bond account for heating plant and laundry room at the Idaho State School for the Deaf and the Blind, Gooding, \$45.36 more or less, is transferred into the permanent building fund and the bond account is closed, the project having been completed. The residue in the bond account, State Hospital South, Blackfoot, \$26,537.66 more or less, is hereby transferred into the permanent building fund and appropriated and set aside in the permanent building fund without impairment of existing encumbrances, for completion of the unfinished project for which the said bonds were issued; the residue in the bond account, State Historical Society, Boise, \$14,431.31 more or less, is hereby transferred into the permanent building fund and appropriated and set aside in the permanent building fund without impairment of existing encumbrances, for completion of the unfinished project for which the said bonds were issued; and the residue in the bond account for Eagle Island Dormitory, Boise, \$14,341.31 more or less, is hereby transferred into the permanent building fund, and appropriated and set aside in the permanent building fund without impairment of existing encumbrances, for completion of the unfinished project for which the said bonds were issued. [1947, ch. 116, § 4, p. 274.]

Compiler's notes. Chapter 206, S.L. 1939 provided for the construction and remodeling of buildings at the State Hospital North, the State Hospital South, the Deaf and Blind School and for the State Historical Society at Boise, making provisions for such construction by a loan and providing for the payment of the bonds.

Chapter 186, S.L. 1941 provided for raising fund to be used for specified purposes at certain public educational institutions, the penitentiary and Eagle Island Prison Farm and the payment of such bond issued at maturity.

57-1105. Appropriation — Purpose — Limitations and conditions. — All unencumbered and otherwise unappropriated funds now or hereafter placed in the permanent building account are hereby perpetually appropriated to the permanent building fund advisory council and the division of public works, subject to the provisions of chapter 57, title 67, Idaho Code. [1947, ch. 116, § 5, p. 274; am. 1989, ch. 39, § 1, p. 52.]

Compiler's notes. Section 1 of S.L. 1950 (E.S.), ch. 55, appropriated \$2,000,000 from the general fund into the permanent building fund. Section 2 of said act exempted the appropriation from §§ 67-3601 — 67-3614. Section 3 of said act prohibited the making of contracts under the permanent building fund

until approved by the board of examiners and, in cases where they are concerned, the board of regents or the board of education. Section 4 of said act provided that the act should be in full force and effect 60 days after its passage and approval. Approved March 7, 1950.

57-1105A. Authority of legislature to make grants from permanent building fund to junior college districts. — It is hereby declared that upon the recommendation of the permanent building fund advisory council or upon its own motion the legislature is empowered to make grants from the permanent building fund to the junior college districts of the state of Idaho. Said grants may be used by said junior college districts for the construction of physical plant facilities. [I.C., § 57-1105A, as added by 1969, ch. 249, § 1, p. 774.]

Compiler's notes. Section 2 of S.L. 1969, ch. 249 declared an emergency. Approved March 25, 1969.

Cross ref. Junior colleges, §§ 33-2101 — 33-2144.

57-1106. Limiting availability and use of funds — Duties of state board of examiners and state planning board [division of tourism and industrial development] — Application limited. [Repealed.]

Compiler's notes. This section, which comprised 1947, ch. 116, § 6, p. 274; am. 1947, ch. 196, § 1, p. 472; am. 1949, ch. 66,

§ 1, p. 112, was repealed by S.L. 1989, ch. 39, § 2.

57-1107. Construction of improvement upon approval — Payment. — Upon legislative appropriation from the permanent building account, it shall be the duty of the permanent building fund advisory council to cause the approved construction, acquisition or improvement to be promptly completed in accordance with the terms of the approving legislation, and to be paid for on claims presented against the state out of the permanent building fund herein created and appropriated for that purpose. [1947, ch. 116, § 7, p. 274; am. 1947, ch. 196, § 2, p. 472; am. 1989, ch. 39, § 3, p. 52.]

Compiler's notes. S.L. 1947, ch. 116 skipped the number "6" in numbering its sections, and the amendment by S.L. 1947, ch.

196 was for the purpose of correcting section numbers, changing 7 to 6 and 8 to 7, respectively.

57-1108. Permanent building fund created — Use of fund. — The permanent building fund is hereby created and established in the state treasury to which shall be deposited all revenues derived from taxes imposed and transfers authorized pursuant to the provisions of this act. All moneys now or hereafter in the permanent building fund are hereby dedicated for the purpose of building needed structures, renovations, repairs to and remodeling of existing structures at the several state institutions and for the several agencies of state government. [1961, ch. 43, § 1, p. 66.]

Compiler's notes. The words "this act" refer to S.L. 1961, ch. 43 compiled as §§ 23-404, 23-1008, 57-1108 — 57-1110, 57-1112.

Section 2 of S.L. 1961, ch. 43 was repealed by S.L. 1974, ch. 211, § 22, p. 1548 and § 3 is compiled as § 23-1008.

Cross ref. Beer tax, additional tax credited to permanent building fund, § 23-1008.

Cigarette tax, portion credited to permanent building fund, § 63-2520.

Liquor fund, portion of excess, § 23-404.

Net revenues from abandoned property, §§ 14-501 — 14-532, 57-1109.

Sales tax fund, payments from, § 63-3638.

Sec. to sec. ref. This section is referred to in §§ 63-2520 and 63-3638.

Sections 57-1108 — 57-1113 are referred to in § 63-3402a.

57-1109. Net revenues received from abandoned property deposited to credit of general account. — Any net revenues derived under and pursuant to the provisions of sections 14-501 — 14-543, Idaho Code, shall be deposited by the authority collecting the same directly to the credit of the general account. [1961, ch. 43, § 4, p. 66; am. 1982, ch. 136, § 1, p. 387.]

Compiler's notes. Sections 14-501 — 14-543 referred to in this section were repealed by S.L. 1983, ch. 209, § 1 and were replaced by §§ 14-501 — 14-541 as enacted

by S.L. 1983, ch. 209, § 2.

Section 3 of S.L. 1961, ch. 43 is compiled as § 23-1008, and section 5 was repealed.

57-1110. Additional tax on filing income tax credited to permanent building fund. — The state tax commission of the state of Idaho is hereby directed to deposit the proceeds of the tax imposed by chapter 303, Idaho Session Laws of 1959 [§§ 63-3082 — 63-3087], directly to the credit of the permanent building fund. [1961, ch. 43, § 6, p. 66.]

Compiler's notes. The office of the state tax collector has been abolished and all the powers and duties conferred upon the state tax commission. All references in the laws of the state of Idaho to the state tax collector shall be taken to mean and refer to the state tax commission. See § 63-3402a.

Section 5 of S.L. 1961, ch. 43 is compiled as § 23-404.

Section 7 of S.L. 1961, ch. 43 made appropriations from the permanent building fund for various purposes.

57-1111. Permanent building fund advisory council — Commissioner of public works, duties. [Repealed.]

Compiler's notes. This section which comprised S.L. 1961, ch. 43, § 8, p. 66, was repealed by S.L. 1974, ch. 34, § 1, p. 988.

Section 3 of S.L. 1974, ch. 34 (§ 67-5710) read: "The members of the permanent building fund advisory council, appointed pursuant

to the provisions of section 57-1111, Idaho Code, shall continue in office as members of the permanent building fund advisory council provided in section 67-5710, Idaho Code, and shall serve for the balance of the term to which originally appointed."

57-1112. Anticipation of revenues in permanent building fund. — The state treasurer is hereby authorized and directed to anticipate the revenues in the permanent building fund by the issuance of tax anticipation notes in accordance with authority conferred by sections 63-3201, 63-3202, 63-3203, 63-3204, and 63-3205, Idaho Code, as amended by chapter 172, Idaho Session Laws of 1957, and in accordance with the procedures and subject to the limitations provided in those sections, as amended, in the same manner as though the revenues in the general fund were being anticipated. [1961, ch. 43, § 10, p. 66.]

Compiler's notes. Section 63-3205, referred to in this section, was repealed by § 1 of S.L. 1983, ch. 102.

Section 9 of S.L. 1961, ch. 43 contained an appropriation.

Section 11 of S.L. 1961, ch. 43 provided that the act should become effective on and after July 1, 1961.

Sec. to sec. ref. This section is referred to in § 67-1212.

57-1113. Refund of tax. — When it is determined that a taxpayer is entitled to a refund of beer tax, cigarette tax or the income tax filing fee, after such or any portion thereof has been credited to the permanent building fund, the tax collector hereby is empowered to authorize and direct refund of said tax, or portion thereof so credited, from said permanent building fund.

When it is determined that a taxpayer is entitled to a refund of liquor funds after the same has been credited to the permanent building fund, the superintendent of the Idaho state dispensary hereby is empowered to authorize and direct refund of said tax, or portion thereof so credited, from said permanent building fund. [I.C., § 57-1113, as added by 1963, ch. 97, § 1, p. 315.]

Compiler's notes. The office of the state tax collector has been abolished and all the powers and duties conferred upon the state tax commission. All reference in the laws of the state of Idaho to the state tax collector shall be taken to mean and refer to the state

tax commission. See § 63-3402a.

Cross ref. Beer tax, additional tax credited to permanent building fund, § 23-1008.

Cigarette tax, portion credited to permanent building fund, § 63-2520.

CHAPTER 12

TAYLOR GRAZING ACT FUNDS

SECTION.

57-1201. Distribution of funds to counties by state treasurer.

57-1202. Deposit of funds with county treasurer — Grazing district treasurer — Warrants against fund.

SECTION.

57-1203. Expenditure of funds — Purposes.

57-1204. State grazing districts and boards authorized and created.

57-1205. Grazing board central committee — Powers and duties.

57-1201. Distribution of funds to counties by state treasurer. — All funds received by the state of Idaho, as its distributive share of the amounts collected by the United States Government under the provisions of the Congress of June 28, 1934 (48 Stat. 1269) known as the Taylor Grazing Act, and any act amendatory thereof, shall be deposited with the state

ATTACHMENT C

**Tennessee's Statutes Concerning the State Office Buildings and Support Facilities
Revolving Fund (TCA 9-4-901 through 9-4-907)**

Tennessee Code Annotated *1996 Supplement*

Updated through the 1996 Session of the General Assembly

Volume 3A *1992 Replacement*

THE OFFICIAL TENNESSEE CODE

Prepared Under the Supervision of the
Tennessee Code Commission



A. A. BIRCH, JR., Chair
JAMES A. CLODFELTER, Executive Secretary
CHARLES W. BURSON
SUSAN S. JONES
LYLE REID

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1996

Amendments. The 1996 amendment deleted (a)(1)(B)(i)(g).

Effective Dates. Acts 1996, ch. 621, § 19, March 18, 1996.

Section to Section References. This section is referred to in §§ 9-4-203, 9-4-302, 9-4-601, 9-4-603, 56-7-2345.

9-4-603. Pooled investment fund.

Cross-References. Public deposit security trust fund, § 9-4-514.

Section to Section References. This section is referred to in §§ 4-26-106, 4-37-110, 9-4-205 — 9-4-207, 9-4-303, 9-4-514, 9-4-804,

9-4-904, 9-9-108, 9-9-110, 40-24-107, 49-3-358, 49-4-203, 49-50-1305, 62-19-116, 62-37-120, 66-29-151, 67-3-120, 68-1-1301, 68-203-101, 68-215-110, 70-8-110, 71-4-509.

PART 7—LOCAL GOVERNMENT INVESTMENT POOL

9-4-701. Purpose and findings.

Section to Section References. This part is referred to in §§ 5-8-301, 7-39-312, 7-82-108, 9-1-107, 58-7-108, 68-2-1112.

PART 8—STATE TRUST OF TENNESSEE

9-4-801. Creation.

Compiler's Notes. The state trust of Tennessee, created by this section, terminates June 30, 2002. See §§ 4-29-112, 4-29-223.

Section to Section References. This section is referred to in § 4-29-223.

PART 9—STATE OFFICE BUILDINGS AND SUPPORT FACILITIES REVOLVING FUND

9-4-901. Created. — There is hereby created within the general fund a special account to be known as the state office buildings and support facilities revolving fund. [Acts 1993, ch. 332, § 1.]

9-4-902. Unencumbered funds and unexpended balance. — Any unencumbered funds and any unexpended balance of the fund remaining at the end of any fiscal year shall not revert to the general fund, but shall be carried forward until expended in accordance with the provisions of this part. [Acts 1993, ch. 332, § 1.]

9-4-903. Interest. — Interest accruing on investments and deposits of the fund shall be returned to the fund and remain a part of the fund. [Acts 1993, ch. 332, § 1.]

9-4-904. Investments — Administration of fund. — Moneys in the fund shall be invested by the state treasurer for the benefit of the fund pursuant to § 9-4-603. The fund shall be administered by the commissioner of finance and administration in accordance with policy established by the state building commission. [Acts 1993, ch. 332, § 1.]

9-4-905. Purpose of fund. — The state office buildings and support facilities revolving fund is to provide for:

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9-6-106.

9-6-120.

9-6-122.

PART 2—

9-6-202.

9-6-101

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108, 9-9-110, 40-24-107, 49-3-358, 50-1305, 62-19-116, 62-37-120, 66-120, 68-1-1301, 68-203-101, 68-110, 71-4-509.

MENT POOL

ISSEE

Section References. This section is referred to in § 4-29-223.

ILITIES REVOLVING FUND

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- (1) Operating expenses for office buildings and support facilities;
- (2) Debt service payments on general obligation bonds authorized to build or acquire office buildings and support facilities;
- (3) Routine maintenance expenditures on office buildings and support facilities;
- (4) Major maintenance and renovation projects for office buildings and support facilities as approved by the state building commission;
- (5) Relocation expenses for state agencies;
- (6) Payments for leased space occupied by state agencies; and
- (7) Payments to build or acquire buildings or support facilities as approved by the state building commission. [Acts 1993, ch. 332, § 1.]

Section to Section References. This section is referred to in § 9-4-906.

9-4-906. Deposits. — Notwithstanding any provisions of law to the contrary, there shall be deposited in the fund any and all appropriations made either in the appropriations bill, including any rents for leased state facilities covered by the fund, or in any other act which is for the purpose of funding the items listed in § 9-4-905. [Acts 1993, ch. 332, § 1.]

9-4-907. Lease payments. — Lease payments for space occupied by state agencies, including the legislative and judicial branches, shall be established by policy issued by the commissioner of finance and administration and approved by the state building commission. The lease payments shall be paid to the fund. [Acts 1993, ch. 332, § 1.]

CHAPTER 6

STATE BUDGET AND APPROPRIATIONS

SECTION.

PART 1—GENERAL PROVISIONS

- 9-6-106. Form and contents of budget document.
9-6-120. Reserve for revenue fluctuations.
9-6-122. State appropriations to nongovernmental defender services in capital cases.

PART 2—ESTIMATED RATE OF GROWTH OF ECONOMY; LIMITATION ON APPROPRIATIONS

- 9-6-202. Reports of estimated rate of growth of economy — Duties of state funding board.

PART 1—GENERAL PROVISIONS

9-6-101. Items set forth in budget.

Section to Section References. This chapter is referred to in §§ 3-7-108, 4-36-215, 4-37-

SECTION.

PART 4—BLOCK GRANT REVIEW

- 9-6-401. Short title.
9-6-402. Purpose.
9-6-403. Considerations in block grants and federal devolution.
9-6-404. Reporting requirements.
9-6-405. Compliance — Financial costs.

105, 7-82-702, 9-8-109, 13-23-122, 64-1-204, 64-9-108, 71-5-124.

ATTACHMENT D

**Tennessee's Statutes Concerning the State Building Commission
(TCA 4-15-101 through 4-15-107)**

Tennessee Code Annotated

Volume 2A

1991 Replacement

Updated through the 1991 Session of the General Assembly

THE OFFICIAL TENNESSEE CODE

Prepared Under the Supervision of the
Tennessee Code Commission



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member shall be designated as a vice chairperson to preside at meetings and otherwise act as chairperson in the absence of the chairperson.

(h) All orders, findings, acts and certificates of the committee shall be attested by the signature of the chairperson or vice chairperson, and the secretary, and when so attested, all orders, acts, findings and certificates of the committee shall be competent evidence and shall be given full faith and credit in any court or proceeding, and unless affirmatively shown to the contrary, it shall be presumed that the proceedings of the committee were in all things regular.

(i) The secretary, or in the secretary's absence, some person designated by the secretary to act in the secretary's place, shall keep regular and accurate minutes of the committee's proceedings, in a minute book provided for that purpose, which shall be a public record, and all orders, findings and acts of the committee shall be entered upon its minutes.

(j) The committee is authorized and empowered to use and expend such funds as may be made available for its purposes by the staff division.

(k) The committee shall hold regular meetings at the offices of the division, and at such other times and places as its duties may require, with the express authority to adjourn or recess from time to time, and place to place, and to convene special meetings by unanimous consent.

(l) All reimbursement for travel expenses shall be in accordance with the provisions of the comprehensive travel regulations promulgated by the department of finance and administration and approved by the attorney general and reporter. [Acts 1955, ch. 210, § 13; impl. am. Acts 1963, ch. 169, § 2; impl. am. Acts 1972, ch. 852, §§ 12, 13; Acts 1976, ch. 806, § 1 (44); T.C.A., §§ 4-1401, 4-1408.]

Compiler's Notes. The industrial development division, building finance committee, created by this section, terminates June 30, 1991. See §§ 4-29-112, 4-29-212.

Cross-References. Grand divisions, ch. 1, part 2 of this title.

Section to Section References. This section is referred to in § 4-29-212.

Cited: Mayor of Fayetteville v. Wilson, 212 Tenn. 55, 367 S.W.2d 772 (1963).

CHAPTER 15

STATE BUILDING COMMISSION

SECTION.

4-15-101. Creation — Membership — Terms.

4-15-102. Powers and duties.

4-15-103. Personnel — Compensation.

4-15-104. Rules and regulations for construction.

SECTION.

4-15-105. Bidding in large counties — Bidding in East and West Tennessee.

4-15-106. Enforcement of other statutes.

4-15-107. Definitions.

4-15-101. Creation — Membership — Terms. — (a)(1) There is created a state building commission composed of seven (7) ex officio members who shall be the governor, the secretary of state, the comptroller of the treasury, the state treasurer, the commissioner of finance and administration, the speakers of the senate and the house of representatives.

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(2) The governor shall serve as chairperson and the commission shall elect from its membership a vice chairperson and secretary.

(b) The attorney general and reporter shall serve as legal counsel to the commission in accordance with the requirements of § 8-6-301.

(c) In the event that the voting membership of any ex officio members is found by a court of competent jurisdiction to be unconstitutional or invalid, they shall continue as ex officio nonvoting members, and in addition, the senate and house of representatives shall by joint resolution appoint another person(s) to be a voting member(s). [Acts 1955, ch. 304, § 1; 1967, ch. 111, § 1; T.C.A., § 4-1501; Acts 1980, ch. 741, § 2; 1982, ch. 810, § 5; 1982, ch. 915, §§ 1, 2.]

Compiler's Notes. Acts 1982, ch. 915, § 2, provided: "If any clause, words, provisions or sections of this act, including any provisions for the membership of the commission, are found to be unconstitutional or invalid, it is the intent of the general assembly that the remainder of this act be upheld and that the commission continue to function with the remainder of the membership not held to be unconstitutional or invalid."

The state building commission, created by this section, terminates June 30, 1992. See §§ 4-29-112, 4-29-213.

Cross-References. Review prior to demolishing, altering or transferring historically, architecturally or culturally significant state property, § 4-11-111.

Section to Section References. This section is referred to in § 4-29-213.

Comparative Legislation. Building commission:

Ala. Code § 41-9-140 et seq.

Ga. O.C.G.A. § 50-9-1 et seq.

Ky. Rev. Stat. Ann. § 227.205 et seq.

Miss. Code Ann. § 31-11-1 et seq.

4-15-102. Powers and duties. — (a) The commission has the power and authority, except as otherwise provided herein, to approve and supervise all projects involving:

(1) Any improvement to real property funded by public or private funds or both in which the state of Tennessee or any of its departments, institutions or agencies has an interest; and

(2) The demolition of any building or structure located on real property in which the state of Tennessee or any of its departments, institutions or agencies has an interest except for the demolition of any building or structure acquired by the department of transportation for highway rights-of-way.

(b)(1) No contract for the improvement of real property in which the state of Tennessee or any of its departments, institutions or agencies has an interest and no contract for the demolition of any building or structure on real property in which the state of Tennessee or any of its departments, institutions or agencies has an interest shall be awarded until the plans therefor have been submitted to and approved by the commission.

(2) The provisions of this subsection shall not apply to the demolition of any building or structure acquired by the department of transportation for highway rights-of-way.

(c)(1)(A) The commission, using procedures which promote competition to the greatest extent possible, has the power and authority to advertise and award contracts relating to the projects described in subsection (a), including contracts for construction, erection or demolition and contracts to furnish, install or provide goods or materials which are incidental to projects which are within the jurisdiction of the commission.

(B) The commission also has the power and authority to award contracts for professional design, surveying or planning services relating to the projects described in subsection (a), following procedures of the commission.

(C) This subsection shall not apply to contracts made by the department of transportation pursuant to title 54, chapter 5.

(2) Any rule, regulation, specification or policy of the commission promulgated pursuant to this subsection which restricts eligibility to bid on a project to the manufacturer of the material to be utilized in such project shall be waived, if in the discretion of the commission:

(A) The person, company, corporation or other entity submitting a bid offers a warranty or guarantee substantially equivalent to the warranty or guarantee offered by the manufacturer; and

(B) The person, company, corporation or other entity submitting such bid is financially capable of performing such warranty or guarantee.

(d)(1) The following transactions shall be subject to approval by the state building commission, in addition to the other approvals required by law:

(A) The acquisition of any interest in real property by the state of Tennessee or any of its departments, institutions or agencies, except for the acquisition of any interest in real property by the department of transportation for highway rights-of-way;

(B) The disposal of any interest in surplus real property described in § 12-2-112; provided, that:

(i) The commission may establish policies which permit the disposal, without approval by the commission, of interests in surplus real property other than the fee interest, including, but not limited to, leases, easements and rights-of-way; and

(ii) Such policies which permit the disposal of any interest, without the approval by the commission, shall not include disposal or conveyance in any manner of any interest or rights in minerals, coal, natural gas, oil, timber and any other energy related resources;

(C) All leases described in § 12-2-115(b); and

(D) All leases or other contracts which may involve the use of private funds for the proposed construction and which relate to improvements to real property in which the state of Tennessee or any of its departments, institutions or agencies have an interest.

(2) Notwithstanding any other provisions of law to the contrary, the provisions of subdivision (d)(1) shall not apply to the University of Tennessee and the state university and community college system of Tennessee in the acquisition and disposal of any interest in real property acquired by gift or devise, unless the acquisition of any interest in real property by gift or devise obligates the University of Tennessee, the state university and community college system of Tennessee, or the state of Tennessee to expend state funds for capital improvements or continuing operating expenditures. Furthermore, information on such gift property will be filed with the commission.

(e)(1) It is the duty of the office of legislative services to notify each member of the general assembly who requests such notification of any particular project to be considered by the commission, which project is proposed to be

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located within the district represented by the particular senator or representative.

(2) Such notification shall be given by mail not less than five (5) days prior to the commission meeting at which the subject project will be considered, unless it is an emergency meeting of the commission, in which case notification shall be made to the legislators as quickly as feasible.

(f)(1) The commission may award and approve contracts that provide for retainage as follows: Not more than ninety-five percent (95%) of the contract price shall be paid on any contract until it is completed and the work is accepted; provided, that such contracts are with reputable building contractors that are principally located within this state and have demonstrated by past experience their ability to properly perform equivalent building construction or improvement projects, whether public or private.

(2)(A) Prior to the execution of any such contract, the commission shall require the execution of a good and solvent corporate surety bond in an amount to be determined by the commission.

(B) Such bond shall be sufficient in amount to secure the faithful and satisfactory completion of the state building or improvement project such building contractor is awarded.

(3) Any damages caused by a building contractor for failure to complete the contract or by failing to satisfactorily complete the work shall be recoverable by the state in an action against the building contractor and the building contractor's sureties.

(g) Full settlement may be made with the contractor after the following have occurred:

(1) The contractor shall furnish evidence to satisfy the commission that all the material used by the contractor, the contractor's subcontractors or the contractor's agents has been fully paid for and all laborers and other employees working for the contractor, the contractor's subcontractors, or the contractor's agents have been fully paid; and

(2) Within ten (10) days after receipt of evidence requested in subdivision (g)(1), the commission shall provide thirty (30) days notice in some newspaper published in the county where the work is done, if there be a newspaper published there, and if not, in a newspaper in an adjoining county, that settlement is about to be made and notifying all claimants to file notice of their claims with the commission, and the period for filing shall not be less than thirty (30) days after the last published notice.

(h) Except as provided in chapter 13, part 1 of this title, the provisions of this chapter shall have no application to property conveyed in trust to a private corporation organized and chartered under the laws of this state pursuant to § 4-13-101. [Acts 1955, ch. 304, § 2; modified; Acts 1976, ch. 679, §§ 1-3; 1977, ch. 89, § 22; T.C.A., § 4-1502; Acts 1980, ch. 591, § 1; 1980, ch. 741, § 3; 1981, ch. 195, § 1; impl. am. Acts 1981, ch. 264, § 12; Acts 1983, ch. 192, § 1; 1983, ch. 273, §§ 1, 2; 1990, ch. 893, § 8.]

Section to Section References. This section is referred to in §§ 12-2-112, 12-4-109, 41-8-109, 49-1-303, 58-7-103, 68-2-1106.

Law Reviews. Selected Tennessee Legislation of 1983 (N. L. Resener, J. A. Whitson, K. J. Miller), 50 Tenn. L. Rev. 785 (1983).

4-15-103. Personnel — Compensation. — (a) The commission is authorized to employ such personnel as are necessary to carry out the purposes of this chapter, and to properly and efficiently maintain the buildings constructed upon their completion.

(b) The members of the commission shall serve without additional compensation, but shall be entitled to reimbursement for their necessary expenses.

(c) The compensation of employees of the commission shall be fixed by the commission within the limitations of such amounts as may be appropriated by the general assembly for that purpose.

(d) All reimbursement for travel expenses shall be in accordance with the provisions of the comprehensive travel regulations as promulgated by the department of finance and administration and approved by the attorney general and reporter. [Acts 1955, ch. 304, § 3; 1976, ch. 806, § 1(16); T.C.A., § 4-1503.]

Compiler's Notes. Personnel of the state building commission are attached to the department of finance and administration for all administrative purposes except the discharge of the duties and functions directly required of

such personnel by the state building commission. See § 4-3-1005.

This section may be affected by § 9-1-116, concerning entitlement to funds, absent appropriation.

4-15-104. Rules and regulations for construction. — The commission is authorized to prescribe standards and promulgate rules and regulations for the construction of state buildings, and the procedure to be followed with respect thereto. [Acts 1955, ch. 304, § 4; T.C.A., § 4-1504.]

4-15-105. Bidding in large counties — Bidding in East and West Tennessee. — (a) The commission is hereby authorized to permit bids invited by officials, departments, institutions and agencies of the state of Tennessee for building construction or improvements, to be performed or done in counties having a population of six hundred thousand (600,000) or more, according to the federal census of 1960 or any subsequent federal census, to be received and publicly opened in the county at a previously announced place and time by a representative of the state, and that such representative to receive and open the bids may be, but is not limited to, a duly licensed architect or engineer designated by the state.

(b) The commission is authorized to permit bids invited by officials, departments, institutions and agencies of the state of Tennessee for building construction or improvements, to be performed or done in the eastern or western grand division, to be received and publicly opened in such grand division at a previously announced place and time by a representative of the state. Such bids shall be received and opened in the cities of Chattanooga or Knoxville, or the tri-cities area for the eastern grand division and in Shelby County or the city of Jackson for the western grand division. [Acts 1969, ch. 285, § 1; T.C.A., § 4-1505; Acts 1982, ch. 770, § 1; 1986, ch. 512, § 1.]

Cross-Reference
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Cross-References. Grand divisions, ch. 1, part 2 of this title.

4-15-106. Enforcement of other statutes. — (a) It is the duty and responsibility of the commission to enforce the provisions of the Tennessee Public Buildings Accessibility Act, compiled in title 68, chapter 18, part 2, as to all public buildings owned or leased by the state of Tennessee or any department, institution or agency thereof, and any subsequent acts which require specific construction or design specifications, techniques or objectives for such state public buildings.

(b)(1) It is also the duty and responsibility of the commission to enforce the provisions of the code for energy conservation in new building construction, compiled in title 13, chapter 19, as to all buildings designed or constructed for the state of Tennessee after January 1, 1979. Such enforcement shall be accomplished by requiring the designing architect or engineer and the construction contractor to certify that the design and construction of the building for which each is responsible is in conformity with the requirements of title 13, chapter 19. The staff of the commission shall review such design or construction to verify compliance. Responsibility for proper design of the structure shall remain with the designing architect or engineer, even though the staff of the commission has conducted the review and approval process of the project documents.

(2) In addition to the requirements for new buildings to meet the code for energy conservation, as compiled in title 13, chapter 19, the staff of the commission shall review any recommended energy conservation proposals and make recommendations to the commission for inclusion of these proposals in projects where deemed feasible. [Acts 1978, ch. 905, § 1; 1979, ch. 403, § 2; T.C.A., § 4-1506; Acts 1991, ch. 498, § 7.]

Section to Section References. This section is referred to in §§ 13-19-105, 68-18-203.

4-15-107. Definitions. — For the purposes of this chapter, the following terms shall have the following meanings, except where the context requires otherwise:

- (1) "Commission" means the state building commission;
- (2) "Improvement to real property" means:

(A) The construction or erection of new buildings or structures in which the state of Tennessee or any of its departments, institutions or agencies have an interest, whether financed by public or private funds or both;

(B) The major maintenance of any building or structure in which the state of Tennessee or any of its departments, institutions or agencies have an interest; or

(C) The renovation of any building or structure in which the state of Tennessee or any of its departments, institutions or agencies have an interest;

(3) "Major maintenance" means the repair or renovation of any building or structure or any portion thereof in which the state of Tennessee or any of its departments, institutions or agencies have an interest and which is being

funded by direct appropriations for major maintenance or which will cost in excess of one hundred thousand dollars (\$100,000); and

(4) "Renovation" means the change in the functional use or operation of space in existing buildings or structures in which the state of Tennessee or any of its departments, institutions or agencies have an interest. [Acts 1980, ch. 741, § 1; 1986, ch. 631, § 1.]

CHAPTER 16

OFFICE OF LOCAL GOVERNMENT

SECTION.

4-16-101. Creation — Personnel — Functions and duties.

SECTION.

4-16-102. Other state agencies unaffected.

4-16-101. Creation — Personnel — Functions and duties. — (a) There is hereby created the office of local government to be located in the office of the comptroller of the treasury.

(b)(1) The office of local government shall have a director who shall be appointed by the comptroller, with the approval of the governor, and who shall serve at the pleasure of the comptroller.

(2) The staff of the office of local government shall be appointed by the director, subject to the approval of the comptroller and other appropriate officials as required by law.

(c) The office of local government has the following functions and duties:

(1) Assist and advise the governor in coordinating those activities and services of agencies of the state which involve significant relationships with local governments;

(2) Encourage and, when requested, assist in efforts of local governments to develop mutual and cooperative solutions to their common problems;

(3) Serve as a clearinghouse, for the benefit of local governments, of information concerning their common problems and concerning state and federal services available to assist in the solution of those problems;

(4) When requested, supply information, advice and assistance to governmental groups which are studying problems of local government structure or financing for particular areas;

(5) Consult and cooperate with other state agencies, with local governments and officials, and with federal agencies and officials, in carrying out the functions and duties of the office; and

(6) Compile and maintain precinct maps of all precincts in the state, update such maps at least once every three (3) years, and provide copies of such maps upon request to any citizen at cost. [Acts 1963, ch. 205, § 1; T.C.A., § 4-1601; Acts 1980, ch. 675, § 2.]

Cross-References. Commission on inter-governmental relations, ch. 10 of this title.

County election commissions to notify office of precinct boundary changes, § 2-3-105.

Comparative Legislation. Office of local government:

Ark. Code § 25-10-115 et seq.

Ga. O.C.G.A. § 36-62-1 et seq.

Ky. Rev. Stat. Ann. § 147A-002 et seq.

N.C. Gen. Stat. § 143-320 et seq.

4-16-102. Other shall be deemed to signed to any other relationships by an operations. [Acts 1

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SECTION.

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4-17-101 — 4-17-1

Compiler's Notes.

§§ 4-17-101 — 4-17-11
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ATTACHMENT E

Nebraska's Statutes Concerning the Task Force for Building Renewal
(RSN 71-6401 through 71-6407, 81-173 through 81-191.01, 81-1108.17 through 81-1108.23, and 81-1108.42 through 81-1108.43).

REVISED STATUTES OF NEBRASKA

—
REISSUE OF VOLUME IV
1996

COMPRISING ALL THE STATUTORY LAWS OF A
GENERAL NATURE IN FORCE AT DATE OF
PUBLICATION ON THE SUBJECTS ASSIGNED
TO CHAPTERS 61 TO 71, INCLUSIVE



Published by the Revisor of Statutes

BUILDING CONSTRUCTION

§ 71-6403

organized pursuant to Chapter 70, article 8, any municipal utility organized pursuant to Chapter 15, article 2, or any metropolitan utilities district operated pursuant to Chapter 14, article 21, or the activities of any employee of such district or utility, which activities are subject to regulation under federal or state worker safety and health requirements.

Source: Laws 1994, LB 1210, § 180.

Operative date October 1, 1997.

71-6333. Act; operative date. The Environmental Lead Hazard Control Act shall become operative on October 1, 1997.

Source: Laws 1995, LB 147, § 2.

Operative date October 1, 1997.

ARTICLE 64

BUILDING CONSTRUCTION

Section.

71-6401. Act, how cited.

71-6402. Purpose of act.

71-6403. State building code; adopted; amendments; political subdivision; powers.

71-6404. State building code; applicability.

71-6405. State building code; compliance required; amendment by state agency.

71-6406. Political subdivision; building code; adopt; amend; enforce.

71-6407. Construction of act.

71-6401. Act, how cited. Sections 71-6401 to 71-6407 shall be known and may be cited as the Building Construction Act.

Source: Laws 1987, LB 227, § 1.

71-6402. Purpose of act. It is the purpose of the Building Construction Act to:

(1) Adopt a state building code to govern the construction, reconstruction, alteration, and repair of buildings and other structures within Nebraska;

(2) Provide state standards to safeguard life, health, property, and the public welfare by regulating and controlling the design, construction, quality of materials, use and occupancy, and maintenance of buildings and structures within this state; and

(3) Provide for the use of modern and innovative methods, devices, materials, and techniques in the design and construction of buildings and other structures.

Source: Laws 1987, LB 227, § 2.

71-6403. State building code; adopted; amendments; political subdivision; powers. (1) There is hereby created the state building code. The Legislature hereby adopts by reference:

(a) The Uniform Building Code, 1991 edition, Chapters 1, 4 through 30, 32 through 56, and 60, and the Uniform Building Code Standards, 1991 edition, published by the International Conference of Building Officials;

(b) The CABO One and Two Family Dwelling Code, 1992 edition; and

(c) The Uniform Code for Building Conservation.

(2) The codes adopted by reference in subsection (1) of this section shall constitute the state building code except as amended pursuant to the Building Construction Act.

(3) Whenever a new edition of the codes adopted in subsection (1) of this section is published, such new edition shall be considered the state building code.

(4) A political subdivision may continue to administer, enforce, and update the code endorsed by the Building Officials and Code Administrators International, Inc., if such code was adopted by the political subdivision prior to September 9, 1993.

Source: Laws 1987, LB 227, § 3; Laws 1993, LB 319, § 1; Laws 1996, LB 1304, § 4.

Effective date July 19, 1996.

71-6404. State building code; applicability. The state building code shall be the building and construction standard within the state and shall be applicable:

(1) To all buildings and structures owned by the state or any state agency; and

(2) In each political subdivision which elects to adopt the state building code.

Source: Laws 1987, LB 227, § 4; Laws 1993, LB 319, § 2.

71-6405. State building code; compliance required; amendment by state agency. All state agencies, including all state constitutional offices, state administrative departments, and state boards and commissions, the University of Nebraska, and the Nebraska state colleges, shall comply with the state building code. No state agency may adopt, promulgate, or enforce any rule or regulation in conflict with the state building code unless otherwise specifically authorized by statute to adopt or enforce a building or construction code other than the state building code. Nothing in the Building Construction Act shall authorize any state agency to apply such act to manufactured homes or recreational vehicles regulated by the Uniform Standard Code for Manufactured Homes and Recreational Vehicles or to modular housing units regulated by the Nebraska Uniform Standards for Modular Housing Units Act. A state agency may, by rule or regulation, amend the state building code by adopting any supplement, new edition, or appendix of the Uniform Building Code, the CABO One and Two Family Dwelling Code, or the Uniform Code for Building Conservation referred to in section

71-6403, except that the Director of Public Health and Welfare may also incur the costs of construction of a local code.

Source:

Nebraska Uniform Standards

71-6406.

(1) Any political subdivision may adopt or enforce a building or construction code for purposes of this section if the most recent edition of the code was adopted or enacted by this section within five years after the date of enactment of this section.

(2) A political subdivision may adopt a building or construction code if the code is adopted by the International Conference of Building Officials (a) Conference of Building Officials (b) Adopted by the International Conference of Building Officials (c) Adopted by the International Conference of Building Officials

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(4) Notwithstanding any other provision of law, the public building code shall be considered applicable to all buildings and structures within the jurisdiction of the political subdivision.

Source:

71-6407. (1) Any political subdivision may adopt or enforce a building or construction code for purposes of this section if the most recent edition of the code was adopted or enacted by this section within five years after the date of enactment of this section.

71-6403, except that all amendments shall be approved in advance by the Director of Administrative Services. Amendments to the state building code may also include variations from the code which will reduce unnecessary costs of construction, increase safety, durability, or efficiency, or address special local conditions within the state.

Source: Laws 1987, LB 227, § 5; Laws 1993, LB 319, § 3; Laws 1996, LB 1304, § 5.

Effective date July 19, 1996.

Cross References

Nebraska Uniform Standards for Modular Housing Units Act, see section 71-1555.

Uniform Standard Code for Manufactured Homes and Recreational Vehicles, see section 71-4601.

71-6406. Political subdivision; building code; adopt; amend; enforce.

(1) Any political subdivision may enact, administer, or enforce a local building or construction code if or as long as such political subdivision adopts the state building code. The political subdivision shall regularly update its code. For purposes of this section, a code shall be deemed to be regularly updated if the most recent edition is adopted by the political subdivision within two years after the publication date of the edition. No political subdivision may adopt or enforce a local building or construction code other than as provided by this section.

(2) A political subdivision may amend its local building or construction code if the amendment:

(a) Conforms generally with the state building code;

(b) Adopts a special or differing building standard to reduce unnecessary costs of construction, increase safety, durability, or efficiency, or address special local conditions within its jurisdiction; or

(c) Adopts any supplement, new edition, or appendix.

(3) A political subdivision may adopt and promulgate amendments for the proper administration and enforcement of its local building or construction code including organization of enforcement, qualifications of staff members, examination of plans, inspections, appeals, permits, and fees. Any amendment adopted pursuant to this section shall be published separately from the local building or construction code. Fees, if any, for services which monitor a builder's application of codes shall be negotiable between the political subdivisions involved, but such fees shall not exceed the actual expenses incurred by the political subdivision doing the monitoring.

(4) Notwithstanding the provisions of the Building Construction Act, a public building of a political subdivision shall be built in accordance with the applicable local building or construction code.

Source: Laws 1987, LB 227, § 6; Laws 1993, LB 319, § 4.

71-6407. Construction of act. Nothing in the Building Construction Act shall be construed to authorize any state agency or political subdivision to

regulate the construction of farm buildings or other buildings or structures when such regulation is otherwise prohibited by law. Nothing in the act shall be construed to authorize any state agency or political subdivision to have any authority either to establish or to continue in effect, with respect to any manufactured home built pursuant to the National Manufactured Housing Construction and Safety Standards Act, 42 U.S.C. 5401 to 5426, any standard regarding construction or safety which is not identical to standards promulgated by the National Manufactured Housing Construction and Safety Standards Act, 42 U.S.C. 5401 to 5426, and the regulations promulgated by the United States Department of Housing and Urban Development under the federal law when there is in effect a standard of the National Manufactured Housing Construction and Safety Standards Act, 42 U.S.C. 5401 to 5426, or the regulations applicable to the same aspect of performance of such manufactured home.

Source: Laws 1987, LB 227 § 7; Laws 1994, LB 511, § 7.

ARTICLE 65

CARE STAFF MEMBERS

Section.

71-6501. Care staff members: administration of oxygen; restrictions.

71-6502. Repealed. Laws 1991, LB 703 § 82.

71-6501. Care staff members: administration of oxygen; restrictions. Care staff members, as defined in sections 71-2151, 71-6009, and 71-6038, may only use a nasal cannula to apply oxygen by means of an oxygen concentrator to patients and may not administer more than four liters of oxygen per minute to patients. An oxygen concentrator shall be set up only by a physician, licensed respiratory care practitioner, or licensed nurse. Care staff members shall not alter such setup in any way except to return it to the prescribed setting if it should be changed accidentally.

Source: Laws 1988, LB 190 § 5.

71-6502. Repealed. Laws 1991, LB 703 § 82.

ARTICLE 66

HOME HEALTH AIDE SERVICES

Section.

71-6601. Legislative intent.

71-6602. Terms, defined.

71-6603. Home health aide: requirements.

71-6604. Repealed. Laws 1991, LB 703 § 83.

71-6605. Home health aides: permitted acts.

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health care
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71-6601 to
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Source:

71-6602.
the context:
(1) Activities
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REVISED STATUTES OF NEBRASKA

REISSUE OF VOLUME VA
1994

COMPRISING ALL THE STATUTORY LAWS OF A
GENERAL NATURE IN FORCE AT DATE OF
PUBLICATION ON THE SUBJECTS ASSIGNED
TO CHAPTER 81, ARTICLES 10 to 29,
and CHAPTERS 82 to 90, INCLUSIVE



Published by the Revisor of Statutes

(f) DEFERRED BUILDING RENEWAL AND MAINTENANCE

81-173. Terms, defined. For purposes of the Deferred Building Renewal Act and sections 81-191.01, 85-106, and 85-304, unless the context otherwise requires:

(1) Renewal work shall mean any (a) deferred or preventive maintenance projects that will restore facilities and utility systems as closely as practicable to their original constructed condition as defined by the Task Force for Building Renewal, (b) projects that will bring facilities into compliance with current fire safety, life safety, and hazardous materials abatement requirements, and (c) projects that will bring facilities into compliance with the federal Americans with Disabilities Act of 1990. The standard of quality maintenance shall be set after consideration of the facility users, geographical location, condition, and physical analysis of each building;

(2) Deferred maintenance shall mean any measures taken to: (a) Correct or repair structural or mechanical defects that would endanger the integrity of a building or its components or allow unwanted penetration of the building by the outdoor elements; (b) correct or repair structural, mechanical, or other defects in a building or its components or utility systems which endanger the lives or health of state employees or the general public; (c) bring a building into compliance with the federal Americans with Disabilities Act of 1990; or (d) correct a waste of energy, including minor repairs, alteration and maintenance painting, cost of materials, hiring of building maintenance personnel, and other necessary expenses for the maintenance of roofs, exterior walls, retaining walls, foundations, flooring, ceilings, partitions, doors, building hardware, windows, plaster, structural ironwork, screens, plumbing, heating, air-handling, and air conditioning equipment, or electrical systems, but excluding decorative finish or furnishing, building additions, or installation of additional summer-winter air conditioning, except as it may be required to comply with the federal Americans with Disabilities Act of 1990;

(3) Preventive maintenance shall mean any measures taken to maintain the structural or mechanical integrity of a building or its components including those measures listed in subdivision (2) of this section; and

(4) Task force shall mean the Task Force for Building Renewal.

Source: Laws 1977, LB 309, § 1; Laws 1980, LB 835, § 1; Laws 1982, LB 604, § 1; Laws 1993, LB 369, § 1.

81-174. Task Force for Building Renewal; established; purpose; consultants; appointment; how selected. There is hereby established the Task Force for Building Renewal to carry out the provisions of sections 81-173 to 81-190. The Governor shall appoint an administrator-consultant as the chief officer of the task force. The administrator-consultant shall retain not more than four consultants to assist him in the administration of the provisions of sections 81-173 to 81-190. Each task force member shall be selected on the basis of his ability to administer and accomplish efficient building maintenance and shall have knowledge of and experience in the contracting of construction projects and the maintaining of buildings. Members shall be selected so that the task force represents diversified expertise needed for maintenance

judgments and, if practical, each member should reside at a location that allows efficient visitation of state-owned buildings. Voting membership of the task force shall be limited to the five members identified in this section.

Source: Laws 1977, LB 309, § 2; Laws 1980, LB 835, § 2.

81-175. Task force; members; compensation. The compensation of the members of the task force shall be established by the Governor on a per diem basis, and they shall work the days and hours required to accomplish the task. Members of the task force shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties as provided in sections 81-1174 to 81-1177 for state employees.

Source: Laws 1977, LB 309, § 3; Laws 1981, LB 204, § 168.

81-176. Repealed. Laws 1985, LB 11, § 1.

81-177. State agency; inspection of facilities; report; contents; referred to task force. Each state agency operating or managing state-owned buildings, utilities, or grounds shall make a detailed inspection of facilities under its care to determine accurately what renewal work items exist and the probable cost and time required for doing the work. A detailed report of the findings shall be made to the Governor, listing for each building, utility, or grounds improvement, the individual work items with estimated quantities and unit prices. Such report shall also include a listing of projects needed in state-owned structures to accommodate persons with handicaps as provided in sections 81-5,147 to 81-5,150. The report shall state which work items are recommended to be done under contract and which are proposed to be done by agency forces with an estimate of hours of labor and labor costs. The Governor shall refer the report to the task force for its study and recommendations pursuant to section 81-178.

Source: Laws 1977, LB 309, § 5; Laws 1980, LB 835, § 4; Laws 1995, LB 8, § 1.

81-178. Report; classification of work items; task force, duties. The report required by section 81-177 shall classify work items by urgency of need using three classes defined as follows:

Class I — items for immediate action to (1) provide safety and protection against costly damage to buildings or their utility systems, (2) make structural, mechanical, or other repairs to buildings or their components or utility systems which are an immediate danger to the lives or health of state employees or the general public, or (3) bring buildings into compliance with the federal Americans with Disabilities Act of 1990;

Class II — items of imperative need to correct problems that if neglected will quickly deteriorate further into Class I items that must be done to provide efficient and safe use of the facility or system; and

Class III — additional items necessary to fully renew or provide efficient and safe use of the facility or system.

The task force shall recommend to the Governor the classification of projects and priorities to be established for grants within the classifications. The Governor shall make such classification of projects and establish such priorities as shall be best calculated to achieve the purposes of the Deferred Building Renewal Act. Any energy conservation project shall be assigned a priority of Class II or higher.

Source: Laws 1977, LB 309, § 6; Laws 1979, LB 322, § 40; Laws 1980, LB 835, § 5; Laws 1982, LB 604, § 2; Laws 1993, LB 369, § 2.

81-179. Building Renewal Allocation Fund; created; use; purpose; accounting; investment. There is hereby created under the control of the Governor, for allocation to building renewal projects of the various agencies, a fund to be known as the Building Renewal Allocation Fund. The fund shall contain the revenue from fees as provided in section 81-1108.17, revenue from the special privilege tax as provided in section 77-2602, and such other money as is appropriated by the Legislature. Such appropriation is declared to consist of building renewal funds which shall be kept separate and distinct from the program continuation funds and project construction funds. Separate subfunds, subprograms, projects, or accounts shall be established to separately account for any expenditures on state buildings or facilities to comply with the federal Americans with Disabilities Act of 1990. A minimal amount of the funds contained in the subfunds, subprograms, projects, or accounts may be used for planning and evaluation of buildings and facilities. The budget division of the Department of Administrative Services may administratively transfer funds to appropriate accounting entities to correctly account for the operating expenditures. A separate fund, cash fund, project, or other account may be administratively established for such purpose. At the direction of and subject to express appropriation by the Legislature, amounts accruing to the Building Renewal Allocation Fund for fiscal years 1997-98 through 2000-01 may be expended to support achievement of goals identified in the Information Technology Infrastructure Act. Annual appropriations from the Building Renewal Allocation Fund for such purpose shall not exceed annual anticipated revenue from the equivalent of two cents of the special privilege tax as provided in section 77-2602. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1977, LB 309, § 7; Laws 1993, LB 369, § 3; Laws 1994, LB 1066, § 96; Laws 1995, LB 530, § 2; Laws 1996, LB 1190, § 16.

Operative date July 1, 1996.

Cross References

Information Technology Infrastructure Act, see section 81-1190.

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

81-180. Building Renewal Allocation Fund; expenditures; allocation of funds; procedure. The Building Renewal Allocation Fund shall only be expended for the purpose of building renewal work except as otherwise provided. Each agency shall be allocated funds as directed by the Governor using the system of priorities established in section 81-178. In the making of allocations from such fund, the Governor shall follow a policy that first considers the use of private enterprise services for deferred maintenance projects while using state employees primarily for the performance of preventive maintenance. When such preventive maintenance is of a nature that only occasional highly technical attention is scheduled, primary consideration shall be given to using contractual services. The task force shall review all such contracts for such services from private enterprises.

Source: Laws 1977, LB 309, § 8; Laws 1980, LB 835, § 7; Laws 1982, LB 604, § 3.

81-181. Agency; proposed building renewal projects report; submitted, when; contents; allocation of funds; conditions. Not later than December 15 of each year, each agency shall submit to the Governor, in the form prescribed by him or her, a report of its proposed building renewal projects for the next fiscal year. Such report shall contain the information specified in section 81-177 and shall constitute a request for the allocation of funds from the Building Renewal Allocation Fund. The Governor shall, with the advice of the task force, allocate from such fund the sum necessary for the accomplishment of projects approved by him or her. Allocations shall be made in a manner that assures accomplishment of Class I projects first, followed by accomplishment of Class II projects, and then accomplishment of Class III projects, unless doing so in a particular case would violate sound building renewal policies and practices. The amount of such allocation shall not be transferred to the agency but shall remain within the Building Renewal Allocation Fund subject to the control of the Governor until disbursed pursuant to the Deferred Building Renewal Act.

Source: Laws 1977, LB 309, § 9; Laws 1993, LB 369, § 4.

81-182. Governor monitor activities of task force and agencies; authorize issuance of warrants. The Governor, using such staff assistance as he may desire, shall monitor the activities of the task force and the agencies. To assure adequate accomplishment of the terms of each allocation, the Governor shall assure that expert inspection of projects is made by a competent inspector from either his staff, the task force, or the agency. For the purpose of making partial payments as the work progresses, the Governor may authorize the issuance of warrants from the Building Renewal Allocation Fund upon certificates of the inspector in charge showing the amount of work completed and materials necessarily purchased and delivered for the orderly and proper continuance of the project in a sum not exceeding ninety-five percent of the cost thereof. Upon the certificate of the inspector that the project has been completed and the terms of the allocation have been complied with,

the Governor shall authorize the issuance of a warrant for the balance due the contractor.

Source: Laws 1977, LB 309, § 10.

81-183. Property not eligible for renewal and maintenance funds. No building held in trust, property of the Board of Educational Lands and Funds, nor highways or roads and revenue bond structures shall receive funds for renewal and maintenance under sections 81-173 to 81-190.

Source: Laws 1977, LB 309, § 11.

81-184. Administration costs paid from Building Renewal Allocation Fund. The cost of administration of the Deferred Building Renewal Act shall be paid from the Building Renewal Allocation Fund as the Legislature shall appropriate. The Governor shall each odd-numbered year submit a specific itemized appropriation request to cover such administrative costs.

Source: Laws 1977, LB 309, § 12; Laws 1986, LB 258, § 31.

81-185. Committee on Building Maintenance; membership; purpose. The Executive Board of the Legislative Council shall appoint a select committee of the Legislative Council to consist of six members of the Legislature, to be known as the Committee on Building Maintenance, to exercise oversight of the deferred and preventive maintenance activities required in sections 81-173 to 81-190. The selection of members shall be made on the basis of maintenance interest and knowledge. At least two members shall be selected from the Committee on Appropriations, one of whom shall be the chairperson of the Committee on Appropriations. On or before the sixth day of each regular legislative session, the board shall appoint or reappoint members of the committee. Such committee may utilize Legislative Council staff as required or may contract for necessary expertise. Such staff shall provide close liaison with the task force, all agencies subject to sections 81-173 to 81-190, and the Governor.

Source: Laws 1977, LB 309, § 13; Laws 1980, LB 835, § 8; Laws 1984, LB 838, § 1.

81-186. Committee on Building Maintenance; meetings; duties. The Committee on Building Maintenance shall meet as necessary, but not less than four times annually, to monitor the activities required of the task force and the agencies, boards, and commissions who are responsible for the state buildings and to review the proposed rental charges as provided in sections 81-1108.17 and 81-1108.22. The committee shall study progress and propose any necessary legislation to assure that state-owned buildings are protected through proper maintenance.

Source: Laws 1977, LB 309, § 14; Laws 1980, LB 835, § 9; Laws 1982, LB 604, § 4; Laws 1984, LB 838, § 2; Laws 1995, LB 530, § 3.

ADMINISTRATIVE DEPARTMENTS

§ 81-196

81-187. Legislative Fiscal Analyst; receive copy of estimates, reports, and allocation requests. A copy of all estimates, reports, and allocation requests required by sections 81-173 to 81-190, 85-106, and 85-304 shall be submitted to the Legislative Fiscal Analyst.

Source: Laws 1977, LB 309, § 15; Laws 1985, LB 2, § 6.

81-188. Informal bidding procedures; when authorized. When the estimated cost of a building renewal project is less than fifteen thousand dollars, the Governor may authorize the use of informal bidding procedures if he considers it to be in the best interest of the state.

Source: Laws 1977, LB 309, § 16.

81-189. Repealed. Laws 1984, LB 838, § 4.

81-190. Act, how cited. Sections 81-173 to 81-190 shall be known and may be cited as the Deferred Building Renewal Act.

Source: Laws 1977, LB 309, § 18.

81-191. Repealed. Laws 1984, LB 838, § 4.

81-191.01. Agency; prepare preventive maintenance plan; approval; implementation; funding. On or before June 30, 1984, each agency shall have prepared and have on file with the task force a plan to provide adequate but not excessive preventive maintenance. The agency shall seek the advice of the task force in preparing and revising such plan. Agencies shall not be deemed in compliance with this provision until the task force has approved the preventive maintenance plan. Upon approval of such plan, the Governor may, upon recommendation of the task force, allocate funds from the Building Renewal Allocation Fund to initiate the implementation of the plan.

Source: Laws 1980, LB 835, § 6; Laws 1982, LB 604, § 7; Laws 1984, LB 838, § 3.

(g) TERMINATION OF AGENCIES, BOARDS, AND COMMISSIONS

81-192. Repealed. Laws 1986, LB 745, § 1.

81-193. Repealed. Laws 1978, LB 569, § 14.

81-194. Repealed. Laws 1980, LB 94, § 19.

81-195. Repealed. Laws 1980, LB 939, § 8.

81-196. Repealed. Laws 1986, LB 745, § 1.

ction shall not apply to (i) ies or other parties by the es, the Department of Aer- of Educational Lands and d for use by the University the Board of Educational noffice use by the Depart- or leased by the Game and visions to the buildings or ent of federal funding, (v) ate recreation areas, state or state recreational trails, by the State of Nebraska ecause the application of y for federal funding or ommission due to other

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79, LB 322, § 47; Laws 1981, LB 381, ws 1995, LB 530, § 5.

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DEPARTMENT OF ADMINISTRATIVE SERVICES § 81-1108.17

Source: Laws 1974, LB 1048, § 7; Laws 1975, LB 359, § 12; Laws 1979, LB 322, § 48; Laws 1981, LB 381, § 20; Laws 1992, LB 1241, § 22; Laws 1995, LB 530, § 6.

81-1108.17. Department of Administrative Services; custodian of state property; director; administrator; powers and duties; funds; created; purpose; use. (1) The Department of Administrative Services shall be the custodian of the State Capitol and capitol grounds, the state laboratory and laboratory grounds, the Governor's Mansion and grounds, and all other buildings and lands owned or leased by the State of Nebraska except as exempted under subsection (5) of section 81-1108.15.

(2) To aid in the performance of his or her duties, the Director of Administrative Services shall appoint an administrator. The administrator, under the direction of the director, shall have complete control and all powers necessary to properly maintain the capitol and capitol grounds, the state laboratory and laboratory grounds, the Governor's Mansion and grounds, and all other buildings and lands owned or leased by the State of Nebraska except as exempted under subsection (5) of section 81-1108.15.

(3) The administrator shall have the authority to develop, produce, and provide for free distribution or sale books, brochures, pictures, slides, postcards, and other informational or promotional material concerning the capitol. The administrator shall have control over the money received from the sale of such material and from private or public donations. Such proceeds and donations shall be placed in the Department of Administrative Services Cash Fund, which fund is hereby created, and shall be used for the purpose of funding projects designed to restore the capitol building to its original condition and the production of such promotional materials. Such projects shall be prescribed by the administrator upon the advice of the Nebraska Capitol Commission pursuant to the approved comprehensive capital facilities plan for the capitol building.

(4) The administrator, under the direction of the director, is authorized to lease space or to provide facilities for restaurants, cafeterias, or other services and newsstands for the convenience of state officers and employees in the State Capitol or buildings leased when such space is not needed for public use. Proceeds from the operations and rental of such facilities shall be credited to the State Building Revolving Fund and shall be expended as necessary for the purpose of offsetting the costs of operating and maintaining such facilities. Receipts from public parking charges shall be credited to the Department of Administrative Services Cash Fund and shall be used for the purpose of funding projects designed to restore the capitol building to its original condition.

(5) The administrator, under the direction of the director, is authorized to lease space or to provide facilities for the parking of state officers' and employees' vehicles as well as state-owned vehicles. He or she is authorized to lease, rent, or permit for use as apartments, dwellings, offices, and parking areas any or all of the property acquired for parking or for future building needs. All leases shall contain the provision that upon notice that such property is needed for public use, the use or occupancy of the property shall cease. All money received as rent from any property acquired shall be remitted to the State Treasurer and credited to the State Building Revolving Fund,

except that receipts from parking charges for employee and state vehicle parking shall be credited to the Capitol Buildings Parking Revolving Fund, which fund is hereby created, for the purposes of providing and maintaining parking for state employees and visitors.

(6) The system of charges for state buildings and facilities shall include an amount sufficient to (a) accurately reflect operating, maintenance, renovation, and repair costs and (b) fund building renewal projects under the Deferred Building Renewal Act. The proceeds received under subdivision (a) of this subsection shall be remitted to the State Treasurer for credit to the State Building Revolving Fund. The proceeds received under subdivision (b) of this subsection shall be remitted to the State Treasurer for credit to the Building Renewal Allocation Fund. The administrator shall develop a system of equitable billings and charges for parking facilities under his or her control and used by state employees and state vehicles. The system of charges shall include an amount sufficient to cover the operating, maintenance, and repair costs associated with the parking facilities. The administrator, under policies and procedures established by the Director of Administrative Services, may expend funds from time to time credited to the Capitol Buildings Parking Revolving Fund for the purposes of obtaining, operating, and maintaining parking facilities for employees and visitors. All money derived from any source other than that to be credited to the State Building Revolving Fund, the Capitol Buildings Parking Revolving Fund, the Department of Administrative Services Cash Fund, the Building Renewal Allocation Fund, or other appropriate revolving fund shall be remitted to the State Treasurer and credited to the General Fund.

(7) The administrator shall acquire a flag of the United States of America of suitable and convenient size. The colors of the flag shall be fast colors, and the cloth shall be of substantial material. The administrator shall acquire, construct, and locate in a suitable place on the State Capitol proper, or its environs, a suitable flagstaff or pole upon which the flag of the United States of America shall be conspicuously displayed during each day of the year. The flag shall be so arranged on the staff or pole that it may be raised or lowered with ease.

(8) The administrator shall see that all parts and apartments of the capitol and buildings leased are properly ventilated and kept clean and in order. The administrator shall see that all visitors, at proper hours, are properly escorted over the capitol grounds and through the capitol, free of expense.

(9) The administrator shall at all times have charge of and supervision over the police, janitors, and other employees in and about the capitol and capitol grounds, state laboratory and laboratory grounds, the Governor's Mansion and grounds, and all other buildings and lands owned or leased by the State of Nebraska except as exempted under subsection (5) of section 81-1108.15. The administrator shall institute, in the name of the state and with the advice of the Attorney General, civil and criminal proceedings against any person for injury or threatened injury to any public property in the capitol or on the capitol grounds, the state laboratory and laboratory grounds, the Governor's Mansion and grounds, and all other buildings and lands owned or leased by

the State of Nebraska under his or her control, or for committing or threatening to commit a nuisance in or on the buildings or lands.

(10) The administrator shall keep in his or her office a complete record containing all plans and surveys of the capitol and capitol grounds, state laboratory and grounds, Governor's Mansion and grounds, and all other buildings and lands owned or leased by the State of Nebraska and of underground construction under such buildings and lands.

Source: Laws 1929, c. 192, § 1, p. 677; C.S. 1929, § 72-707; Laws 1937, c. 161, § 1, p. 625; Laws 1939, c. 94, § 1, p. 407; Laws 1941, c. 144, § 1, p. 573; C.S. Supp., 1941, § 72-707; R.S. 1943, § 72-706; Laws 1955, c. 278, § 1, p. 879; Laws 1961, c. 354, § 2, p. 1114; Laws 1965, c. 436, § 2, p. 1388; Laws 1965, c. 439, § 1, p. 1394; Laws 1965, c. 538, § 23, p. 1711; Laws 1967, c. 468, § 1, p. 1457; Laws 1971, LB 675, § 1; R.R.S. 1943, § 72-706; Laws 1974, LB 1048, § 8; Laws 1976, LB 986, § 4; Laws 1979, LB 576, § 3; Laws 1981, LB 381, § 21; Laws 1983, LB 607, § 3; Laws 1993, LB 311, § 3; Laws 1995, LB 530, § 7.

Cross Reference

Deferred Building Renewal Act, see section 81-190.

81-1108.18. State Building Administrator; parking of motor vehicles; rules and regulations; violations; personal responsibility for violation; penalty. In order to promote the public safety and welfare, the administrator shall adopt and promulgate rules and regulations governing the parking of motor vehicles on the approaches to the capitol and capitol grounds and on the lands owned or leased by the State of Nebraska and under the administrator's control. The rules and regulations may limit, restrict, or prohibit parking on such land. Notwithstanding the provisions of the Administrative Procedure Act, the rules and regulations shall become effective upon posting notice of the rules and regulations on or about the premises to be regulated. If any vehicle is found upon any regulated premises in violation of this section or the rules and regulations adopted pursuant to this section and the driver cannot be determined, the owner or person in whose name such vehicle is registered shall be held prima facie responsible for such violation. Violation of any such rules or regulations shall constitute a Class V misdemeanor.

Source: Laws 1955, c. 278, § 2, p. 880; Laws 1965, c. 538, § 24, p. 1713; Laws 1967, c. 468, § 2, p. 1459; R.R.S. 1943, § 72-706.01; Laws 1974, LB 1048, § 9; Laws 1976, LB 986, § 5; Laws 1977, LB 39, § 303; Laws 1979, LB 576, § 4; Laws 1995, LB 530, § 8.

Cross Reference

Administrative Procedure Act, see section 84-920.

81-1108.20. Administrator; employees; supplies. The administrator, with the consent of the Governor, shall employ all necessary assistants, engineers, janitors, custodians, and caretakers, fix their compensation, and terminate such employment from time to time as necessary for the efficient and economical discharge of his or her duties. The administrator shall purchase, through the materiel division of the Department of Administrative Services, such supplies, material, and equipment as may be necessary for the proper maintenance of the State Capitol and capitol grounds, state laboratory and laboratory grounds, Governor's Mansion and grounds, and all other buildings and lands owned or leased by the State of Nebraska except as exempted under subsection (5) of section 81-1108.15. The total expenditures for such purposes shall not exceed the appropriations made for such purposes.

Source: Laws 1929, c. 192, § 1, p. 677; C.S. 1929, § 72-707; Laws 1937, c. 161, § 1, p. 625; Laws 1939, c. 94, § 1, p. 407; Laws 1941, c. 144, § 1, p. 573; C.S. Supp., 1941, § 72-707; R.S. 1943, § 72-709;

Laws 1955, c. 278, § 5, p. 382; R.R.S.1943, § 72-709; Laws 1974, LB 1048, § 11; Laws 1995, LB 530, § 9.

81-1108.21. Department of Administrative Services; assignment of office space; Executive Board of Legislative Council; determination of needs; other functions and responsibilities of state building division. (1) The office space in the capitol building or any other state office building occupied by the Governor, Lieutenant Governor, Secretary of State, State Treasurer, Attorney General, Auditor of Public Accounts, and Chief Justice and judges of the Supreme Court and Court of Appeals, including the office of the Clerk of the Supreme Court and courtrooms, on June 2, 1995, shall remain under the control of such officer or Chief Justice on and after such date. The Executive Board of the Legislative Council shall determine its office space requirements in the capitol building and may occupy such office space as it requires except as provided in this subsection.

(2) After the determination by the Executive Board of the Legislative Council pursuant to subsection (1) of this section, the administrator shall be responsible the director for the determination of the space needs of all other departments and agencies of the state and for the assignment of the remaining office space. The determination of such needs shall be based on considerations of: (a) The availability of space as provided in this section within the capitol building and other state office buildings; (b) the desirability of locating all divisions and other organizational subunits of each department and agency of the state in physical proximity to the office of its head; (c) the degree to which the convenience of the public may be served by assignment of various areas within the capitol building or other state office buildings to the agencies and departments having requirements for direct dealing with the public in accordance with the volume of such dealings and the nature of the population served; (d) the interdependence of functions and operating procedures of the various agencies with one another as such interdependence may be efficiently accommodated through physical proximity in the location of assigned space; (e) applicable standards governing office requirements as may be developed; (f) proposed additions to functions or programs or creation of new functions or programs as authorized and required by action of the Legislature; (g) the availability of appropriations with which to finance renovations, remodeling and movement of equipment necessary to accommodate any proposed assignment or reassignment of area; (h) the degree to which funds raised by general taxation or having effect on the level of general taxation shall be affected by any proposed assignment of space outside the capitol building or other state office buildings; and (i) conformity to federal standards in the assignment of space in buildings constructed with federal funds.

(3) The division shall have responsibility for provision and replacement of lighting, lighting fixtures, heating, cooling and ventilation, janitorial, custodial, and all other building services, including care and custody of the capitol buildings and grounds as may now be provided by law.

(4) Responsibility for employment and supervision of custodial and janitorial workers for areas of the capitol building occupied by the Legislature, the courts, and executive departments and agencies shall be in accord-

ance with such agreements as may be defined by authorized representatives of the three branches. All funds for improvements, remodeling, renovation, partitioning or replacement of major fixtures, including carpeting, flooring, provision of drapes, lighting fixtures, and lamps, within any area of the capitol building or other state office building shall be at the disposal of the administrator.

Source: Laws 1974, LB 1045, § 12; Laws 1976, LB 986, § 6; Laws 1995, LB 530, § 10.

81-1108.22. State building division; responsibility; office space outside the State Capitol; rental; approval; required; lease contract; filed; administrator; duties; State Building Revolving Fund; created; applicability of section, when. (1) The division shall have the responsibility of providing office space in leased and state-owned buildings in the proximity of the State Capitol and in other locations.

(2) When any board, agency, commission, or department of the state government not otherwise specifically authorized by law desires to use funds available for the purpose of renting office space outside of the State Capitol, it shall submit a request to the Director of Administrative Services accompanied by a certificate from the Committee on Building Maintenance that there is no state-owned property which is adequate or which through cost-effective renovation, as determined by the division, could be made adequate to meet the needs of the board, agency, commission, or department. If the director approves the lease, the terms and location shall be approved by the director and the administrator in writing and the leases shall be entered into and administered by the administrator on behalf of the board, agency, commission, or department. A copy of all such lease contracts shall be kept on file by the state building division and shall be open to inspection by the Legislature and the public during normal business hours.

(3) The administrator shall develop a system of charges to cover basic rental, maintenance, renovations, and operation of such leased and owned properties. The charges to state agencies, boards, commissions, or departments of state government shall be paid from funds available for the purpose of renting space on a regular basis and placed in the State Building Revolving Fund, which fund is hereby created. The administrator shall make payments for basic rentals, renovations, and maintenance and operational costs of all leased and owned buildings from the State Building Revolving Fund.

(4) The charges for such leased and owned properties shall only be adjusted by the administrator on July 1. Prior to any adjustment in the system of charges, the Department of Administrative Services, on or before December 1 of the year preceding the effective date of such adjustment, shall provide written notification to the Committee on Building Maintenance, the Clerk of the Legislature, and the Legislative Fiscal Analyst of the proposed adjustment to the system of charges.

(5) Commencing on April 13, 1992, all leases of real property entered into by any state agency, board, commission, or department shall be subject to this section. Leases held by a state agency, board, commission, or department on such date shall be valid until the lease contract is terminated or is subject to renewal. The division shall monitor all such leases and determine

when the lease is subject to renewal. Once the determination is made, the division shall cancel the lease as of the renewal date and shall treat the need of the agency, board, commission, or department as an original request for space and subject to this section. This subsection shall not apply to (a) state-owned facilities to be rented to state agencies or other parties by the University of Nebraska, the Nebraska state colleges, the Department of Aeronautics, the Department of Roads, and the Board of Educational Lands and Funds, (b) facilities to be leased for use by the University of Nebraska, the Nebraska state colleges, and the Board of Educational Lands and Funds, (c) facilities to be leased for nonoffice use by the Department of Roads, or (d) facilities controlled by the Nebraska School for the Deaf or Nebraska School for the Visually Handicapped to be rented to state agencies or other parties by the school.

Source: Laws 1961, c. 353, § 1, p. 1113; Laws 1963, c. 421, § 1, p. 1347; R.R.S. 1943, § 72-701.08; Laws 1974, LB 1048, § 13; Laws 1975, LB 359, § 13; Laws 1979, LB 576, § 5; Laws 1992, LB 1241, § 23; Laws 1995, LB 530, § 11.

Cross Reference

Committee on Building Maintenance, see section 81-155.

81-1108.23. Administrator; personnel. The administrator may employ architects, drafters, specialized engineers, and other professional personnel to provide plans, working drawings, and specifications required for the adequate maintenance, improvement, construction, and reconstruction of the State Capitol and grounds, state laboratory and grounds, Governor's Mansion and grounds, and all other buildings and lands owned or leased by the State of Nebraska and under the administrator's control and may employ secretarial and administrative personnel necessary to carry out this section.

Source: Laws 1955, c. 329, § 2, p. 1027; R.R.S. 1943, § 72-709.02; Laws 1974, LB 1048, § 14; Laws 1995, LB 530, § 12.

81-1108.24. State Emergency Capital Construction Contingency Fund; created; investment. There is hereby created for the use of the Department of Administrative Services a fund to be known as the State Emergency Capital Construction Contingency Fund, to consist of such money as shall be appropriated to such fund by the Legislature. Any money in such fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1974, LB 1048, § 15; Laws 1995, LB 7, § 117.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

81-1108.27. State Capitol; state buildings; electric current; agreement. The Board of Regents of the University of Nebraska is authorized to furnish and to enter into agreements with the Department of Health and Human Services and the Department of Correctional Services to furnish a supply of electric current to such departments at the line now maintained or hereafter constructed between the electric power plant at the Department of Correctional Services adult correctional facility and the State Capitol, which power shall be furnished by the heating plant located upon the city campus of the

REVISED STATUTES OF NEBRASKA

REISSUE OF VOLUME V A
1994

COMPRISING ALL THE STATUTORY LAWS OF A
GENERAL NATURE IN FORCE AT DATE OF
PUBLICATION ON THE SUBJECTS ASSIGNED
TO CHAPTER 81, ARTICLES 10 to 29,
and CHAPTERS 82 to 90, INCLUSIVE



Published by the Revisor of Statutes

the relationship of the project to other state agency or departmental capital facilities in the same complex.

Source: Laws 1969, c. 772, § 4, p. 2923; R.R.S.1943, § 81-1108.06; Laws 1974, LB 1048, § 34; Laws 1976, LB 986, § 7; Laws 1979, LB 38, § 1; Laws 1981, LB 381, § 22; Laws 1992, LB 1241, § 24.

These sections held not applicable to the Board of Regents which cannot delegate its constitutional powers and duties to other officers or agencies. Board of Regents v. Exon, 199 Neb. 146, 256 N.W.2d 330.

81-1108.42. Contract for construction, reconstruction, remodeling, or repair of capital facility; final payment; conditions. The Director of Administrative Services shall not issue his warrant for final payment for any contract for the construction, reconstruction, remodeling, or repair of any capital facility for any state agency or department unless there is on file in his office the certificate of a professional engineer or architect that, to the best of his knowledge, all work under the contract substantially conforms to the plans and specifications and that the contract has been fully and satisfactorily performed except for the making of the final payment.

Source: Laws 1969, c. 772, § 5, p. 2924; R.R.S.1943, § 81-1108.07; Laws 1974, LB 1048, § 35.

81-1108.43. Capital construction project; prohibited acts; exceptions; warrant; when issued. No state agency or department shall perform for itself any of the services normally performed by a professional consulting engineer or architect as defined in section 81-840, in the preparation of plans and specifications for the construction, reconstruction, or alteration of any building or in the administration of the construction documents and final approval of the project when the total project cost is one hundred thousand dollars or more, and no state agency shall employ its own work force for any such construction, reconstruction, or alteration of capital facilities when the total project cost is fifty thousand dollars or more; except that the terms of this section shall not apply to section 83-134, or to the Department of Roads, nor to any public power district, public power and irrigation district, irrigation district, or metropolitan utilities district. If, during the program statement review provided for under section 81-1108.41, it is determined that existing or standard plans and specifications are available or required for the project, the Governor may authorize an exemption from this section. The Director of Administrative Services shall not issue any warrant in payment for any work on a capital construction project unless the state agency or department files a certificate that the provisions of this section have been complied with or unless such project was commenced prior to December 25, 1969.

Source: Laws 1969, c. 772, § 6, p. 2924; R.R.S.1943, § 81-1108.08; Laws 1974, LB 1048, § 36; Laws 1979, LB 38, § 2.

ATTACHMENT F

Nebraska's Task Force for Building Renewal Policy and Procedure Manual

State of Nebraska

Task Force for Building Renewal

Policy / Procedure Manual

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LB 309 TASK FORCE
FOR
DEFERRED BUILDING RENEWAL

GENERAL COMMENTS ON LB309

In 1976 a committee was formed to conduct a Special Legislative Study concerning the maintenance of state buildings. This committee toured the entire state to look at the condition of its buildings and review their maintenance programs. While they expected to find some problems, they did not expect the totally deplorable condition that became so evident as they toured the facilities. They found areas where there was no maintenance, haphazard maintenance and others with planned maintenance. The problems throughout the state seemed to be a problem of priorities. Administrators said there were other priorities while Senators said there was only so much money and the result was that buildings were falling further into disrepair.

Through the efforts of this committee, private industry, agency representatives and interested citizens, LB 309 was passed in January of 1977. In compliance with LB 309, an Administrative Consultant to the Governor was appointed to head up the Task Force. The law also specified that as many as four Consultants could be appointed to assist the Administrator. These Consultants were preferably from various areas of the state with different expertise which aided in the task of starting the Deferred Building Renewal Program. The prime area of emphasis was deferred maintenance and the need for developing a planned preventative maintenance program. Emphasis was also placed on energy conservation and handicapped accessibility.

Each year the legislature reviews the total request for 309 funding and appropriates a stipulated amount for Task Force distribution through allocations. This appropriation is subject to Governor approval and the appropriated amount will vary from year to year. The Task Force is mandated to follow certain guidelines as set out by the legislature and all funds are controlled by the Department of Administrative Services and the Governor.

Over the years, the Task Force goals have remained basically the same. The information in this packet contains an overview of the operations of the Task Force for Deferred Building Renewal, including the general requirements that must be met by the Task Force and the agencies which it funds.

GENERAL OPERATIONAL INSTRUCTIONS

1. Agencies eligible for 309 Task Force funding review their deferred repair, energy conservation and handicapped projects and submit them bi-annually in the form of a budget request. Upon receipt of these requests on-site inspections are scheduled. If the project requires additional information, the Task Force will request an update from the agency and will consider the request once the information is received. Projects not approved are held on file for review at a later date.
2. When funds are appropriated by the legislature the Consultants review these requests and based on priority need, make their recommendation to the Administrator. The Administrator reviews the Consultant recommendations and submits his final recommendation to the Governor for approval. Upon receipt of the signed allocation, agencies receive a copy of the allocation, a project status checklist and a final inspection form for each project. (Exhibit A)
3. It is the responsibility of the agency to select a consultant if needed and to follow the required bidding procedures in acquiring a contract. The Task Force is to be notified of bid openings, architectural and/or engineer selections, pre-construction dates, etc. The Task Force may attend these meetings to assist with awarding the contract if necessary. Purchase requisitions and contracts must be submitted to the Task Force for review and approval.
4. Copies of all requisitions should be filled out by the agency. A requisition should be assigned a number and the project account line-of-coding previously assigned by the Task Force filled in. It should be signed by an authorized agency representative and submitted to the Task Force (all copies attached) for review. If all of the required information is attached, the Task Force will stamp the requisition and send it to State Purchasing.
5. Copies of all correspondence, plans/specifications, bid tabulations, contracts, requisitions, purchase orders, etc. that pertain to 309 funded projects must be forwarded to the Task Force as soon as they become available. The Task Force will not process a payment document until the above information has been received. Copies of all warranties are to be submitted to the Task Force upon receipt.

6. Once projects are started, payment requests are sent to the Task Force for payment. Payment Documents should be submitted in the following form:

- Original Vendors Invoice
- Payee information area is to be completed. The Federal I.D. Number must be filled in.
- The Agency/Division box should contain the name of your agency and current date.
- Place an "X" in the Warrant Writing box under the TRANSACTION TYPE, and an "X" in the "M" box of the WARRANT FLAG.
- The DOCUMENT NUMBER and PAY DATE boxes should be left blank.
- The description area of the document should include the name of the building, name of the project (i.e. Roof Replacement, Caulking, etc.) and the percentage of project completion at the point of this particular payment. It does not mean the percentage of completion by a certain vendor. Anytime a document is marked 100% or 'final', an agency final report form must be completed and accompany the document. The Task Force will reclaim the balance on any document marked 100% or 'Final'.
- The TRANSACTION CODING should be filled in using the line-of-coding previously assigned to the project. The IDENTIFIER Box should be left blank.
- The ACCOUNT code should be filled in using the following as a guideline.
 - 4823 - Deferred Maintenance/Improvements
 - 4822 - Energy Conservation/Energy Related projects.
 - 4412 - Engineering/Architectural Services
- Since warrants are mailed directly from DAS Accounting, we suggest you put invoice numbers and an agency or project name in the PAYEE REFERENCE Description area so that the vendor can identify what the payment is for.
- If coding has been filled in incorrectly or the percentage of project completion is omitted, the document will be returned to the agency for correction. Each project is assigned a specific line-of-coding which is to be used for a specific project. The percentage of completion is important so that inspections can be scheduled in a timely manner.
- The Payment Document is reviewed, signed and submitted to DAS Accounting for payment. When the warrants have been issued, the Task Force will note the warrant number on the pink copy and return it to your agency.

7. Payments are to be based on work completed to date and computed from the schedule of values submitted by the contractor before work begins. It is important that partial payments accurately reflect the actual work done and material stored.

8. Agencies are sent a computerized monthly status report which details the project activity. These should be reviewed thoroughly and any discrepancies or questions should be discussed with the Task Force immediately.

9. Should an agency find that as a project progresses, funding is not sufficient to complete the project, a written request for a change order must be submitted with proper documentation to support the request. The request will be reviewed and upon approval submitted to DAS Budget and Administrative Services for approval. Agencies are notified in writing of requests that have been denied and the reason for the denial. If the request is approved, the agency receives a copy of the change order approval form which is considered a formal notice of approval.

10. The Task Force will make periodic inspections throughout the duration of the project. Before final payment is made on a project, the Task Force will make final inspections wherever possible to ascertain if the conditions of the contract have been fulfilled. As noted earlier, the agency must also submit a final report with the final payment request.

11. Under no circumstances will the Task Force make an allocation for a project which is underway or has been completed.

12. Funds allocated for a specific project may be used for that project ONLY. Any remaining funds must be returned to the Task Force.

13. Requests for the use of leftover funds from completed projects, unless directly related to or pertaining to the original project, will be treated as a new request and must have the proper documentation. If approved by the Task Force a new allocation will be recommended for approval.

14. Many times during an inspection of a facility, situations might be found that require remedial attention. These situations may have been inadvertently overlooked by the agency and if the situation is of a severe nature, the Task Force may recommend an allocation.

15. It is the responsibility of the agency to get projects underway as rapidly as possible and follow the project through to its completion. In accordance with LB761, the Task Force will thoroughly review projects that are not progressing as rapidly as the Task Force determines is acceptable and shall reallocate those funds that are not being utilized.

PROVISIONS OF LB309

I. BASIC PROVISIONS

- A. The bill as passed is composed of the following basic provisions. Note distinction made between deferred and preventive maintenance.

1. Deferred Maintenance

"Deferred Maintenance shall mean any measures taken to:

- a. Correct structural or mechanical defects that would endanger the integrity of a building, or,
- b. Allow unwanted penetration of the building by the outdoor elements, or,
- c. Correct a waste of energy...."Sec. 1, Subdivision 2

2. Preventive Maintenance

"Preventive Maintenance shall mean any measures taken to prevent failures in the building systems listed in subdivision (2) or this section." Section 2, Subdivision 3.

3. Handicapped

"The Task Force shall also review the list of projects needed to accommodate persons with handicaps..." Sec. 6, and, "no allocation from the fund shall be made to any project for the removal of barriers to the handicapped unless such project was specifically approved by the Legislature in the making of appropriations to the fund." Sec. 9.

4. Purpose

"The Building Renewal Allocation Fund shall be expended for the purpose of building renewal work and no other purpose." Sec. 8.

5. Eligibility

The following structures are NOT eligible for 309 funding:

- a. "No building held in trust, property of th Board of Educational Lands and Funds, nor highways or roads and revenue bond structures shall receive funds for renewal and maintenance under sections 1 to 18 of this act." Sec. 11.

- b. State structures to be demolished within the agency's six-year capital construction plans..." Sec. 4.

6. Limited Eligibility

The following structures may be eligible for 309 funding, but only on a limited basis:

- a. Structures for which remodeling or renovation is proposed using funds from sources other than 309. Identification of such structures and the sources of their proposed funding is the responsibility of the agency and such information shall accompany any request to the Task Force for funds to cover the cost of emergency repairs.
- b. Structures generating cash income.
- c. Structures which are or will be vacated within two years. Identification of such structures is the responsibility of the Agency and such information shall accompany any request to the Task Force for 309 funds.

II. PRIORITIES AND CLASSIFICATIONS

- A. In order to assist Agencies in establishing priorities and classifications of deferred maintenance as required by Sec. 6 of the bill, Exhibit "A" has been prepared as a guideline for use in submitting 309 fund requests.
- B. Attention is called to Sec. 57 of LB 956 which reads, in part, as follows:

"... It is the intent of the Legislature that energy conservation be given high priority consideration in the committee's review of project proposals under LB 309 funding..."

III. FUNDING LIMITATIONS

- A. Subject to the approval of the Task Force, 309 funds for deferred maintenance projects are available for the following purposes only:
 - 1. For payment of invoices covering fees from professional architects and engineers, providing that:
 - a. Such professional assistance is secured by the Agency from private enterprise.
 - b. The contract with such professionals has been previously accepted by the Task Force.
 - c. Adequate allotment from 309 funds has previously been made to the Agency by the Governor.

2. For payment of invoices representing partial or final payment to the contractor, providing that:
 - a. The contractor has been secured by the Agency from private enterprise.
 - b. The contract between the Agency and the contractor has previously been accepted by the Task Force.
 - c. An adequate allotment from 309 funds has previously been made to the Agency by the Governor.

B. The following are NOT eligible for payment from 309 funds:

1. Agency administrative costs.
2. Professional services provided by Agency personnel.
3. Supervision or inspection costs incurred by the Agency.
4. Travel or expenses incurred by the Agency.
5. In-house costs of Agency personnel.
6. Miscellaneous items of expense such as printing, advertising, postage, builders risk insurance, etc.

IV. EXECUTION OF WORK

A. The following is an excerpt from Section 8 of LB 309:

"In the making of allocations from such funds, the Governor shall follow a policy that first considers the use of private enterprise services for deferred maintenance projects while using state employees primarily for the performance of preventive maintenance."

V. BIDDING

A. Section 16 of LB 309 reads in part as follows:

"When the estimated cost of a building renewal project is less than fifteen thousand dollars, the Governor may authorize the use of informal bidding procedure if he considers it to be in the best interest of the State."

B. In order to provide specific guidelines within the above limitation it has subsequently been ruled that bids for any project funded by LB 309 shall be solicited in strict accordance with the following limitations.

1. General Requirements

- a. Identical information is to be provided each bidder, whether oral, written, or graphic.

- b. Revisions to or interpretations of the scope of the work which may be made during the bidding period are to be provided to all known bidders in written form.
- c. Oral or informal interpretations of requirements during the bidding period are to be considered invalid unless verified in writing to all known bidders.

2. Bidding Methods

a. Class I - Project costs between \$1 and \$2,499

- (1) No formal bidding requirements, except that whenever possible, two or more quotations from responsible bidders are to be secured. All solicitations for such bids, together with resulting quotations or refusals to quote are to be recorded and filed for reference.

b. Class II - Project costs between \$2,500 and \$5,000

- (1) Informal bidding required. Three or more competitive bids to be solicited and are to be submitted in sealed envelopes. Public opening not required, but deadlines for submitting quotations to be established.

c. Class III - Project costs over \$5,000

- (1) Formal bidding required including all formal procedures for full and open competition as follows:
 - (a) Advertisement for bids shall be published in at least two daily Nebraska newspapers which are circulated in the area of the work to be done and which have the widest distribution in the area. Advertisements shall state that sealed proposals will be received by the Agency on the date therein stated for work as described. Advertisements shall state where plans and specifications may be seen and obtained.
 - (b) Complete and accurate lists of bidders are to be kept readily available for use by interested sub-bidders.
 - (c) Bids to be submitted prior to established closing time in sealed envelopes properly identified as directed by the agency.

- (d) Bids to be publicly opened and read aloud immediately after scheduled closing time.
- (e) Successful bidder to be notified of award in writing, as soon as possible after bid opening and prior to expiration of bids.
- (f) Additional bids are often secured by bidding documents which are readily available. Therefore, agencies are to use local Builders Exchanges, Builders Bureaus, etc. in the area of the work to be done to facilitate the availability of these documents.

d. Class IV - Project costs over \$100,000

- (1) In addition to the requirements of LB 309, agencies are reminded that any project costing over \$100,000 is to be reviewed in its entirety by the State Building Division in full accordance with the Nebraska Statutes Sec. 81 - 1108.42 and Section 81 - 1103.43. Agency submittals are to be accompanied by the Agency certification of compliance required by these statutes. Agency submittals shall be delivered directly to the 309 Task Force office and the Task Force will then submit them to the State Building Division.

C. Bidding Documents

1. Forms

The standard forms and conditions of the bidding documents are a part of this pamphlet. They contain a condition that any low bidder may be required to provide specific information to the State prior to the award of the contract. Such information may include the company's history, ability, previous work of a similar nature and financial condition. It is this information together with other pertinent facts concerning the ability of the company to perform, which provide the only basis for the rejection of a bidder.

2. Proposals (See Exhibit "B")

Proposal forms for the bidders use are to be prepared by the Agency or its representative in such form that all bids are based upon identical conditions. Any alteration of the proposal form by the bidder or the omission of information called for on the proposal sheet may result in the rejection of that bid as being non-responsive. Such information in the bidding process may be waived by the agency.

3. Clarification of work required

It is important that the bidding documents include all items of work to be done as well as Agency restrictions and limitations expected of the contractor. The following are examples of work items and contractor restrictions and limitations which are to be clarified in bidding documents.

a. Route Of Access

The route of access and egress for contractors equipment and materials is to be determined by the Agency. The route is to be determined primarily upon the basis of safety to all persons. Minimum interference to the normal operations of the Agency during the construction period and the ease of access and egress for the contractor is also a part of that determination.

b. Parking

The Agency is to clearly identify such parking areas which may be available to the contractors' employees during construction. Emergency lanes, fire lanes, handicapped parking, etc. should be clearly identified as space not available to the contractor.

c. Storage of Materials

Available unused space on the Agency property may, at the Agency's option, be made available for storage of materials at no cost to the contractor. If such materials are stored on or in State property, the State assumes no liability for that property in the event of vandalism, theft, fire, or other disasters.

In some instances, materials to be used in the construction will be necessarily stored off the site of the work. If payment for such materials is requested, it can only be made if a certificate evidencing insurance coverage of such materials is provided by the contractor.

d. Clean Up

The general conditions of the contract require that the construction site be maintained in an orderly condition. Day to day policing of the site by the contractor is mandatory. Therefore, it is important to prohibit the careless distribution of construction debris in areas of the property which are maintained by agency personnel. At completion of the work, any debris resulting from the construction operations is to be removed by the contractor.

All debris and waste material resulting from the execution of the contract is to be legally disposed of by the contractor at all times.

e. Disruption of Agency Operations

Some of the contractors operations will necessarily disrupt the normal day to day operations of the Agency. These disruptions can and should be kept to a minimum by preplanning and through close contact with the contractor and his schedule of operations. Preplanning in this area of interference is beneficial to the Agency and to the contractor resulting in overall improved relations and benefits to the State.

f. Task Force Inspection

The LB 309 Task Force reserves the right to visit the site and to inspect the work in progress at any time they feel it to be necessary or advisable.

g. Laws and Ordinances

- (1) The contract shall be governed by the law of the place where the project is located.
- (2) The contractor shall comply with all applicable laws, ordinances, rules, regulations and lawful orders of any public authority having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss. He shall erect and maintain, as required by existing conditions and progress of the work, all reasonable safeguards for safety and protection including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent utilities.

VI. SELECTION AND/OR REJECTION OF BIDDING CONTRACTORS

- A. It is important that the best possible relations be established and maintained between the State of Nebraska and the building industry of the state. Certain unwritten rules govern in this area, such as those which follow:

1. Rejection of low bidder

If it has been determined that a potential bidder will possibly not be awarded the contract in the event that he is low, he should be so advised at the time he requests the bidding documents. It is basically unfair to permit him to spend his time and money on work which will not be awarded to him.

This refusal is difficult, delicate, and sometimes dangerous. Therefore, full documentation of the reasons resulting in this decision must be immediately available to that bidder to provide an opportunity for him to defend his position.

Reasons for such refusal to award are varied such as:

- a. Repeated failure in the past to adhere to required completion time at some cost to the State.
- b. Inability or refusal to maintain construction standards required by the State.
- c. Repeated litigation on previous State contracts.
- d. Financial instability, etc.

Rejection of a bid must be based upon tangible, specifically documented evidence that the bidder in question is unable to perform in full accordance with the requirements of the contract documents. Acceptance of a bid other than the low bid cannot be otherwise justified. If a bidder other than the low bidder is more attractive because of product or familiarity, this cannot be used as justification for rejection. This simply indicates that the bidding documents were not prepared correctly to prevent this situation.

VII. ANALYSIS OF BIDS RECEIVED

A. General

1. Bids which are received in response to an Agency's solicitation shall be recorded immediately upon opening. Their analysis then becomes a determination of:
 - a. Was the bid received prior to the time set in the bidding document?
 - b. Is the bid responsive?
 - c. Was the bid bond included, if required?
 - d. Is the apparent low bid within the allotted budget?
 - e. Is the apparent low bid from a known, reputable contractor?
 - f. Has the bidder acknowledged receipt of all addenda?

B. Alternate Proposals

1. If alternate proposals were requested and submitted, the acceptance or rejection of some or all alternates often changes

the position of the bidder. Therefore, it is important that the successful bidder be determined with care since such selection often causes misunderstanding and disappointment among the unsuccessful bidders, and may result in legal action.

The following outline is provided for general use in the determination of the successful bidder.

- a. If alternate proposals were requested, then the successful bidder is determined by the lowest quotation including the base bid plus or minus those alternates which are to be accepted as quoted.
- b. If alternate proposals were requested, none of which can be accepted because of either cost or content, then the successful bidder is determined by the lowest base bid. The alternate or alternates required by the Agency are then negotiated with the low base bidder. If such negotiations are unsatisfactory or impossible then that bid is rejected and the second low base bidder is selected and alternative negotiations are held with him.
- c. If such negotiations fail, all bids are to be rejected and the work readvertised with such revisions required to provide acceptable bids.

VIII. CONTRACT ADMINISTRATION

A. Awards

1. Bona fide proposals submitted in response to legal solicitations expire in accordance with provisions included as a part of the bidding documents.
2. In order to avoid the expiration of the bid, bids are to be analyzed immediately after their receipt and the lowest responsible bidder determined in accordance with Paragraph VIII-B-1-b.
3. If all conditions are met, the successful bidder is to be notified in writing by the Agency of the intent to award. This notification should include the disposition of all alternate proposals received. If the acceptance of one or more alternates is impossible to determine prior to the scheduled bid expiration date, an extension of time may be requested from the contractor. If he so agrees, such extension of time must be in writing.
4. It is illegal in the State of Nebraska to provide a partial payment at the signing of the contract. Payments are made only for work previously done or materials stored.

B. Beginning of Construction

1. The date on which actual construction begins is critical for the following reasons:
 - a. Approved certificates evidencing the existence of required insurance coverage are to be in the possession of the Agency prior to the beginning of construction. (See Exhibit "B") Because of its very nature, it is possible for construction operations to impose serious threats of liability upon the parties to the contract, and therefore, all protection of the state as required by the bidding documents must be provided prior to exposure.
 - b. The possibility of successful contract administration can be vastly improved if the Agency will provide for a preconstruction conference prior to the beginning of work at the site. Those present should include representatives of the Agency, the contractor, inspectors, and representatives of the Task Force. Questions concerning construction procedure, intent of contract requirements, site access, security, method of payment, work methods, materials, etc. may be discussed and resolved prior to the actual beginning of construction.

C. Inspection Reports

1. All inspections of job progress, whether made by the Task Force, architect, Agency, or any other authorized inspector, are to be documented and submitted to the Task Force. Information in the report to include the following:
 - a. Date and time of inspection
 - b. Name of Agency, building and location
 - c. Name of inspector
 - d. Name of contractor
 - e. Weather conditions including whether temperature is rising, falling, or stable.
 - f. Work being performed.
 - g. Variations from contract requirements
 - h. Required corrections
 - i. General job progress
 - j. Any other information pertinent to acceptable contract execution.

IX. COST OVERRUNS AND UNDERRUNS

A. Change Order Procedure

1. In the event that bids received for projects funded by 309 exceed the allotment, and if it is the intentions of the Agency to proceed, a written request shall be immediately made to the Task Force for the additional funds necessary to proceed. The Task Force will determine whether or not such funds are appropriate and available and will so notify the Agency. This approval for additional funding must precede any notification of contract award.
2. Task Force action on the request for additional funds will be made by means of a formal change order signed by the Task Force, the Budget Division, and the Governor or his representative. Such change orders will indicate approval or disapproval of requested funds.
3. The Task Force will refuse to honor or approve the payment of any 309 funds which have not been either allotted in writing by the Task Force prior to the execution of the contract or prior to a notice to proceed.
4. Cost underruns will be returned to the Task Force by change order upon completion of the work.

B. Additional Work

1. If during construction involving 309 funding, additional items of deficient deferred maintenance are found, and if, in the Agency's opinion these items of deficiency should be corrected, a written request for such funds shall be made to the Task Force. Task Force action will be recorded by change order. No funds for such additional work are to be authorized by the Agency prior to formal Task Force written approval.

C. Cancellation of Allotment

1. Any allotment of 309 funds may be rescinded if:
 - a. All requirements of LB 309 are not fulfilled by the sponsor of the request for funds.
 - b. Requirements of the Task Force in the administration of LB309 are not met.
 - c. The Agency or sponsor of the request for funds determines, with Task Force approval, that the project be either delayed or abandoned.
 - d. When allotments are found to be inactive to the extent that the work is not under contract, either for architectural services or actual construction.

- e. The work is to be completed through the use of other funds. If, however, the Task Force has determined that a deficiency in deferred maintenance be corrected, and the work is subsequently to be done by other funds, Task Force approval of method and extent of repair is to be secured in writing prior to the beginning of such deferred maintenance work.

X. ALLOCATIONS AND TRANSFER OF FUNDS

- A. All allocations assigned to an Agency from 309 funds are specific, having been approved by the Governor in accordance with the requirements of LB 309. Therefore, any proposed revision in any allocation can only be made with the written approval of the Task Force subsequent to the Agency's written request to the Task Force for such revision.
- B. Copies of all correspondence, specifications, contracts, bid tabulations, change orders, purchase orders, etc. concerning 309 projects shall be sent to the Task Force office immediately upon completion of such information.

XI. NEBRASKA SALES & USE TAXES

- A. For information concerning the appropriate interpretation of sales, and use tax regulations in connection with construction contracts, please contact the Nebraska Department of Revenue, Box 94818, Lincoln, Nebraska 68509, or any of the regional offices located in Omaha, Grand Island, Norfolk, North Platte, and Scottsbluff. A toll free telephone number is available for immediate contact. 800-742-7474 or 471-2971.

XII. DRUG FREE WORKPLACE POLICY

- A. All state code agencies must have a drug-free workplace policy in force. To be in compliance, all contractors doing business with the State of Nebraska must file a written drug free workplace policy. Agencies receiving 309 funds must make sure vendors have filed a drug-free policy statement with State Purchasing, or have a policy statement incorporated into your contract agreements.

EXHIBIT "A"

PRIORITIES AND CLASSIFICATIONS

Note: The following priority system pertains to the physical structure of a building.

DEFERRED MAINTENANCE: Requests for funding of deferred repair projects are divided into three classes:

- Class I** - Items for immediate action to provide safety and protection against costly damage.
- Class II** - Items of imperative need to correct problems that if neglected will quickly deteriorate further into Class I items, or that must be done to provide efficient use of the facility or system.
- Class III** - Additional items necessary to fully renew the facility or system.

ENERGY CONSERVATION: Requests for funding of energy conservation projects are divided into three classes.

- Class I** - Items for immediate action to correct deficiencies creating excessive use of energy resources. Projects for which technical assistance or energy conservation measure funding applications have been or are planned to be submitted to the Nebraska Energy Office should be included in this category.
- Class II** - Items which if not addressed will create an additional strain on energy resources and which if accomplished would result in operating expenditure reductions.
- Class III** - Items which would contribute to a totally energy efficient system, but which would not be considered imperative.

HANDICAP ACCESSIBILITY: Requests for funding to provide handicap accessibility are divided into three classes:

- Class I** - Structural changes/modifications for immediate action to provide access to programs or facilities regularly serving handicapped clientele.
- Class II** - Other structural changes or modifications to comply with handicap codes.
- Class III** - Structural changes or modifications to provide better accessibility but not imperative for compliance with handicap codes.

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**Task Force for Deferred Building Renewal
PROJECT STATUS CHECKLIST**

DATE:	
AGENCY:	SITE:
BUILDING:	ALLOCATION DATE:
ACCOUNT CODING:	ALLOCATION AMT: \$
PROJECT:	
Information listed below is to be submitted to the Task Force office as soon as it becomes available. <u>PLEASE DUPLICATE THIS SHEET AND USE AS A COVER SHEET WHEN SUBMITTING PROJECT INFORMATION</u>	
	DATE SUBMITTED
Plans/Specifications	_____
Bid Tabulations	_____
Proposals (3)	_____
Contract/Agreement-Architect/Engineer	_____
Contract/Agreement-Contractor	_____
Purchase Requisition	_____
Purchase Orders	_____
Expected Completion	_____
Warranty	_____
Final Report	_____
Other	_____
COMMENTS:	