

Feasibility of Privatizing Provision of Governmental Services



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FEASIBILITY OF PRIVATIZING PROVISION OF GOVERNMENTAL SERVICES

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LEGISLATIVE COMMISSION
OF THE
LEGISLATIVE COUNSEL BUREAU
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SUMMARY OF SUBCOMMITTEE RECOMMENDATIONS/ACTIONS

This summary represents the conclusions and recommendations reached by the Subcommittee. The conclusions and recommendations are based on: (1) suggestions made to the Subcommittee at public hearings; (2) a review of information concerning the subject; (3) the experience and knowledge of the members of the Subcommittee; and, (4) other studies and materials made available to the Subcommittee.

The Subcommittee's recommendations/actions:

1. The Subcommittee endorsed the continued study of the potential consolidation of the various State data processing centers; the Subcommittee noted during this continued study, the various data centers should be cognizant of the potential for consolidation before committing to equipment purchases/capital outlays. (BDR R-645)
2. The Subcommittee recommended the formation of the Department of Information Services and Technology. The Department would be comprised of the existing Department of Data Processing and would be a "name change" to reflect the services the Department of Data Processing currently provides. Coordination of the Department's existing functions (data processing and information services) would be a responsibility of the new Department and coordination of all appropriate State telecommunication functions (excluding Judicial and Legislative Branches) would also be a function of the new Department. (BDR 19-638)
3. The Subcommittee recommended the newly formed Department of Information Services and Technology be required to:
 - > Develop a long-range (5 to 10 year) Strategic Information Technology Plan.
 - > Develop a short-range tactical plan to improve all State Data Processing functions, effectiveness and efficiency. The short-range tactical plan should also include all identified opportunities for outsourcing. (BDR 19-638)
4. The Subcommittee recommended the consolidation of the various payroll systems (software) used by State agencies (SIIS, NDOT, PERS, University Classified, and Controllers) into one system. The Subcommittee specifically excluded from the consolidation the payroll systems for LCB and University Academic (personnel). Common software would be acquired and utilized by all payroll centers with modifications to fit the specific requirements of the using agencies/departments. (BDR 27-635)

5. The Subcommittee recommended the current bidding level as set in Chapter 338 of NRS be retained at the \$100,000 level and not be reduced to \$25,000 as recommended by the Nevada Taxpayers Association.
6. The Subcommittee recommended clarifying provisions relating to advertisement for bids for public works contracts between \$25,000 and \$100,000. (BDR 28-646)
7. To expedite the Request for Proposal (RFP) process, the Subcommittee recommended that in situations where the legislature has mandated the contracting out of governmental services (excluding normal contracting out of services budgeted in the Operating Category) with a threshold of \$100,000, the following procedure be adhered to by the state agency charged with securing the contracted services:
 - > A representative of the agency will meet with a representative of the Purchasing Division, the Attorney General's Office and, if necessary, an outside consultant for the purpose of preparing the initial RFP.
 - > These individuals would be required to report their progress in preparing the RFP within 90 days from authorization of the project, to the Legislature, if in session, or the Interim Finance Committee if the Legislature is not in session. (BDR 27-644)
8. The Subcommittee directed staff to draft a letter to both the Department of Wildlife and the Department of Prisons, expressing the Subcommittee's "concern" regarding the progress and length of time involved in the contracting process (RFP). The Subcommittee desired the Departments be advised they should proceed expeditiously from this point and the Subcommittee, to the extent it is possible, will continue to monitor the progress of the Departments.
9. The Subcommittee recommended the Legislative Auditor, as part of the normal Legislative audit process, would report to the Legislative Commission as part of his report:
 - > Services that may be likely candidates for privatization.
 - > Services that are currently being performed by a private contractor that have the potential of being performed more efficiently by the (state) agency.The Legislative Commission (Commission) would then have the authority to instruct the Legislative Auditor to conduct further cost analysis if the Commission determines it necessary. (BDR 17-643)
10. The Subcommittee recommended the State Purchasing Division establish criteria by which equipment purchase requests can be evaluated to determine:

- > If the equipment can be leased or rented more efficiently?
 - > If there is a service involved, such as maintenance which is better: out-sourced or privatized? (BDR 27-642)
11. The Subcommittee recommended the State Purchasing Division adopt guidelines (criteria) modeled after those utilized by the State of Colorado to assist government agencies in making systematic decisions about privatizing public services. (BDR 27-641) Criteria utilized by Colorado include consideration of the following:
- > Market Strength - The commercial characteristics of the service. Is the private sector able and interested in delivering the service.
 - > Political Resistance - The amount of opposition to change in who provides the service. This resistance can come from the public, users of the service, interest groups or public officials.
 - > Cost Efficiency - The expected cost of services, assuming no change in the level or quality of service.
 - > Quality of Service - The expected effect privatization will have on the effectiveness, timeliness, thoroughness, etc. of the service provided. Privatization should not decrease the quality of service, but should match or exceed the present quality.
 - > Impact on Employees - The effect that privatization will have on government employees.
 - > Legal Barriers - The effect any existing laws have on the privatization decision.
 - > Risk - The degree to which privatization of a service increases government exposure to hazards.
 - > Resources - The efficient and effective use of government assets.
 - > Control - The government's ability to oversee the provision of the service.

In addition to utilizing a numerical scoring (rating based upon the above referenced criteria) to assist agencies in making systematic decisions about privatizing public services, the Subcommittee recommended a written rationale must be provided to substantiate the scoring.

12. The Subcommittee recommended, when the criteria (as established by the State Purchasing Division) are utilized and it is determined that it is appropriate to privatize a service, an additional criterion requiring potential contractors to provide the services at a savings of 10% of the in-house bid (if competitively bid in-house) or of current costs for providing the services should be applied in making the final decision. All direct and indirect costs (including contract monitoring and review) would be included in the cost analysis when calculating the in-house bid or the current cost of providing the service and the cost of privatization. (BDR 18-639)
13. The Subcommittee recommended potential contractors would be required to declare under penalty of perjury, when responding to RFPs, if they have been found guilty of violating state or federal labor laws, fraud, bid-rigging or other similar offenses, violations of criminal law, sexual harassment, equal rights discrimination, etc. (the history of a company would be a factor for consideration). (BDR 18-640)
14. The Subcommittee recommended the nature of the services that are contracted out should not result in all the easily accomplished services being privatized with the harder to accomplish (and usually more costly) services left to be performed by the governmental agency.
15. The Subcommittee recommended the Board of Examiners monitor and evaluate all state agency contracts, other than Public Works and Highway Construction Contracts, to ensure that continued contracting is cost effective and the established quality of service standards are being met. (BDR 23-637)
16. The Subcommittee recommended contracts should be re-bid frequently to ensure that a competitive environment is maintained. Competition is one basis of successful privatization. The term of contracts will vary on a case-by-case basis; whenever feasible contracts should be reviewed for re-bid and re-negotiation to take advantage of any cost savings or efficiency factor that may be available. The exact length of time contracts are awarded should be determined on a case-by-case basis dependent upon the investment by the contractor to provide the service (i.e., significant capital investments by the contractor to provide the service may preclude re-bidding of contracts as frequently as those that do not require significant capital investments).
17. The Subcommittee recommended that all Department of Transportation contracts, exclusive of actual construction contracts, be reviewed for approval by the Board of Examiners. (BDR 23-636)
18. The Subcommittee recommended, if justified based upon an in-depth analysis of the applicable cost information and other criteria, the women's multi-custody level prison which has been sited by the Legislature at the Nellis location, be

designed, built and operated (medical, food service, custody, etc.) by a private contractor.

19. The Subcommittee recommended, if justified based upon an in-depth analysis of the applicable cost information and other criteria, the Lovelock Correctional Facility be operated (medical, food service, custody, etc.) by a private contractor.

While not making a specific recommendation, the Subcommittee discussed the following criteria/statements and indicated reference should be made to the criteria/statements in the Subcommittee's report:

- > Privatization has a role in providing government services; government should not be called upon to provide services the private sector can provide more efficiently; privatization is a possible alternative that should not be utilized in all instances; and, privatization is a viable alternative that can be utilized by government as a management tool (the pros and cons of privatization).
- > Contracting out of certain state (governmental) activities should not be considered if those services are inherently provided only by the government (i.e., police, fire, tax collection, etc.).
- > In-house bids should be required, when feasible, and should be based on the most efficient organization of the activity. There should be a dispute resolution process so competing bids are fairly compared.
- > When a reduction in the government work force occurs as the result of contracting out a service, there should be a requirement that management be reduced proportionately, when feasible, to the reduction in front line employees (equitable reduction [impact] in management and line staff).
- > To ensure competition, which is one concept of successful privatization, whenever possible (when more than one private organization has the ability to provide the service), contracting for governmental services should be subject to competitive bidding by the private sector. In situations where only one private organization can provide the service, the public agency should be encouraged to competitively bid against the private organization.
- > Bonding or other assurances should be required of contractors who are awarded contracts to provide governmental services to ensure that essential services are continued in the event the contractor is unable to provide the services.
- > There should be strict monitoring and audits of all state contracts for quality and continued cost effectiveness. There should be explicit procedure for

bringing a service back in-house when contractors are found lacking in either quality or cost.

**REPORT OF THE LEGISLATIVE COMMISSION
TO THE MEMBERS OF THE 67TH SESSION
OF THE NEVADA LEGISLATURE**

This report is submitted in compliance with Senate Concurrent Resolution 2 (File No. 198, Statutes of Nevada, 1991, Page 2657) which directed the Legislative Commission to conduct an interim study of the feasibility of privatizing the provision of governmental services including a separate study of the feasibility of privatizing data processing management services. The resolution requires that the results of the study and any recommended legislation be reported to the 67th Session of the Nevada Legislature.

Members of the Subcommittee appointed by the Legislative Commission to conduct the study were:

Senator William J. Raggio, Chairman	
Assemblyman Val Z. Garner, Vice Chairman	
Senator Ann O'Connell	Assemblyman Douglas Bache
Senator Dean Rhoads	Assemblywoman Chris Giunchigliani
Assemblyman Ken Haller	Assemblyman Warren Hardy
Assemblyman Joan Lambert	

Legislative Counsel Bureau staff services for the Subcommittee were provided by Gary Ghiggeri, Deputy Fiscal Analyst; Dan Miles, Senate Fiscal Analyst; Bob Guernsey, Deputy Fiscal Analyst; Thomas Linden, Deputy Legislative Counsel; Ryan Campbell, Deputy Legislative Counsel; and Secretary Connie Davis of the Fiscal Analysis Division.

This report presents the findings and recommendations of the Subcommittee. The information which bears directly upon the recommendations is included either in the narrative or the appendices. All supporting documents and meeting minutes are available from the Fiscal Analysis Division of the Legislative Counsel Bureau.

Respectfully submitted,

Legislative Commission
Legislative Counsel Bureau
State of Nevada

Carson City, Nevada
September 1992

I. INTRODUCTION AND BACKGROUND

Governor Robert J. Miller, in the 1991 Executive Budget, recommended privatization in connection with the minimum security prison for women proposed to be located in the Las Vegas area. This recommendation was approved by the 1991 Legislature through the approval of Senate Bill 551 (Chapter 573, Statutes of Nevada 1991).

Recognizing the potential for privatization in other areas of state government, the 1991 Session of the Nevada Legislature adopted Senate Concurrent Resolution No. 2 which directed the Legislative Commission to conduct an interim study of the feasibility of privatizing the provision of governmental services, including a separate study of the feasibility of privatizing data processing management services.

At a time when state and local governments are beset with serious budgetary shortfalls, privatization, as opposed to cutting back services and raising taxes is fast becoming a solution of choice. Peter Drucker in his book, The New Realities, said no matter how hard government may try, it does not appear to be getting the necessary results and appears to have hit something called "the tax wall."

Testimony provided by Dr. Charles Van Eaton, Manville Professor of Economics, Hillsdale College (Hillsdale, Michigan), to the 1991 Legislature during the consideration of SCR 2 included the following ideas:

- > At its lowest common denominator, privatization simply means having done in the private sector those things which previously had been done in the public sector using government employees.
- > In any study done on privatization, it is important to make sure any procedure approved ensures the government is contracting to create competition, both in time and space. Nothing is gained by going from one monopoly service deliverer to another monopoly service deliverer or private firm. If that is what is recommended, forget it.
- > Contracts are based on the specifications the government unit draws up. The contracts should be designed to bring competitive forces of private sector into play, to operate activities based upon specifications laid down by government, with the government possessing the power of contract over the private firm. The contract should always include significant penalties if the private firm skips a beat in any way.
- > The first thing anyone contemplating privatization should do is ask what it costs, right now, to do the job being considered for privatization. When computing the actual costs, many expenses paid through different accounts, such as accrued pension liabilities and depreciation on capital equipment must be taken into

account. Once one has the cost figures and specifications, one submits the program for competitive bids across the nation.

- > When putting the program out for bid, one asks state departments to bid also to bring as many forces of competition as possible into play.
- > Privatization should not be contemplated unless hard economic analysis indicates privatization would allow the job to be done for less. All the persons currently employed by the state can become private contractors or employees of private contractors. To the extent the state or county finds ways to operate a program for less, a reduction in the tax burden and an improvement in the real income of all citizens of the state will result. The whole idea of privatization must be taken seriously before the tax wall is hit and before serious infrastructure decay is detected, because at that point, it may be too late.
- > It is extremely important for the government agency to monitor the contract. This gives the agency control over the contract. Privatization has nothing to do with getting rid of government; it actually empowers government. It is extremely important that the government agency costs out correctly, the bid is offered correctly and monitoring is done correctly. If there is a slip on any of the three, there will be problems. Ideally, an expert, such as the current commissioner in charge of the program, is assigned the job of monitoring and is simultaneously constantly seeking other private firms to bid against the firm with the current contract. That is the way competition is built across time.
- > The worst thing which could be said against a private firm, if one wants to criticize, is it is only interested in making money. However, it is true the way they make money is by performing the contracted job in a way which maximizes results while minimizing costs.

The National Association of State Comptrollers (NASC) in conjunction with Apogee Research, Inc., in their report titled, State Government Privatization 1992, reported, as a follow-up to a similar survey in 1989, the following as the results of an opinion survey of state governments and their use of privatization:

- > There appears to be a marked increase in the use of privatization since 1989. Approximately 85% of the respondents believe that some form of privatization will represent a prominent tool to provide state government services and facilities in the next decade. This compares to 50% in the 1989 survey.
- > Many respondents expressed the view that privatization is not a panacea, but a technique to be used when appropriate. The term privatization embraces a broad range of management opportunities to solve problems. This management opportunity should be evaluated and utilized with other management techniques as a method of improving the efficiency and effectiveness of government operations.

- > While operating and/or cost savings are among the main advantages to privatization, there is also widespread interest in other benefits. Such other advantages as higher quality service, shorter implementation time and providing unavailable services were very strongly supported.
- > Respondents noted several potential impediments to privatization -- key among them being the loss of governmental control, need for enabling legislation, political problems and creating labor problems.

II. SUBCOMMITTEE METHODOLOGY

The SCR 2 Subcommittee conducted five meetings, four were for the receipt of public testimony, with the fifth meeting being specifically for formulating the recommendations of the Subcommittee.

The Legislation directing the Legislative Commission to conduct the interim study of the feasibility of privatizing the provision of governmental services, also directed a separate study of the feasibility of privatizing data processing management services. A separate study of this subject area was not conducted by the Subcommittee, however, the March 11, 1992, meeting was dedicated to this subject area with testimony provided by vendors and consultants on the subject of "outsourcing information services."

In addition to the public testimony that was provided to the Subcommittee, numerous publications, articles, and books were reviewed to develop a knowledge of privatization.

The Subcommittee also received testimony from representatives of the Department of Prisons and the Department of Wildlife concerning their efforts to privatize the Las Vegas Minimum Security Prison for Women (Prison) and the computer hunter tag draw program (Wildlife). Testimony was also provided by representatives of the Department of Motor Vehicles concerning their efforts to implement legislation as approved by the 1991 Legislature: (1) A.B. 385 - Provide Drivers License services at locations other than DMV offices; and, (2) S.B. 547 - Pilot Program for motor vehicle registration services at authorized stations.

III. PRO AND CON ARGUMENTS CONCERNING PRIVATIZATION

In their review of information concerning privatization, the Subcommittee noted both arguments in support and in opposition to privatization. The following is provided to the reader to give them an idea of those arguments and is not intended to be inclusive of all view points on the subject.

Supporters for privatization have argued the following:

- > **Cost Savings** - Because government agencies do not compete in delivering services, they do not operate as efficiently as the private sector which competes with other companies in the provision of services. It is argued the introduction of competition will provide efficiency.
- > **Access to Technical Expertise** - It is not possible for government agencies to maintain all specialized skills among their employees.
- > **Increased Productivity** - The introduction of competition in that private firms are driven by the "profit motive" and thus are more productive.
- > **Project Expedience** - Private companies are more adapt at starting projects, working under tight timetables and achieving compliance with government regulations.
- > **Staffing Flexibility** - Seasonal, temporary, and short-term work requirements can be met more easily through contacting.
- > **Shared Risks** - The risks of providing the service is shared with the contractor.
- > **Expansion of the Tax Base** - Contracting expands the tax base by promoting growth within the private sector.

Opponents of privatization have argued:

- > **Cost** - The private contracts may often have a lower dollar value for the provision of the service. However, not included in the contract amount are costs that will be incurred for contract administration (monitoring, training, development of the RFP, etc.). Costs also not included are those costs that result from the laying off of public employees (unemployment compensation, public welfare programs, etc.).
- > **Quality** - Private firms may work to lower standards and the future ability of the public agency to deliver the services is diminished as in-house expertise is lost.

- > Control - Once a service is privatized, there is no longer responsible political control of that function. Also, the ability to meet changing standards or needs may be lost.
- > Continuity of Service - A loss of continuity of service can result from the transition between contractors, higher employee turnover (due to lower wages) in the private sector and contractor bankruptcies.
- > Social Costs - Progress made by the public sector in hiring minorities, women, veterans and the disabled may be adversely affected through contracting with the private sector.
- > Accountability - Governments are accountable through the electoral process for assuring their decisions are made correctly. To whom is the private contractor accountable?

IV. EXPERIENCES FROM OTHER STATES

As part of the Subcommittee's examination of privatization, the experiences from the other states were reviewed. Included in this examination was a review of legislation that had been enacted by other states, reports concerning the results of privatization efforts by other states, and guidelines developed by other states utilized in the determination as to whether to privatize a governmental function. This information also disclosed the various types of governmental services that had been privatized by other states which ranged from janitorial services to computer services. All information reviewed by the Subcommittee indicated the decision to privatize should be made after careful analysis.

The Subcommittee reviewed the Privatization Assessment Workbook, as developed by the Colorado State Auditor and the Guide To Implement The Competitive Cost Review Program, as developed by the Texas State Auditor. Both of these publications provide "steps" which are recommended for utilization when attempting to determine which public sector services should be privatized. The similarities of the Colorado and Texas workbooks include the following factors to assist governmental agencies in making systematic decisions about privatizing public services:

Market Strength	Political Resistance
Cost Efficiency	Quality of Service
Impact on Employees	Legal Barriers
Risk	Resources
Control	

The Subcommittee also reviewed the following publications which also provided information regarding steps to take to determine which services should be privatized:

Contracting for Services, as authored by Lawrence Martin, Ph. D., Assistant Professor for Public Administration, Florida Atlantic University; and,

Contracting Out In Washington State, as prepared by the Washington Research Council.

The Conclusions and Recommendations from the Washington Research Council report were:

- > The job of government involves deciding what services to offer and determining how those services can best be delivered. Privatization offers an additional tool for public managers to use in service delivery. It can save money and increase government efficiency and effectiveness. The Washington Research Council believes that it should be an option available to government managers.
- > Privatization is not a panacea. Contracting out does not necessarily guarantee a 20 to 30 percent savings over government provision of the service. Across the country, however, privatization has been found to save money in many areas.
- > The key to savings through privatization is competition and while successful privatization results in a more competitive environment, there are also ways to increase competition within the public sector without privatization.
- > In evaluating whether a service should be privatized, there are a number of issues to consider; the primary objective of government; the barriers that inhibit the use of privatization to accomplish those objectives; and finally, once the decision to contract has been made, the way contracts are written will determine the efficiency and effectiveness of the future system.

The Washington Council's report provides the following additional recommendations to facilitate contracting for services:

- > Examine statutes and regulations to identify and remove potential barriers to the further use of contracting and other forms of privatization.
- > Consider initiatives to encourage the active use of privatization options by public managers. According to Keon Chi of the Council of State Governments, these incentives could include vocal support by the governor and agency heads, allowing agencies to retain a portion of the cost savings, and not linking pay, in part, to program performance.
- > Form a task force to address labor concerns. Include representativeness of labor, management, the legislature and the executive branch. In identifying concerns, and opportunities around this issue, a mediator familiar with the issue of contracting and privatization may prove useful.

- > Establish and maintain a competitive environment. This could include sending out requests for proposals, using franchise agreements and competitive bidding and requiring rebidding of contracts on a regular basis.
- > Write contracts for a reasonable length of time, long enough to make it attractive to a business but short enough to maintain a competitive environment.
- > Pass on to contractors the responsibility for the same laws and regulations under which the government department or agency operates.
- > Write contracts which specify each step in the activity in enough detail to avoid "low-ball" bidding and ensure quality service delivery. This could include wage rates or employee training requirements. E. S. Savas (Chairman of the Department of Management at City University of New York) says that contracting out can actually result in more control over the service by public officials if they write a concise list of specifications to which the contractor must adhere.
- > Require performance bonding or some other way of demonstrating financial security from the contractor and include penalty provisions in the contract for not meeting contract specifications.
- > Monitor contracts actively to assure service quality and build monitoring costs into the evaluation of the cost effectiveness of contracting.
- > Bid contracts far enough in advance to allow for a smooth transition between government and the private contractor or between private contractors. Also, where it is practical, phasing in the new provider can help to smooth the transition.
- > Before contracting an activity, contract a portion of it to assure the feasibility without losing the ability to resume the service. In some circumstances, it may also be advisable to contract only a portion of the service at any given time to maintain in-house capacity.
- > Develop comprehensive guidelines or procedures for contracting out. In addition to the standard steps of contracting--from preparation of Request for Proposals and contract specification, to contract oversight and evaluation--these guidelines should address the more complex issues of specific conditions under which contracting is or is not undertaken, cost comparisons, and employee union relations.

V. OUTSOURCING INFORMATION SERVICES

The March 11, 1992, meeting of the Subcommittee was dedicated primarily to receiving testimony from vendors and consultants concerning the "outsourcing of information services." Testimony was provided by representatives of the following:

Electronic Data Systems	Systems and Computer Technology
Cylix Communication	IBM
Real Decisions Corporation	

Testimony provided by these representatives cited the following as benefits to "outsourcing" information services:

Cost Savings/Effectiveness	Better Service
Single Point of Accountability	Predictability
Re-focused Capital & Talent	Flexibility
Lack of in-house expertise	Innovation

Additionally, these representatives cited the following as the negative aspects of "outsourcing" information services:

- Control
- Conversion Time
- Alliance to Management
- Change
- Transition to managing functions in-house

The testimony provided by Real Decisions Corporation (RDC) was different from the testimony provided by the other vendors. RDC is not in the business to provide outsourcing services, but instead, analyzes the costs associated with information services (i.e., the cost effectiveness of the existing operation) and provides recommendations concerning the efficiencies of the information services.

RDC advised the Subcommittee there are seven major cost categories associated with information services. These categories and the share of total cost they typically consume are:

Software	10%
Hardware	46%
Operations	15%
Tech Services	13%
Occupancy	11%
Finance/Admin	4%
Disaster Recovery	1%
	<u>100%</u>

The Subcommittee was informed the majority of savings from outsourcing will be realized in the operations, technical and software cost categories with the least amount of savings being realized in the hardware cost category. Additionally, the Subcommittee was told that data centers should be merged prior to outsourcing in order to save funds, and that the results of outsourcing should not be evaluated in "year one" of the contract but should be evaluated over the term of the contract which typically runs 7 to 10 years. Outsourcing vendors essentially bet on their ability to drive costs down over the term of the contract. Vendors typically lose money up front; but increase their profits in proportion to how much of a user's operation they can standardize.

Representatives from IBM also advised the Subcommittee that audits and studies should be undertaken prior to entering an outsourcing agreement to determine how well an organization functions and if money can be saved if outsourcing is considered.

VI. RENO/SPARKS AND LAS VEGAS CHAMBERS OF COMMERCE

Testimony was provided to the Subcommittee by representatives of both the Reno/Sparks and the Las Vegas Chambers of Commerce. The Subcommittee was advised both Chambers were in the process of conducting their own study on privatization. The Chambers were encouraged to keep the Subcommittee advised of their progress on the study.

The Subcommittee was also advised the Reno/Sparks Chamber of Commerce had formed a coalition to explore areas where privatization might work and would enhance services and/or save government money.

Specific recommendations and areas under review by the Chambers included the following (copies of recommendations were distributed to the affected agencies and departments, the Department of General Services and the Department of Administration soliciting their comments; information concerning certain portions of the responses can be found in Appendix B):

1. Statement of direction for information services:
 - a. Legislation be formulated to create an Information Technology Department, the legislation should encompass the concepts of consolidation of all existing data processing and telecommunication functions within the state and endorse the use of outsourcing where practical and applicable.
 - b. The existing (State) Data Processing organization be charged with developing a long range (5 - 10 year) Strategic Information Technology Plan.

- c. The existing (State) Data Processing organization be charged with developing a short range tactical plan to improve all State Data Processing functions, effectiveness, and efficiency. The Plan should include all identified opportunities for outsourcing.
 - d. Nevadans Helping Nevada (Reno/Sparks Chamber) is prepared to assist in the development of both the strategic and the tactical plans.
- 2. Potential privatization projects as recommended by the Las Vegas Chamber of Commerce:
 - > Prisons (perhaps private operation of SNCC [Jean]).
 - > Child Support Payment Processing (special task force is conducting a study to determine where Nevada stands in the area of locating delinquent parents and if Nevada is prepared to have all child-support records automated by 1995 as mandated by Congress under rules adopted in 1988).
 - > Workmen's Compensation Insurance (another look at three-way workmen's compensation insurance).
 - > Waste Water Treatment.
- 3. The Las Vegas Chamber of Commerce also advised the SCR 2 Subcommittee of the formation of the following Subcommittees in their review of privatization:
 - a. Inter-Governmental - Initial research has revealed those areas in which entities have already utilized the private sector to contract out certain services. The consolidation of purchasing products and different services by different entities is also being reviewed.
 - b. Regional - This Subcommittee is reviewing mass transit in an effort to determine which aspects can be privatized.
 - c. State Industrial Insurance System - This Subcommittee is reviewing the feasibility of privatizing all or a portion of this State agency. This includes a review of ACR 63 Interim Study and SB 136 from the 1983 Session.
 - d. Child Welfare Services - This Subcommittee is reviewing the feasibility of privatizing the child support collection program within the District Attorney's Office.
- 4. The Las Vegas Chamber of Commerce also recommended the Subcommittee endorse the following:

- > Any new service or program proposed to the Legislature as part of the budget process (should) include a comment with regards to the potential privatization of the program. This comment would be in addition to any fiscal note.

VII. NEVADA TAXPAYERS ASSOCIATION

The Nevada Taxpayers Association provided the following recommendations and comments for the Subcommittee's endorsement (copies of recommendations were distributed to the affected agencies and departments, the Department of General Services and the Department of Administration soliciting their comments; information concerning certain portions of the responses can be found in Appendix B). The Nevada Taxpayers Association indicated in providing these recommendations that they would pave the way for an ongoing dialogue to maximize the use of taxpayers' dollars through alternate service delivery.

1. Reduce the current bidding level on public works to \$25,000.

"The current statutory level of \$100,000 in NRS 338 allows many jobs (such as pavement striping, curb and gutter repair, etc.) to be done in house which have been proven to be more cost effective when contracted out."

2. Allow any political subdivision who is bidding a public works contract between \$25,000 and \$100,000 to bid on the contract.

"Competition is a driving force to greater efficiency and better service. In this instance, if a governmental agency can meet the bid specs at a lower price than the private contractor, the agency deserves to do the job."

However, the indirect costs which agencies tend not to consider must be spelled out in statute and taken into consideration when preparing the bid. Such costs include - but are not limited to - equipment depreciation, administrative costs such as personnel, rent, buildings and grounds fees, etc."

3. Establish criteria by which equipment purchase requests can be evaluated to determine:
 - a. If the equipment can be leased or rented more cost efficiently?
 - b. Is there a function involved, such as maintenance, which is better: out-sourced or privatized?

"Government should not be in the equipment business, unless it is cost efficient. Owning the desks and chairs for personnel is efficient. Owning a cement mixer, street sweeper or bar coding machine may not be cost effective when utilization, obsolescence, maintenance and other such factors are taken into consideration."

Recommendations 4 and 5 do not involve privatization of services per se, but rather a consolidation of services. Some elements identified within the services readily lend themselves to privatization.

4. Consolidate the various data (computer) centers under State Data Processing. There are currently 7 such centers in addition to the State's: SIIS, ESD, DMV, NDOT, NHP, UNLV, and UNR.

"There is an unnecessary redundancy of costs to say nothing of the lack of being able to develop a usable data base of economic information. While there are various programs which would tie these centers to the State's main frame, they tend to be costly and the same efficiency would not occur."

5. Consolidate the various payroll systems being used by State agencies. There are currently 6 systems in addition to the State's: SIIS, LCB, NDOT, UNLV, UNR, and PERS. PERS contracts out its payroll function.

"As with recommendation 4, there is a redundancy of costs."

VIII. STATE OF NEVADA EMPLOYEES ASSOCIATION

The State of Nevada Employees Association provided the Subcommittee with information detailing several issues they felt should be addressed in the continuing discussion of the possibility of contracting out functions currently provided by state employees. The Association indicated if the Subcommittee intended to draft legislation, there are a number of points which should be included (copies of recommendations were distributed to the affected agencies and departments, the Department of General Services and the Department of Administration soliciting their comments; information concerning certain portions of the responses can be found in Appendix B). Below are those points and comments from the association.

1. Assurance that if the service is to be contracted, there will be competition, now and in the foreseeable future.

"One of the arguments used for promoting contracting out is that the "Free Enterprise" system is better because of competition. This may not be true with some governmental services. Before considering whether a function can or should be contracted out it needs to be determined whether there is competition in the field. If the service is put out to bid, will there be competition. If the state agency stops providing the service will there be more than one source readily available. Unless this assurance can be determined you are simply trading a government monopoly for a private uncontrolled monopoly. The eventual outcome will be increased cost to the taxpayer."

2. Determination that private contractors will not take the easy business, raising the remaining costs of providing the more difficult service by the State.

"Another factor to be considered whenever there is a proposal for contracting out is that if the state will continue to provide the same service, will the contractor take the cream."

This is particularly of concern in the area of corrections. If you contract out the minimum security inmates who are the easiest to control and the least expensive to house, will it drive up the per inmate cost for the remainder of the state's charges? Undoubtedly. Then there will be a clamor to lower the state's cost because the private firms can do it for less. This committee has already heard from the Director of Prisons that a private firm coming in to operate the new women's honor camp in Las Vegas "...cannot do it for less than the Nevada Department of Prisons." Some of you may remember that when the 1991 legislature invited a corrections expert to make suggestions on how the State of Nevada could save money currently going to prisons he was specifically asked if the State could save by contracting out its prisons. He said NO because our costs are already among the lowest.

If you contract out the cheapest functions of an agency, any agency, it will raise the per unit cost for what remains."

3. Requests for proposals should assure that sub-standard wages will not be allowed and that contractors will have to pay salaries and benefits at least equivalent to that provided by the State to its employees.

"Another factor, and one that should be of interest to business in Nevada, is the wage rate paid by contractors. We suggest that any legislation require a contractor to pay his employees at least as much as the State pays to employees in similar classifications. This will assure that some out-of-state firm does not come in and provide a low bid, pay substandard wages and send the profits out of State. Decent

wages to employees keeps the tax money circulating within the State. Several members of this committee have already indicated that contractors, in many instances, pay more and therefore the inclusion of this suggestion should not cause a problem.

I am not suggesting that you attach a "Little Davis-Bacon Act" to the bill whereby a contractor must pay an inflated union prevailing rate, but rather the actual salary and benefits paid by the State. It is to everyone's advantage to keep tax money circulating within NEVADA."

4. There needs to be a method to determine the ongoing success of contracts and to assure that the legislature is apprised of changes.

"How do you know that a service, once contracted, continues to be done for less or at the least expensive rate. Once the public employees are gone, you have no comparison.

The best example I can think of was the first time the legislature allowed the contracting out of janitorial service in State buildings in Las Vegas. The legislature was told at that time, and based upon bids received, the State would save \$150,000 per year with a private janitorial firm. What the legislature was not told was that within six months after the practice started, the State had gone through five bidders. The four lowest bidders simply could not provide the service for the price quoted. So just how much, if any, did the State actually save by the time they had come up from the lowest bidder to the fifth lowest bidder. No one knows. No report was provided to the legislature and by the time the legislature met two years later, the contract was swallowed up in the thousands of contracts contained in the Executive Budget. There is no measure. There is no control. There is no assurance to the public that they get full-value. There is no assurance that the system is free of collusion or corruption."

5. There needs to be a method to determine the ongoing success of contracts and to assure that the legislature is apprised of changes.

"In the mid '70s when the legislature mandated that the Board of Examiners approve all contracts it did so because the money committees felt contracts for services were getting out of control and they needed to be reviewed by someone on some body with more time than the legislature in session.

A decade and a half later, these contracts number in the thousands. Each meeting of the Board of Examiners approves a hundred to two hundred contracts, for many

millions of dollars. Because these three elected officials are busy, their review is often perfunctory and they see only the cover sheet for the contracts. A better system of review is needed.

I am the last person in this room to propose increasing bureaucracy but if contracting out is going to work; if abuses are to be avoided; if the public is to be protected from chicanery; if there are to be assurances that the true cost is as predicted, then we need a new independent body with the sole purpose of monitoring all contracts let by the State. If we are to assume that this committee will propose some kind of legislation, then that too must be complied with.

I would like to suggest that any legislation you propose include a committee which would meet for two to three days each month to review all contracts and monitor the performance of those contracts. Because the committee would have no executive or administrative duties it could include several legislators. It could also include one or more private business people who do not have contracts with the State, a member of our organization, one or more state officials and anyone else the legislature feels appropriate. The legislature could supply two staff people who would be adequate to perform the monitoring function. There could even be a sunset provision to assure that we are not just building needless bureaucracy."

6. Bring all contracts, except actual construction contracts under the jurisdiction of the Board of Examiners.

"We need to assure that all contracts other than construction fall under the jurisdiction of the State Board of Examiners. Currently the Department of Transportation has stretched the law so that they do not have to submit contracts to the Board. This allows for sweetheart contracts with absolutely no oversight."

IX. FINDINGS AND RECOMMENDATIONS

As was noted, the recommendations as provided by The Reno/Sparks and The Las Vegas Chambers of Commerce; the Nevada Taxpayers Association; and, the State of Nevada Employees Association were distributed to the affected agencies and departments for their comments as to how the recommendations would affect their operation. Copies of all the potential recommendations were also provided to the Department of Administration and the Department of General Services soliciting their comments. Information regarding certain portions of the responses can be found in Appendix B.

Comments made by various members of the Subcommittee resulted in the formulation of the following potential recommendations which were also provided to the affected agencies

and departments as well as the Department of Administration and the Department of General Services soliciting their comments. Information regarding certain portions of the responses can also be found in Appendix B.

1. Policy/procedure to expedite the Request for Proposal (RFP) process.

The Subcommittee was particularly disturbed by the length of time that transpired in the issuance of the RFPs by both the Department of Prisons and the Department of Wildlife for the operation of the Las Vegas Minimum Security Facility for Women and the computerized hunting tag draw system.

Both of the above noted projects were approved by the 1991 Legislature. The Las Vegas Minimum Security Prison for Women was an initiative of the Governor in The Executive Budget and the computerized hunting tag draw system was an initiative of the Legislature.

2. Examination of statutes to remove potential barriers to contracting and other forms of privatization if cost effectiveness can be determined.

Information supplied the Subcommittee indicated this is an area that should be investigated to determine what, if any, potential barriers (statutory) exist that would preclude contracting and other forms of privatization.

3. Require the Department of Transportation to have all non-construction contracts reviewed by the Board of Examiners.

This recommendation is identical to the recommendation as put forth by the State of Nevada Employees Association. An "unofficial" opinion (August 30, 1983 and reaffirmed May 26, 1992) from the Attorney General's Office indicates the Department of Transportation does not have to bring contracts to the Board of Examiners for their approval. NRS 284.173, states:

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

(a) Contracts executed by the department of transportation for any work of construction or reconstruction of highways...."

4. Legislation similar to SB 487, as considered by the 1991 Legislature, or legislation similar to that adopted by Arizona requiring certain activities to be performed by the private sector unless there are compelling reasons for the service to be delivered by the public sector.

SB 487 was similar to legislation that has been approved by Arizona, requiring certain activities to be performed by private enterprise unless a compelling public interest is served through performance by a public agency. SB 487 proposed the use of the Commission on Economic Development to determine, upon petition by a person directly affected by the competition with a designated public agency, whether a public agency competes with private enterprise.

The Arizona legislation provides for the establishment of a 13-member "Private Enterprise Review Board". The Arizona legislation is intended to limit government competition with private enterprise in the offering of goods and services, to provide economic opportunities to private industry, to regulate competition by institutions of higher education unless it enhances an educational or research function and to address issues and complaints concerning competition through a private enterprise review board.

Additionally, Texas has approved legislation which established the "Comprehensive Cost Review Program to Determine Efficiency of Activities of Certain Agencies". This legislation provides a procedure to assist in determining the efficiency of commercial activities performed by various state agencies in Texas. If it is determined that at least the same quality and quantity of service can be purchased at a savings of more than 10 percent, the Commission (State Purchasing and General Services Commission) shall notify the agency of the amount by which the agency's cost exceeds the cost of purchasing the service. The agency shall then be required to develop, not later than sixty days after notification, a proposal for reducing the costs of services so that the difference between the agency costs and purchased costs does not exceed 10 percent.

5. Legislation similar to that adopted by Montana for a privatization review procedure.

The Montana legislation provides for a review procedure for proposals to privatize state programs; provides for review of currently privatized state programs; requires the preparation of a privatization plan; and, provides for a privatization review by the legislative audit committee.

X. CONCLUSIONS AND RECOMMENDATIONS

The conclusions and recommendations reached by the Subcommittee are based on: (1) suggestions made to the Subcommittee at public hearings; (2) review of information

concerning the subject; (3) the experience and knowledge of the members of the Subcommittee; and, (4) other studies and materials made available to the Subcommittee.

1. The Subcommittee endorsed the continued study of the potential consolidation of the various State data processing centers; the Subcommittee noted during this continued study, the various data centers should be cognizant of the potential for consolidation before committing to equipment purchases/capital outlays. (BDR R-645)

A review of the agency responses to the recommendation by the Nevada Taxpayers Association indicated they (the agencies) were not ready to make a full consolidation at this time. However, the Subcommittee felt agencies should be encouraged to consolidate where appropriate and that a plan for consolidation be developed.

2. The Subcommittee recommended the formation of the Department of Information Services and Technology. The Department would be comprised of the existing Department of Data Processing and would be a "name change" to reflect the services the Department of Data Processing currently provides. Coordination of the Department's existing functions (data processing and information services) would be a responsibility of the new Department and coordination of all appropriate State telecommunication functions (excluding Judicial and Legislative Branches) would also become a responsibility of the new Department. (BDR 19-638)

The Subcommittee spent considerable time considering this recommendation as put forth by representatives of the Reno/Sparks Chamber of Commerce.

As explained by representatives of the Department of Data Processing, the Department of Information Technology would, for example, review new technologies and expensive data base for which Department of Data Processing clients have expressed an interest. A determination would be made if the statewide purchase, installation and utilization should be considered. As defined by representatives of the Department of Data Processing, telecommunications is the transfer of information from one point to another; in order for the Department of Data Processing to provide the most cost effective service, more coordination is required.

The recommendation as put forth by representatives of the Reno/Sparks Chamber of Commerce would have provided for the consolidation of all existing Data Processing and telecommunication functions within the state. The Subcommittee, however, was specific in their recommendation, providing for the coordination of

telecommunication functions under the new Department of Information Services and Technology.

The Subcommittee recognizes the issue of coordination and consolidation of state telecommunication is a subject of debate in several arenas of state government. Further, the Subcommittee is aware the subject is within the scope of other interim legislative committees and that the Governor's Committee on Government Reorganization intends to address this same matter. Consequently, the Subcommittee would request the legislature consider this recommendation in the full context of other recommendations prior to legislative action.

3. The Subcommittee recommended the newly formed Department of Information Services and Technology be required to:

-> Develop a long-range (5 to 10 year) Strategic Information Technology Plan.

-> Develop a short-range tactical plan to improve all State Data Processing functions, effectiveness and efficiency. The short-range tactical plan should also include all identified opportunities for outsourcing. (BDR 19-638)

This is a continuation of the previous recommendation and was again put forth by representatives of the Reno/Sparks Chamber of Commerce.

This recommendation will provide for the new Department of Information Services and Technology to develop a short-range tactical plan to improve all state data processing functions, and included in the scope of the plan, is consideration as to the feasibility of including the consolidation of the data centers.

In concurring with the Chambers' recommendation for the short-range and long-range plans, the Subcommittee was cognizant of previous studies, legislative audits and the Governor's Committee on Efficiency and Economy (circa 1972) that provided similar recommendations.

4. The Subcommittee recommended the consolidation of the various payroll systems (software) used by State agencies (SIIS, NDOT, PERS, University Classified, and Controllers) into one system. The Subcommittee specifically excluded from the consolidation the payroll systems for LCB and University Academic (personnel). Common software would be acquired and utilized by all payroll centers with modifications to fit the specific requirements of the using agencies/departments. (BDR 27-635)

This recommendation was made to the Subcommittee by the Nevada Taxpayers Association.

The consolidation would be accomplished by all payroll centers acquiring and utilizing a common software with the various agencies retaining the capability to prepare and monitor individual payrolls. The software would facilitate the use of a modular approach to meet each agency's unique needs and data would be maintained on the main computer. The consolidation will provide for a common data base so that, for example, when pay raises go into effect, the data would only have to be entered once in the central (common) software. The various payroll centers would continue to do their own payroll preparation utilizing their own staff, time-frames and checks. State Personnel would not handle all agency time sheets and would not mail out all agency paychecks. The recommendation will provide for a central data base and software.

*The Subcommittee specifically excluded the University of Nevada System for **University Academic** personnel based upon concerns expressed by the University System in their response to the recommendation. Representatives of the Department of Personnel also testified to the Subcommittee the intent of the consolidation was always to exclude University Academic (faculty members) who are paid by contract and have no relation to the method utilized to pay classified employees.*

The Subcommittee was advised by representatives of the Department of Personnel that economies would be attained by maintaining one payroll system and the one system would facilitate the preparation of information when requested by the Legislature (central data base).

Please refer to Appendix D which includes information from the Department of Personnel on the consolidation and their comments on the fiscal impact.

5. The Subcommittee recommended the current bidding level as set in Chapter 338 of NRS be retained at the \$100,000 level and not be reduced to \$25,000 as recommended by the Nevada Taxpayers Association.

The Nevada Taxpayers Association had recommended the current bidding level as set forth in NRS 338 be reduced from the \$100,000 level to \$25,000. The Subcommittee did not concur with this recommendation and voted to retain the bidding level at \$100,000.

6. The Subcommittee recommended clarifying provisions relating to advertisement for bids for public works contracts between \$25,000 and \$100,000. (BDR 28-646)

The Subcommittee endorsed this recommendation by the Nevada Taxpayer's Association based upon responses by affected agencies which indicated that certain agencies elect to bid projects between \$25,000 and \$100,000 even though not required by statute. The Subcommittee was cognizant, when they approved this recommendation, that the impact would be less than what it would have been had they approved reducing the bid level from \$100,000 to \$25,000. The recommendation, as approved by the Subcommittee, encourages the solicitation of bids since existing statutory language does not prohibit political subdivisions from soliciting bids on projects with estimated costs between \$25,000 and \$100,000.

7. To expedite the Request for Proposal (RFP) process, the Subcommittee recommended that in situations where the legislature has mandated the contracting out of governmental services (excluding normal contracting out of services budgeted in the Operating Category) with a threshold of \$100,000, the following procedure be adhered to by the state agency/department charged with securing the contracted services:

- > A representative of the agency will meet with a representative of the Purchasing Division, the Attorney General's Office and, if necessary, an outside consultant for the purpose of preparing the initial RFP.
- > These individuals would be required to report their progress in preparing the RFP within 90 days from authorization of the project, to the Legislature, if in session, or the Interim Finance Committee if the Legislature is not in session. (BDR 27-644)

This recommendation was made by the Subcommittee based upon the length of time that transpired in the issuance of the RFPs by both the Department of Prisons and the Department of Wildlife for the operation of the Las Vegas Minimum Security Facility for Women and the computerized hunting tag draw system. These projects were approved by the 1991 Legislature.

The Subcommittee in making this recommendation is hopeful that the development of RFPs in the future will not consume as much time as was consumed in the development the RFPs by the Department of Prisons and the Department of Wildlife. The Subcommittee is cognizant of the importance of the RFP, which is the basis for successful privatization. However, the Subcommittee felt that one of the benefits of privatization is project expedience and to ensure that benefit is attained, expeditious development of the RFP is required. The intent of this recommendation is to ensure the Legislature and/or the Interim Finance Committee is kept advised of the progress

and that agencies/departments are held accountable when the RFP process is not completed in a timely manner.

8. The Subcommittee directed staff to draft a letter to both the Department of Wildlife and the Department of Prisons, expressing the Subcommittee's "concern" regarding the progress and length of time involved in the contracting process (RFP). The Subcommittee desired the Departments be advised they should proceed expeditiously from this point and the Subcommittee, to the extent it is possible, will continue to monitor the progress of the Departments.

As was noted in the previous recommendation, the Subcommittee has concern regarding the length of time that transpired in the RFP process for these two Departments. It is the Subcommittee's desire that the process move expeditiously from this point and that the Subcommittee be kept advised as to progress the Department's attain in completing their respective projects.

9. The Subcommittee recommended the Legislative Auditor, as part of the normal Legislative audit process, report to the Legislative Commission as part of his report:

-> Services that may be likely candidates for privatization.

-> Services that are currently being performed by a private contractor that have the potential of being performed more efficiently by the (state) agency.

The Legislative Commission (Commission) would then have the authority to instruct the Legislative Auditor to conduct further cost analysis if the Commission determines it necessary. (BDR 17-643)

This recommendation is modeled after the legislation adopted in Montana which provides that the legislative auditor, through state audits, identify areas with a potential for privatization. Correspondence with the Legislative Auditor (Gary Crews), resulted in an alternative proposal to the Montana legislation which, according to the Legislative Auditor, should not significantly impact the ongoing audit program. This alternative would provide during the course of an audit, the auditors would report to the Legislative Commission areas susceptible to privatization or if a service being performed by a private contractor has the potential of being more efficiently performed by the state. The Legislative Commission, based upon the reported finding(s) by the auditors, could then instruct the auditors to conduct further cost analysis if determined necessary.

10. The Subcommittee recommended the State Purchasing Division establish criteria by which equipment purchase requests can be evaluated to determine:

- > If the equipment can be leased or rented more efficiently?
- > If there is a service involved, such as maintenance which is better: out-sourced or privatized? (BDR 27-642)

This recommendation was brought to the Subcommittee by the Nevada Taxpayers Association. The Association made this recommendation based upon situations that have been noted since the adjournment of the 1991 Legislature (i.e., conversion of existing contracted services to government provided services after capital outlay to either purchase or lease the equipment to provide the service). Specifically, the Association has stated that government should not be in the equipment business.

The Department of Administration, in their response to this recommendation, indicated they felt the evaluation criteria would have to be established by the Purchasing Division since those personnel have the most expertise in equipment acquisition. The Department of General Services, in their response, indicated they believed this to be a reasonable suggestion.

11. The Subcommittee recommended the State Purchasing Division adopt guidelines (criteria) modeled after those utilized by the State of Colorado to assist government agencies in making systematic decisions about privatizing public services. (BDR 27-641) Criteria utilized by Colorado include consideration of the following (a copy of the Colorado workbook can be found in Appendix C):

- > Market Strength - The commercial characteristics of the service. Is the private sector able and interested in delivering the service.
- > Political Resistance - The amount of opposition to change in who provides the service. This resistance can come from the public, users of the service, interest groups or public officials.
- > Cost Efficiency - The expected cost of services, assuming no change in the level or quality of service.
- > Quality of Service - The expected effect privatization will have on the effectiveness, timeliness, thoroughness, etc. of the service provided. Privatization should not decrease the quality of service, but should match or exceed the present quality.

- > Impact on Employees - The effect that privatization will have on government employees.
- > Legal Barriers - The effect any existing laws have on the privatization decision.
- > Risk - The degree to which privatization of a service increases government exposure to hazards.
- > Resources - The efficient and effective use of government assets.
- > Control - The government's ability to oversee the provision of the service.

In addition to utilizing a numerical scoring (rating based upon the above referenced criteria) to assist agencies in making systematic decisions about privatizing public services, the Subcommittee recommended written rationale must be provided to substantiate the scoring.

The Subcommittee spent considerable time in the discussion of this recommendation. The Colorado workbook was cited as being comprehensive in view of the decisions that would be required in determining if a service should be contracted. The use of the criteria in Colorado and the adoption of similar guidelines in Texas in the implementation of their "Competitive Cost Review Program" provided impetus to the Subcommittee in making this recommendation so that Nevada would not be "breaking new ground." The numerical format used by Colorado would be utilized as a guide to assist in the decision-making process on whether to privatize a specific service or services. It should be noted that not all of the criteria may be applicable to the service(s) being considered for privatization and that additional criteria not included may require consideration dependent upon the service(s) being considered. Additionally, the Subcommittee was specific in the inclusion in this recommendation that the numerical scoring that is utilized should be substantiated with written justification.

Additionally, both the Colorado and the Texas workbooks cite the use of the criteria as the initial step in determining if a service should be privatized or contracted. If it is determined, based upon the use of the criteria, that a public service may be a good candidate for privatization, the government agency should then complete a detailed cost analysis. The cost analysis is a methodology used to analyze the cost of providing the service or function.

The first step in the cost analysis is to define the service to be provided and to determine what direct and indirect costs contribute to the performance of the service. The total state cost (direct and indirect) should be used to compare to the

cost of purchasing the service. The cost to contract (purchase the service) is defined as all costs associated with purchasing a service from an alternative method of delivery including the contract administration cost (costs incurred by the state to ensure that the quality and quantity of the service purchased from an alternative source is adequate and the contract is executed in accordance with contract specifications, i.e., contract monitoring, oversight, start-up, etc.), contract cost (the cost of purchasing the service from an alternative source) and any unavoidable agency costs (those costs which will remain despite the method of service delivery, i.e., divisional overhead, agency administrative overhead).

The Subcommittee also adopted additional recommendations 12., 13., and 14. that should also be included in the criteria.

12. The Subcommittee recommended, when the criteria (as established by the State Purchasing Division) is utilized and it is determined that it is appropriate to privatize a service, an additional criterion requiring potential contractors to provide the services at a savings of 10% of the in-house bid (if competitively bid in-house) or of current costs for providing the services should be applied in making the final decision. All direct and indirect costs (including contract monitoring and review) would be included in the cost analysis when calculating the in-house bid or the current cost of providing the service and the cost of privatization. (BDR 18-639)

The Subcommittee adopted this recommendation indicating a 10% factor is justified in a change from the public to private sector or back from private to public. Also noted by the Subcommittee, was the inclusion of this requirement in S.B. 487 as reviewed by the 1991 Legislature and the inclusion of this requirement in legislation as adopted by the State of Texas. The requirement of saving at least 10% percent of the state's cost will ensure the state would save money with privatization.

13. The Subcommittee recommended potential contractors would be required to declare under penalty of perjury, when responding to RFPs, if they have been found guilty of violating state or federal labor laws, fraud, bid-rigging or other similar offenses, violations of criminal law, sexual harassment, equal rights discrimination, etc. (the history of a company would be a factor for consideration). (BDR 18-640)

The Subcommittee in adopting this recommendation indicated the contractor's past performance should be a factor utilized when considering the contractor's response to an RFP. It was not the Subcommittee's intent to specifically delineate what would bar a contractor from future contracts, but was to require declaration under penalty of perjury any past convictions or violations of state or federal labor laws,

fraud, bid-rigging or similar offenses. This would then be reviewed on a case-by-case basis to determine the impact past performance would have on the consideration for the new contract.

14. The Subcommittee recommended the nature of the services that are contracted out should not result in all the easily accomplished services being privatized with the harder to accomplish (and usually more costly) services left to be performed by the governmental agency.

This recommendation as provided to the Subcommittee by the State of Nevada Employees Association (SNEA) is intended to prevent the "taking of the cream" by private contractors. SNEA linked this recommendation to a particular area of concern, corrections. They indicated that if only minimum security facilities (least expensive to operate) are contracted for operation, the cost per inmate for the higher level security (medium and maximum) will increase.

The Subcommittee stated that the nature of the services that are contracted out should not result in an easily accommodated service being contracted while leaving a heavier burden on the state agency.

15. The Subcommittee recommended the Board of Examiners monitor and evaluate all state agency contracts, other than Public Works and Highway Construction Contracts, to ensure that continued contracting is cost effective and the established quality of service standards are being met. (BDR 23-637)

Throughout their review of privatization, the Subcommittee heard testimony from various sources and reviewed articles which stressed the importance of contract monitoring and evaluation. Dr. Charles Van Eaton, in his testimony to the 1991 Legislature, stated that it is extremely important that the government agency monitor the contract.

Monitoring of the contract will assure that the terms and conditions of the contract are being appropriately followed and appropriate levels of service are being provided. This will provide for the oversight of the service delivery and will help protect the state and the public against potential contract deficiencies.

Another activity which is complimentary to monitoring, is contract evaluation. Evaluation will provide for the review of the program operated by the contractor to ensure the contractor has successfully accomplished the desired results. The evaluation will also determine if the contractor is providing the services more

efficiently than the state. An evaluation should, therefore, consider both program effectiveness and cost efficiency.

Monitoring without the evaluation would indicate whether the contractor complied with the terms of the contract, but would not indicate if the desired results were obtained. Evaluation without monitoring would indicate whether the contractor has accomplished the desired results, but would not indicate if it was accomplished in accordance with the terms of the contract.

16. The Subcommittee recommended contracts should be re-bid frequently to ensure that a competitive environment is maintained. Competition is one basis of successful privatization. The term of contracts will vary on a case-by-case basis; whenever feasible contracts should be reviewed for re-bid and re-negotiation to take advantage of any cost savings or efficiency factor that may be available. The exact length of time contracts are awarded should be determined on a case-by-case basis dependent upon the investment by the contractor to provide the service (i.e., significant capital investments by the contractor to provide the service may preclude re-bidding of contracts as frequently as those that do not require significant capital investments).

One on the basic arguments in support of privatization is cost savings. The justification for this argument is government agencies do not compete in the delivery of service, therefore operate in a monopolistic arena and are not as efficient as the private sector which competes with other companies in the provision of services. It is argued the introduction of competition will provide efficiency.

Once competition is introduced, it must be maintained to ensure continued cost savings. Contracts should be written for a reasonable length of time; long enough to make it attractive to a business but short enough to maintain a competitive environment. Nothing is gained by going from a government monopoly for the provision of service to a private monopoly. The type of service that is contracted will generally determine the length of the contract, (i.e., contracting for the design, construction and operation of a facility will require a longer contract period than a contract for the provision of a single service which requires no, or very little capital outlay by the contractor to begin the service).

A basic tenant of competitive contracting requires seeking new competitive proposals in sufficient time to award a new contract for services commencing at the expiration of the current contract (transition).

17. The Subcommittee recommended that all Department of Transportation contracts, exclusive of actual construction contracts, be reviewed for approval by the Board of Examiners. (BDR 23-636)

This recommendation was brought to the Subcommittee by the State of Nevada Employees Association (SNEA). SNEA justified this recommendation based upon the need for oversight on Department of Transportation contracts for services other than actual construction contracts. The Subcommittee concurred with this recommendation and noted during their discussion of the recommendation situations that had occurred in the past which additional oversight may have precluded.

18. The Subcommittee recommended, if justified based upon an in-depth analysis of the applicable cost information and other criteria, the women's multi-custody level prison which has been sited by the Legislature at the Nellis location, be designed, built and operated (medical, food service, custody, etc.) by a private contractor.

The Subcommittee made this recommendation and the recommendation to explore the privatization of the Lovelock Correctional Center (recommendation #19.) with the understanding this would not impact existing state employees, and that private companies currently engaged in corrections work could provide cost comparisons for a privately run facility versus the state's cost for existing institutions. Additionally, testimony as provided by the Department of Prisons indicated that in-house expertise is available for development of the request for proposal.

The Subcommittee supported this recommendation which would provide for the design, construction, and operation of the multi-custody level women's facility based upon the New Mexico facility (Grants, New Mexico as operated by Correctional Corporation of America) unless, after a study there is convincing evidence that it would not be cost effective or otherwise feasible.

19. The Subcommittee recommended, if justified based upon an in-depth analysis of the applicable cost information and other criteria, the Lovelock Correctional Facility be operated (medical, food service, custody, etc.) by a private contractor.

Unlike the previous recommendation, the Subcommittee recommended only the operation of this facility be privatized. Phase I of this facility, which will provide for the housing of 500 medium security inmates, is currently under construction with a completion date estimated to be in fiscal year 1994. A second phase for this facility is planned which will provide housing for an additional 500 medium security inmates.

Similar to the previous recommendation, the Subcommittee recommended not privatizing this facility only if a study by the legislature indicates it would not be cost effective or otherwise feasible to do so.

While not making a specific recommendation, the Subcommittee discussed the following criteria/statements and indicated reference would be made to the criteria/statements in the Subcommittee's report:

- > Privatization has a role in providing government services; government should not be called upon to provide services the private sector can provide more efficiently; privatization is a possible alternative that should not be utilized in all instances; and, privatization is a viable alternative that can be utilized by government as a management tool (the pros and cons of privatization).
- > Contracting out of certain state (governmental) activities should not be considered if those services are inherently provided only by the government (i.e., police, fire, tax collection, etc.).
- > In-house bids should be required, when feasible, and should be based on the most efficient organization of the activity. There should be a dispute resolution process so competing bids are fairly compared.
- > When a reduction in the government work force occurs as the result of contracting out a service, there should be a requirement that management be reduced proportionately, when feasible, to the reduction in front-line employees.
- > To ensure competition, which is one concept of successful privatization, whenever possible (when more than one private organization has the ability to provide the service), contracting for governmental services should be subject to competitive bidding by the private sector. In situations where only one private organization can provide the service, the public agency should be encouraged to bid competitively against the private organization.
- > Bonding or other assurances should be required of contractors who are awarded contracts to provide governmental services to ensure that essential services are continued in the event the contractor is unable to provide the services.
- > There should be strict monitoring and audits of all state contracts for quality and continued cost effectiveness. There should be explicit procedure for bringing a service back in-house when contractors are found lacking in either quality or cost.

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XII. APPENDICES

APPENDIX A
SENATE CONCURRENT RESOLUTION NO. 2

- * Senate Concurrent Resolution No. 2—Senators Raggio, Coffin, Getto, Glomb, Hickey, Horn, Jacobsen, O'Connell, O'Donnell, Rawson, Rhoads, Shaffer and Smith

FILE NUMBER..198

SENATE CONCURRENT RESOLUTION—Directing the Legislative Commission to conduct an interim study of the feasibility of privatizing the provision of governmental services.

WHEREAS, The shifting of the delivery of certain governmental services from the public to the private sector is attracting interest at both the federal and state level; and

WHEREAS, There may be advantages realized from such a shift in certain instances, including increased efficiency and savings, as well as increased private sector employment; and

WHEREAS, Any decision to make such shifts in the provision of governmental services requires thorough consideration of the relative advantages and disadvantages, as well as the legislation necessary to effect such shifts; now, therefore, be it

RESOLVED BY THE SENATE OF THE STATE OF NEVADA, THE ASSEMBLY CONCURRING, That the Legislative Commission is hereby directed to conduct an interim study of the feasibility of privatizing the provision of governmental services including a separate study of the feasibility of privatizing data processing management services; and be it further

RESOLVED, That the Legislative Commission shall report the results of the study and any recommended legislation to the 67th session of the Nevada Legislature.

APPENDIX B
RESPONSES FROM AFFECTED AGENCIES

STATE OF NEVADA
LEGISLATIVE COUNSEL BUREAU

LEGISLATIVE BUILDING
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June 5, 1992

MEMORANDUM

TO: SENATOR WILLIAM RAGGIO, CHAIRMAN
SCR 2 SUBCOMMITTEE

FROM: GARY L. GHIGGERI
FISCAL ANALYSIS DIVISION

SUBJECT: FINAL RECOMMENDATIONS

To facilitate your review of "potential recommendations" and responses from affected agencies, I have extracted the recommendations and certain portions of the responses and listed them below:

Recommendations and responses can be found for the following on the pages noted:

NEVADA TAXPAYERS ASSOCIATION	PAGES 1-15
STATE OF NEVADA EMPLOYEES ASSN	PAGES 16-19
RENO/SPARKS CHAMBER OF COMMERCE	PAGES 20-22
LAS VEGAS CHAMBER OF COMMERCE	PAGES 23
OKLAHOMA TAG AGENT SYSTEM	PAGES 23-25
POTENTIAL SUBCOMMITTEE RECOMMENDATIONS	PAGES 25-31

NEVADA TAXPAYERS ASSOCIATION

1. **Reduce the bidding level on public works projects to \$25,000.** The current level of \$100,000 in NRS 338 allows many jobs (such as pavement striping, curb and gutter repair, etc.) to be done in-house which have been proven to be more cost effective when contracted out.

Department of Administration Response: See Public Works Board comments.

Department of General Services Response: Reducing the bid level on Public Works projects will not automatically mean that it will be done on the outside and it is not proven it is more cost effective when contracted out.

University of Nevada System Response: Business Center South presently bids projects over \$25,000 so this recommendation does not apply directly to us. But from a purchasing professional standpoint, I do not agree with lowering the amount to \$25,000 for other entities that must maintain roads, utilities and public housing....A job of \$25,000-\$100,000 is often a maintenance/repair type project which needs immediate attention and to require formal bids on this dollar amount adds considerable time and expense to the overall project. All of the entities with which I am familiar already require price quotes for this size of project.

Instead of being legislatively mandated, I believe it should be controlled at the entity level...Local governments should be able (to) establish policy for bid levels through their Boards, Commissions or City Councils rather than have the legislature require a common policy for the University System, County of Clark, Fernley or Jiggs, Nevada without thought to size of budget or internal organization.

Department of Transportation Response: We believe this limit is far too low given the present economic situation and work place as related to highway maintenance activities. With current costs of labor, equipment and materials, we would be unduly restricted in performing a vast array of routine maintenance activities....

We also question the assertion that it is cost effective to contract out most maintenance activities. Our studies have shown that most maintenance activities can be accomplished by State forces at equal, if not lower cost than private profit making firms.

Our experience has been that there is little or no response to bid invitations in this price range. In most of the State, pavement maintenance (our largest work item) is a seasonal activity. Contractors will focus on the construction projects during this time frame and as a result, there has been

weak competition and little interest in the smaller maintenance work we have bid.

State Public Works Board Response: In accordance with NRS 341.148, the Public Works Board must advertise for sealed bids for construction projects if the estimated cost is greater than \$25,000. This recommendation will have no effect on the normal Public Works Board contracting procedures.

2. **Allow any political subdivision who is bidding a public works contract between \$25,000 and \$100,000 to bid on the contract.** Competition is a driving force to greater efficiency and better service. In this instance, if a governmental agency can meet the bid specs at a lower price than the private contractor, the agency deserves to do the job. However, the indirect costs which agencies tend not to consider must be spelled out in statute and taken into account by the agency when preparing their bid. Such costs include - but are not limited to - equipment depreciation, administrative costs such as personnel, rent, buildings and grounds fees, etc.

Department of Administration Response: See Public Works Board comments.

Department of General Services Response: I do not believe it is appropriate for political subdivisions to bid on the same basis as a private contractor. The State agency should have enough expertise to determine which method of getting the job is more appropriate. For example, the Department of Transportation does some maintenance items themselves and some they contract out. Officials in the Department should be qualified to make that distinction. Another example is in Buildings and Grounds where we do some janitorial work ourselves and some is contracted out. We have determined that it is cheaper to contract out the work, but we also know (unquestionably) the quality of work is also less.

University of Nevada System Response: Again, this is an area that needs to be controlled by the entity. If there is a present stature that restricts this type of activity, I may support repeal of the restriction. This recommendation appears to allow other public works divisions to compete with private industry....If a facility must compete for its own work, I disagree with this recommendation totally. In today's economic atmosphere all entities are looking for the most economical way to fund

projects. To mandate procedures does not seem prudent. Internal controls should be left to the entity, large and small.

Department of Transportation Response: For the reasons stated above (response to recommendation #1), we are opposed to a blanket limitation requiring bidding in this price range for highway maintenance work. It is very difficult to establish meaningful and accurate methods of comparing private contractor pricing to that of government entities.

Public Works Board Response: The Public Works Board does not provide direct construction competition on public works projects. All construction projects over \$25,000 are publicly bid and are awarded to the best qualified low bidder. This recommendation will have no effect on the normal Public Works Board contracting process.

3. **Establish a criteria by which equipment purchase requests can be evaluated to determine:**
 - a. **If the equipment can be leased or rented more cost efficiently?**
 - b. **Is there a function involved, such as maintenance which is better: out-sourced or privatized?**

Government should not be in the equipment business, unless it is cost efficient. Owning the desks and chairs for personnel is efficient. Owning a cement mixer, street sweeper or bar coding machine may not be cost effective when utilization, obsolescence, maintenance, and other such factors are taken into consideration.

Department of Administration Response: This recommendation is interesting. It is presumed the evaluation criteria would have to be established by the Purchasing Division since those personnel have the most expertise in equipment acquisition.

Department of General Services Response: Criteria for equipment purchases. I believe this is a reasonable suggestion. I know of no instances where equipment has been purchased and rental may have been a better way to go, but a review of those practices would not be detrimental.

University of Nevada System Response: When short term usage is needed, or as in the case of UNLV, immediate need but insufficient capital to fund,

we do look at rental or lease....We constantly review the MOST ECONOMICAL way to obtain services or supplies. I do not agree that legislation is necessary. Again, local areas should determine what is best for their areas. For those using tax base funds, leasing usually crosses multi years and requires several approvals to commit future years funds....Again, the State Legislature would be binding all sizes of governments to something that may best apply to only the large of small entities. Leave it to the local governing agencies to determine what is required.

Department of Transportation Response: We have no problem with the concept of leasing or renting equipment when it is shown to be cost-effective and feasible. A key factor that must be included, however, would be the ability to respond to an immediate need. Often, rental equipment is not available when we need it.

Attached is a list of the many services that are privatized at the present time in most of the Department's equipment shops (listed below):

- Sand Blasting
- Security Services
- Janitorial Services
- Towing services for wrecks and breakdowns
- Plumbing services
- Electrical services for buildings and equipment
- Septic tank services
- Hazardous waste disposal
- Tire services, repairs and mounting of large tires
- Glass service, repair and maintenance
- Engine rebuilds
- Machine work
- Transmission rebuilds
- Diesel engine fuel systems, repair and rebuild of pumps and injectors
- Electrical services for rebuild of starters and alternators
- Paint and body work of equipment
- Hydraulic cylinder rebuilding
- Upholstering services
- Overhead crane inspection services
- Fire protection - sprinkler system services
- Wheel alignment services
- Rebuild of compressors and valves for air brake systems

Drive line building and balance
Rear end rebuilds
Lock and key services
Overhead door services
Radiator repair and rebuilds

4. **Consolidate the various data (computer) centers under State Data Processing.** There are currently 7 such centers in addition to the State's: SIIS, ESD, DMV, NDOT, NHP, UNLV, and UNR.

There is unnecessary redundancy of costs to say nothing of the lack of being able to develop a usable data base of economic information. While there are various programs which would tie these centers to the State's main frame, they tend to be costly and the same efficiency would not occur.

Department of Administration Response: See the Department of Data Processing's comments.

Department of General Services Response: Consolidating computer centers. We support the study of consolidation.

Legislative Counsel Bureau: Since the legislature is a separate branch of government, I believe it should approach the concept of consolidating its functions through privatization with those of the executive branch cautiously.

Department of Data Processing: ...I believe we should proceed cautiously. They may be justifiable reasons for the existence of each data center. For example, the two universities may need their data centers to instruct students in computer sciences. There may be Federal requirements to consider as well.

University of Nevada System Response: ...In fact, within the University and Community College System of Nevada (UCCSN), no less than seven data centers exist which house multi-user computer systems....More computing resources, and a greater diversity of resources, exist within the UCCSN than can be found within all State of Nevada Executive Branch agencies combined. These resources provide for integrated computer services to the nearly seventy thousand students served by the UCCSN

institutions, as well as five thousand faculty and staff delivering these educational services....

The tasks performed, and the services delivered, by the UCCSN data centers are simply not equitable with the services required by the Executive Branch of our State government. In addition to this mis-match in mission, the size and complexity of computing within higher education in Nevada is beyond the capability of State Data Processing to manage....Given all of these issues, it is extremely questionable as to the ultimate "efficiency" savings which would be realized by such a consolidation plan. In all likelihood, greater not lesser costs would result and service would be degraded.

As a final comment, the vulnerability to disaster resulting from placing all computers in a single facility, with no backup, cannot be ignored....

Department of Transportation Response: ...The Department has an extensive network of computers. These range from the Motorola System, used to process payrolls and other business applications, to the Intergraph System, a computer-aided design system used for engineering design work, to personal computers used for a multitude of tasks.

An analysis of the equipment which DOT and the computer facility have will probably show that the equipment is used for different purposes and would have to be available either under the Department of Data Processing or DOT. There might be some overlap functions, but by and large, each center is utilized to perform different functions and whether the equipment was owned by DDP or DOT would likely not reduce the amount of equipment or the usage to which it is currently applied.

In my opinion, putting all data processing employees under the control of DDP would not be conducive to the Department getting the quality, timely and cost-effective service it now gets under the present arrangement. The Department would have to compete with all other State agencies for services and would not be able to control a very vital function....

Historical reasons why the certain Departments remained separate when the Department of Data Processing (DDP) was formed are; funded by Federal grants or trusts funds, and large enough with unique and complex data processing needs. NDOT is essentially an engineering organization

with a certain percentage of its computing associated with design and maintenance of the highway network.

The following benefits and problems were cited by NDOT:

Benefits

All agencies could have access to common data.

There might be less duplication of some processes.

Problems

NDOT would lose control for the priority of its systems in development, DDP would control the priority of systems developed for all State agencies, including who and when a system would be worked on.

NDOT would not have control of the techniques on how its systems are developed. DDP would not have staff trained in the specialized processes required by NDOT such as Engineering routines, Plotting routines and the other new systems required by FHWA.

NDOT would lose rapport with its clients if the application development staff would be housed at DDP accessed by telephone. Now a user can walk to Data Processing Division and talk to the programmer responsible.

NDOT would still need a data processing staff to coordinate with DDP on systems in development and the executing of existing systems, because of its knowledge of Highway policies and procedures.

NDOT would not have control of costs in developing a system.

Although getting better, DDP still has a poor reputation of meeting their estimated cost or time frames for developing systems.

If DDP is the only agency providing these services there will be no competition to control costs or techniques.

Employment Security Department Response:...The recommendation has a noble ring to it. However, I urge that a comprehensive study be conducted to establish a decision making matrix which will include analysis of the complexity and consequence associated with data processing requirements, as well as current and historical trends....

The complexity and extensiveness of this Department's programmatic responsibilities is paralleled by the size and diversity of its data processing operation. Applications are monitored by the U.S. Department of Labor and include the extensive systems which pay Unemployment Insurance Benefits, collect employer taxes and maintain a statewide labor exchange....The adherence to priority for each application is critical and any proliferation over a broader user base such as DDP could present major and negative consequences to the Department, Nevada employers, its workforce and unemployment insurance recipients....

Our data processing operation is the hub of that network for the Western United States. We are linked via leased line and satellite to two other hubs located in Louisiana and Florida. We are an integral part of a nationwide network of state employment security agencies.

In summation, the potential consolidation of data processing activities while appearing to be an astute management objective is indeed steeped in complexity and consequence which could result in a significant loss to the state as a whole....

State Industrial Insurance System Response: While redundancy in computer hardware, software and personnel might, on the surface, seem present within the State of Nevada, in fact, SIIS data processing has been able to provide its users a more cost effective, responsive, and controlled environment by developing in-house applications.

The SIIS data processing center...has been justified to the legislature based on the large and specialized data processing demands necessary to run an insurance business, particularly the processing of claims and other business functions....

SIIS is an insurance company. Its data is an asset and it must maintain direct control of this asset. There are confidentiality requirements in NRS 612.192 that must be maintained. These assets and confidentiality

may not be as well protected under a consolidated data processing arrangement....

...There are three major components of data processing; hardware, software and personnel....

Hardware: There may be some cost savings in hardware by consolidation, economies of scale, etc....to service the seven currently independent agencies, plus the current central data processing users (all other agencies), the machine (hardware) will have to be about eight times greater than any one agency. Putting all of the state's computer processing in one facility creates a greater exposure when hardware problems occur. The Chief of Automation for SIIS cites these as just two reasons why the industry has been moving away from large mainframe (centralized) centers toward self control and autonomy (decentralized).

Software: SIIS has invested greatly in customized software (computer programming and programs). Most software has been developed in-house to meet the special unique requirements associated with the Nevada's worker compensation insurance....SIIS is currently developing a new claims processing system with the help of Price Waterhouse...a \$5.7 million commitment. These new programs are in a state-of-the-art fourth generation database utilizing ADABAS and NATURAL. The state facility currently has no application development experience in ADABAS and NATURAL.

Personnel: SIIS currently has 45 highly trained professional data processing employees....The SIIS data processing department's budget has historically been eight percent of SIIS's total budget. This falls below the industry norm of 10 percent. The state facility has no personnel on staff with experience in worker's compensation insurance applications....

SIIS is currently spending over \$1 million each year to utilize the hardware services of the state mainframe computer. For the level of service that SIIS is receiving, the state computer facility is not cost effective. This is based on an industry standard that mid-range computers have, generally speaking, a lower (better) cost/performance ratio than large mainframes.

Department of Motor Vehicles Response: ...In the past, centralized data processing organizations have avoided distributed processing technology although industry trends indicate that distribution and the use of open

technologies are more economical and less complicated to operate. The rapid escalation in costs from centralized data centers has required department administrators to look at alternatives often without the support or cooperation of the Department of Data Processing...

Department administrators require levels of support for research, program design, quality control and management. These services would not be eliminated and may not be covered by the consolidation of personnel currently associated with data processing divisions and sections within the departments....An audit conducted by LCB in 1987-88 recommended that agencies that could justify the need for three or more programmers should have those programmers located within the department. The DMV/PS supports this finding and recommendation.

Within the Department of Motor Vehicles and Public Safety there are analysts that have become expert in various fields of government management including regulatory systems and law enforcement....Removing those people from the department may reduce the constancy required to maintain levels of proficiency. Removing programmers from the department may also have a negative impact on effective cross training and continuity of programs.

The tasks performed by the various computer systems are not necessarily all duplicative, or wasteful....Costs of data storage at localized sites is often much less expensive than storage at a mainframe site. Monthly publications received over the last few years indicate the centralization of information is not only inefficient and ineffective, but also more costly than distributed systems. Distributing data handling and storage devices can reduce the air conditioning and electrical cost. The need for large support and operations staff are decreased significantly....the DMV/PS currently stores information on the state computer facility for which it pays processing and support charges. With a one-time expenditure of an estimated \$800,000 and annual support cost of about \$40,000, the department could move all data to a local facility. The annual charges from DDP are nearly \$1.25 million for the services provided. This department could save \$1 million in annual operating costs and could still share data with private entities, local governments and state agencies.

...The Advisory Committee for Data Processing as created by the 1981 Legislature is the correct vehicle for the coordination of statewide data processing programs and the development of data processing policies and

standards....The mission of the advisory committee...would be to form a technical review board and having direct authority over data processing functions will provide a vehicle for departmental input from interested parties and a forum for which to establish standards, goals and priorities.

...It is troublesome to consider a total consolidation of these functions before we are able to adequately coordinate and cooperate. Sharing network, data, and programming resources could be accomplished with greater success if DDP will coordinate and work closer with departments. Data Processing could be a leader in providing less costly and better coordinated data systems by supporting some distribution of systems.

5. **Consolidate the various payroll systems being used State agencies.** There are currently 6 systems in addition to the State's: SIIS, LCB, NDOT, UNLV, UNR and PERS. PERS contracts out its payroll function.

As with recommendation 4, there is a redundancy of costs.

Department of Administration Response: This proposal is one that the Executive Branch supports with the understanding any technical or funding problems would have to be addressed as they become known.

Department of General Services Responses: No comment.

Legislative Counsel Bureau Responses: Since the legislature is a separate branch of government, I believe it should approach the concept of consolidating its functions through privatization with those of the executive branch cautiously.

Department of Data Processing Response: ...I agree with her, but with small modification. The basis of my argument does not provide for the inclusion of LCB.

The State currently has six pay centers processing personnel and payroll for employees in the classified service. All six operate according to the same rules and regulations. Taxpayers are, therefore, paying for the existence of six separate systems which virtually do the same thing. Some of the agencies that have their own payroll systems have unique needs. The Department of Transportation, for example, needs project reporting. But these special requirements can be accommodated through enhancements; they do not require a separate system.

Since LCB staff are not in the classified service, their system is operated according to a different set of parameters. Therefore, I do not agree that it should be consolidated with the others.

The Department of Personnel (Personnel), with our support, has been working very hard for consolidation. We recently formed a consortium of the various pay center administrators. While everyone expressed a desire to be cooperative, they all declined consolidation.

The problem is further exacerbated by the fragile condition of Personnel's existing system. It should be replaced. But it doesn't make good economical sense to replace more than one system. At least two of the other pay centers have indicated plans to replace theirs soon.

Mr. Miller, Nevadans for Nevada, mentions the pay center situation in his comments, too, and he further suggests outsourcing. I believe Personnel is investigating that possibility.

Department of Personnel Response: ...In the last several years it has become apparent that the Central Payroll System (Controller's) is unable to perform its required processing in an efficient manner. A situation analysis was conducted in 1988, the result of which was a recommendation that a new payroll system for the Controller's be procured. In 1989, the Legislature funded us to proceed with an evaluation of alternative systems. All State paycenters, that is, the Universities, both North and South, PERS, SIIS, LCB, and the Department of Transportation were invited to participate in this evaluation and selection process....Eventually, the Review Committee selected a system which was subsequently requested but the necessary funding was not available during the 1991 Legislative Session.

In anticipation of the 1993 Legislative Session, a Personnel/Payroll System Task Force was established in February, 1992, for the sole purpose of exploring the feasibility of a consolidated state-wide payroll system. Representatives from the University of Nevada Reno, The State Department of Transportation, State Industrial Insurance System, and Central Payroll met on several occasions to discuss system requirements and software alternatives. Although all participants supported the concept of a consolidated personnel/payroll system, none except Central Payroll were willing to commit to the project.

...Consolidation is cost effective, establishes a uniform statistical base of personnel/payroll data and eliminates duplication of effort. As stated at the Subcommittee meeting of April 29, there is no conscionable reason to continue the existence of numerous separate State personnel/payroll systems.

University of Nevada System Response: The UCCSN utilizes a single payroll system, administered through the two regional business centers, to provide payroll services to the UCCSN employees. Unlike other State agencies, the great bulk of UCCSN employees are not part of the Classified service. In addition, the presence of such higher education issues as faculty tenure, student employment, twelve month and nine month contracts, graduate assistants, split payments from federal grants, and teaching assignments at multiple institutions make the UCCSN payroll system needs unique within State government.

...the unique needs of the UCCSN do not support the consolidation suggested.

Department of Transportation Response: ...In April 1990, my staff recommended not joining the other agencies in the proposed payroll system because of the cost effort involved for our staff and the possible impact the new system would have on the short time frame the Department has for processing and distributing its payroll throughout the State.

...In 1991, the Personnel Department again put together a "Task Force" to get the payroll/personnel system accepted by other centers and funded by the upcoming Legislature. Again, after re-evaluating the cost of over \$4,000,000 the effort required and the possible benefits to the Department, I again, on the advice of staff, declined to join the payroll effort. At this point all other payroll centers had already rejected their participation.

The Department has some unique time keeping and accounting requirements which must be made part of any system which will endeavor to take over our payroll.

With new Federal legislation mandating certain massive data processing systems for the Department, I feel that our limited resources would be better utilized in these areas rather than in being used in a

payroll/personnel system redesign which will certainly be needed before consolidation is accomplished.

Note: Additional "benefits and problems" as cited by NDOT can be found under Tab VI of the meeting packet.

State Industrial Insurance System Response: The SIIS Chief of Finance makes the point that central payroll is a pass through system, that it probably requires as many agency payroll technicians to process central payroll material as it does an independent payroll center such as SIIS.

...The final report of the task force was presented in memorandum by Judy Taylor, Chief Administrative Services, Department of Personnel. The conclusion of the task force, dated May 13, 1992 was:

Because of the impact to the state of such a new system, it was determined by the Department of Administration, Department of Data Processing and the Department of Personnel to defer further action in this area.

Another recommendation of the task force was to support the concept of sharing personnel/payroll data and interfacing whenever possible to reduce duplication of effort.

Another reason for opposing the consolidation is that the current state payroll office (Administrative Services Division, Department of Personnel) cannot provide the same level of service that SIIS has....Because of volume involved, the state payroll office has had to install an estimated week, or as it is called, "the week that was". This estimated week has caused numerous modifications to payroll records.

Because of the size of the state payroll system there are layers of overhead that SIIS does not have....If the payroll office were to develop a system (a 24-hour pay period for example) that SIIS would not need, SIIS would still be contributing to the overhead. SIIS policyholders should not be required to pay such costs when there is no direct or indirect benefit to them.

STATE OF NEVADA EMPLOYEES ASSOCIATION

1. Assurance that if the service is to be contracted, there will be competition, now and in the foreseeable future.

Department of Administration Response: None

Department of General Services Response: Under Item 1, I agree that each program needs to be looked at individually. Contracting out works in some instances and does not in others. Many times people think that private industry can do it better because they can do it faster. They call the State bureaucratic, but in fact that is what we are supposed to do. The laws are written to impede the process and that impediments are there to protect the public trust. The laws are written so that the public can view the process and everyone gets an equal opportunity to do business with the State. In private industry you go to who you think is the best for you, whether the reason is personal or financial, and no law requires you to give the service or business to the lowest bid meeting your requirements. Therefore, Mr. Gagnier is correct in recommending that each program be viewed individually.

2. Determination that private contractors will not take the easy business, raising the remaining costs of providing the more difficult service by the state.

Department of Administration Response: None

Department of General Services Response: On Item 2 there should be some concern for contractor's taking the "cream" as Mr. Gagnier states. There is always an overlap of responsibilities in government offices and certainly there is someone to fill in when another person is on vacation. Contractors, of course, are not going to take up this slack, are not going to do anything not specific in the contract and so the state could be left with additional work load, and in some cases, may even have to hire more employees to handle it.

3. Requests for proposals should assure that sub-standard wages will not be allowed and that contractors will have to pay salaries and benefits at least equivalent to that provided by the State to its employees.

Department of Administration Response: It is difficult to imagine under what circumstances the Legislature would want to mandate that contractors pay the same wages as state employees are paid. Private companies are not part of the public domain and if they can provide a service at a certain price, discretionary components of their business expenses should not be of concern to the state.

Department of General Services Response: On Item 3, I do not believe that any contract should call for a particular wage rate. What the contractor pays his employees is his business and, in my opinion, will not make any difference whatsoever in the state's economy.

4. **There needs to be a method to determine the ongoing success of contracts and to assure that the legislature is apprised of changes.**

Department of Administration Response: Agencies will continue to contract only as long as it's cost effective for them to do so. Once it becomes cost prohibitive or the services rendered by an individual contractor take on an employee-employer relationship, agencies are required to convert the individual to employees to be in compliance with requirements of the Internal Revenue Service.

Department of General Services Response: I must disagree with Mr. Gagnier in Item 4, however. Because none of what he says about the janitorial contracts is true. What is true is that they are still much cheaper than the State can do it, but the quality of work is, likewise commensurate with what we are paying. I have called many private firms to determine what we might do to improve our janitorial contracts and most of the firms I spoke to who have office buildings, have the same problem with janitorial services that we do. Mr. Gagnier's contention that no one know how much was saved by using janitorial services is completely erroneous. This program has been monitored since the day it started and I am enclosing for your information a report by Mike Meizel that outlines the history of this service. (Note: A copy of Mr. Meizel's report can be found under Tab VI following the Department of General Services response.) Additionally, there is still a "measure" because we still employ State Agency janitors. We use them in very select areas and we use them to take up the slack that the private contractors don't do.

5. A committee should be created to monitor and evaluate all contracts (other than public works projects and highway construction) and keep the public and the legislature informed.

Department of Administration Response: It is true contracts number in the thousands. But the Board of Examiners continues to review and monitor them routinely through the Budget Office and the Pre-Audit Section. Another independent body is redundant and would not be efficient since the Board of Examiners is statutorily responsible for approving all claims against the State. Copies of the contracts are supplied to the Fiscal Analysis Division upon Board approval to keep the Legislature advised of the status of contracts. The current review procedure provides opportunity for review and comment in a public setting and fits together with existing budget control functions. If any changes are needed in this area, the Subcommittee may want to increase the dollar limit of contracts that can be approved by the Clerk from the current statutory limit of \$2,000 so as to expedite contract processing.

Department of General Services Response: Under Item 5, I definitely disagree with Mr. Gagnier. His suggestion for a committee to review contracts is absolutely ludicrous and his suggestion for the inclusion of Legislators diminishes the separation of powers to a degree nearly unparalleled. Without a doubt, the worst suggestion I have ever heard.

6. Bring all contracts, except actual construction contracts under the jurisdiction of the Board of Examiners.

Department of Administration Response: The question of all non-construction Department of Transportation contracts being reviewed by the Board of Examiners was referred to Deputy Attorney General Jim Spencer for an opinion as to existing law. Upon its receipt, I will respond more fully.

A copy of a memorandum from James T. Spencer, Senior Deputy Attorney General, states:

"At your request, (Judy Matteucci) the Attorney General has reviewed the above referenced legal opinion (Legal Opinion of Deputy Attorney General William Raymond dated August 30, 1983

[included following Department of Transportation's response following Tab VI]). Please be advised that we affirm the opinion's conclusion and that you are entitled to rely on it as an official opinion of this office. Please call if you have questions."

Department of General Services Response: It seems very unlikely to me that the Department of Transportation has Sweetheart contracts, but review and approval by the Board of Examiners should not be an objection to the Department of Transportation and I would support this recommendation.

Department of Transportation Response: The Department has operated exempt from the Board of Examiners review since 1961. I believe the present arrangement has worked well in the past and has enabled the Department to consistently put out contracts within the constraints imposed by weather, funding, working with many other governments and private entities.

Adding Board of Examiners review might cause delays in construction projects while awaiting approval for services which have an impact on an active contract. For example, utility re-location agreements or right-of-way agreements.

The Department processes approximately 60 to 70 construction contracts per year. Agreements for services vary between 600 to 700 per year and include such items as:

1. Maintenance services on rest areas, buildings and equipment.
2. Leases on houses the Department rents to citizens until needed for construction.
3. Demolition services.
4. Consulting engineering services.
5. Custodial services.
6. Right-of-way acquisitions and sales of excess right-of-way.
7. Utility agreements regarding relocation, removal, upgrading etc.
8. Temporary worker services.
9. Other Services.

Note: Copies of Department of Transportation policy on contracts and the Deputy Attorney General's opinion can be found following the Department of Transportation's response under Tab VI.

RENO/SPARKS CHAMBER OF COMMERCE

Department of Administration Response: The Executive Branch supports the consolidation of information/communications services. The location of this consolidated service delivery approach is under review.

Department of General Services Response: We generally agree with Mr. Miller's comment and believe that consolidation of Data Processing and Telecommunications may be a good idea, but also believe further study is needed to determine the best place for both agencies.

Department of Data Processing Response: I agree with Mr. Miller's recommendation (top of his page 3) to "incorporate telecommunications functions" under a single state agency. In fact, the subject is currently under review. We have submitted a bill draft request (BDR) to consolidate the telecommunications functions into DDP.

Mr. Miller concluded with 10 items; I'd like to comment on some of them individually:

- Item 1. I agree that the State needs a Department of Information Technology and that it provide the services implied by its name. We have submitted BDRs to the Department of Administration to that effect.
- Item 4. The task of identifying all outsourcing possibilities is immense and would require more time than Mr. Miller suggests. (Note: Mr. Miller suggested this be accomplished by July 1993.)
- Item 8. We already have an Advisory Committee which is statutorily required to include members from the public and private sectors. (Note: Mr. Miller suggested a three person team, two state and one private sector, responsible for the first three years of oversight and implementation of the plan. The Advisory Committee as referenced by Ms. Kavanau, is created pursuant to NRS 242.121 and is comprised of the following:

The director;
Three other directors of departments of the state government selected by the governor;
Two members who are not public officers or employees, appointed by the governor; and,
One member appointed by the majority floor leader of the senate..., and one member appointed by the speaker of the assembly....)

- Item 10. When we publish our Master Plan in December 1992 it will include a section that addresses the State's strategic direction. (Note: Mr. Miller suggested the New Information Technology Department to develop a long range, five to ten year Strategic Information Technology plan.)

Department of Motor Vehicles Response: ...Attempts to consolidate, reorganize, restructure, or privatize communication systems and support will have a major impact on programs and operations in the public safety organizations.

...Our experience is that when these same issues are discussed with department managers, the benefits are not readily accepted or acknowledged.

Some of the benefits would include greater levels of coordination and cooperation which would serve to eliminate an element of confusion and disorganization that exists today between departments, establishing effective standards and policies, equitable service levels to all participating state agencies, decreased overall costs by streamlining management, stronger technical support to users by bringing technical knowledge together, and less confusion with vendors by having one authoritative body working to provide services and coordinating contracts.

...negative viewpoints expressed in consolidating telecommunications have been the loss of control over systems that the departments will experience, other consolidation attempts have caused more coordination problems, and the unique and proprietary needs of the departments cannot be met by any consolidated agency.

The real problem is how to realize an improvement in planning, service and cost efficiency, without giving up present service levels and

communication effectiveness....consolidation alone is not a guarantee for improved performance. Centralization of management and a larger organizational structure will not automatically provide better service.

...Key mechanisms to improved performance are: clear identification of specific service goals, effective user feedback paths, effective funding mechanisms, informed administrative direction and finally, careful consolidation where identified.

In the short term, there is potential for consolidation of communication resources in two areas. Voice (telephone) and data communications have drawn very close together in terms of technology used for transmission....It is our recommendation that data communication now operated by the Department of Data Processing be integrated into the General Services Telecommunications Division.

...two-way radio communications....Presently, the larger public service agencies each provide their own service using their own technicians....It is our recommendation that public safety communications be consolidated in the Department of Motor Vehicles and Public Safety.

In the long term, a single plan to address communication needs and shortcomings should be developed by the executive branch and department heads, with legislative approval as required....It is our opinion that the benefits of consolidation could eventually nullify many of the existing problems if groups get together and establish an accepted plan to follow.

In the short term communications and computing should not be consolidated....At this point in time, improvements of operational coordination and cooperation will provide improved service to state users.

In the long term, continuing technological and operation trends toward decentralization of data processing argue against maintaining a Department of Data Processing. This should be a point of careful study toward integration of residual data processing function into General Services.

...Legislative action may be required to accomplish changes needed but should not drive the process to determine the required change. This issue needs to be elevated within the executive levels of government and initiatives be established by the Department Heads with the Governor's Office supporting the decision made by those department heads.

LAS VEGAS CHAMBER OF COMMERCE

Department of Administration Response: The only recommendation that appears to be included in their material is the recommendation that fiscal notes include comments about the potential for privatization. It seems any meaningful notation about privatization potential would require a fairly thorough analysis which would further bog down the existing fiscal note process.

Department of General Services Response: A privatization committee made up of State agency personnel seems to work for Clark County. They have asked us to provide them with a list of all contracts that we have privatized and indicated that they may invite us to participate in one of their meetings.

OKLAHOMA TAG AGENT SYSTEM

Department of Motor Vehicles Response:

Drivers License

The driver license program is organized within the Department of Public Safety, Highway Patrol. All aspects of driver licensing except the issuance of the license are completed by the Driver License Division...

For example, a person needing an Oklahoma driver license would first visit the state's licensing center to be evaluated (knowledge and skills test). The examiner completes the evaluation, paperwork and data entry of the driver record. The applicant then must visit a "tag agent" to receive the license. "Tag agents" are licensed by the Tax Commission.

There are presently 261 "tag agents" in Oklahoma authorized to issue driver licenses....Upon approval, each agent is outfitted with a computer terminal, printer, camera, supplies and training to conduct business (there is no cost to the agent). Any private individual or business can qualify. The "tag agent" supplies the facility and the labor and receives a fee of \$1.00 - \$2.00 for a transaction. "Tag agents" establish their own hours and days of operation.

Oklahoma's view was that it was not particularly cost effective. For example, one location in Kremlin, Oklahoma is fully outfitted with all the necessary equipment and supplies at state expense, but issues only 8 licenses a year.

Cameras and license documents are stolen frequently, in fact a major investigation is currently in progress in Tulsa after three daylight robberies within a short period of time.

Applicants who take the tests are not always the person who shows at the "tag agents" office allowing for fraudulent issuance of licenses.

In relation to other states the program is not necessarily as cost effective. Oklahoma has twice as many drivers as Nevada and their ratio of driver license staff is almost identical to ours. The "tag agents" are simply a second stop for customers and a step away from a secure driver license system.

There are a few other states who have attempted privatization of licensing in a similar fashion as we propose in implementation of AB 385. Those states are New York, Arizona, Tennessee and Washington.

Registration

Information supplied by the Registration Division is replicative of information that was researched and provided to Wayne Teglia during the 1991 legislative session.

Oklahoma has 300 "Tag Agents" statewide, and are considered to be independent contractors.

VIN inspections on all out-of-state vehicles are done by tag agents.

Tag agents register from lien sale paperwork. Paperwork is reviewed by DMV for accuracy and returned to tag agent to be corrected if an error is discovered.

Tag agents receive \$1.25 per transaction for registration and/or title plus 4% of excise tax collected. This amount is deducted from a daily deposit to a DMV bank account.

DMV supplies all computer equipment, forms, plates and decals.

There are instances of fraud by tag agents; cheating the state and/or overcharging customers.

There have been problems with security of plates and decals by tag agents. A lack of internal controls.

Oklahoma has a staff of 6 field auditors and 30 employees in headquarters to audit tag agents. Since agents are bonded at least some of any loss can be recovered when discrepancy or fraud is discovered.

Titles are issued only at DMV headquarters. Tag agents collect title fees and submit documents to DMV.

Additionally, each registration requires proof of insurance....Tag agents receives \$1.50 for each transaction involving insurance.

Tag agents receive about 4 days of training in Oklahoma City. (Agents pay their own travel and per diem.) If requested, DMV will go to tag agent office for special on site training.

A study was done a few years ago showing that contracting with tag agents is substantially more cost effective than hiring state employees and having state offices.

POTENTIAL SUBCOMMITTEE RECOMMENDATIONS

The following potential recommendations were briefly discussed by the Subcommittee at their April 29th meeting.

1. **Policy/Procedure to expedite the RFP process.** Concern has been expressed by a number of the Subcommittee members regarding the time consumed in the process by the Department of Wildlife and the Department of Prisons in drafting their respective RFP's during fiscal year 1992.

Department of Administration Response: I believe you have detailed responses from the agencies directly involved in developing Requests for

Proposals (RFP) about the time involved to properly draft such documents. My comments would underscore the message that since RFP's are the basis for the private contracts that follow, it is critically important that they be as thorough as possible while providing the state the maximum flexibility in obtaining the product of service desired. Accordingly, there are several reviews that are necessary - particularly in complex RFP's such as the Women's Prison and the Department of Wildlife - including legal, risk, programmatic, and financial reviews. It takes time to accomplish these reviews. As the State becomes more practiced in completing the RFP's for extensive privatized services, I would expect these documents to be produced more quickly; however, until then, it would be my recommendation that our priority be to assure the documents are complete.

Department of General Services Response: The RFP process is a longer process than an invitation to bid (ITB) and oftentimes is not necessary, so my first recommendation is that RFP's be looked at with an eye towards making them an invitation to bid. If an RFP is still required, then some expert help such as a consultant and the Purchasing Division, among other things, can put most of the legal processes in place and that will speed up the process by virtue of eliminating many of the needs to research boilerplate. Consultants are important in those instances where no previous RFP exists and the subject is very technical....To summarize I believe that proper planning, consulting and cooperation will speed the process as much as anything else...

Originally RFPs are almost always going to be time consuming. Agencies rarely realize that they need to address every aspect of what they are requiring. Anything left out is generally not done by the contractor and if it is something that the agency has done in the past (for their) clients it generally means they should continue to do it. Consequently, just the tedious job of listing all the requirements can be time consuming...

What consumes the time is the preparation of the RFP and subsequently the approval process. Contract must be approved by the Board of Examiners, reviewed by the Attorney General's Office as to form, and finally, in some cases there needs to be Legislative approval....

Department of Prisons Response: The lead agency should be involved in the development of an RFP. This will permit early involvement of the agency which must ultimately develop the RFP....so that questions relating

to legislative intent, legal matters and planning, can be resolved as soon as practicable. This will assist in reducing delays and allow for a smoother RFP drafting...

The agency responsible for the development of the RFP should not be rushed but permitted maximum time for planning and staffing the proposed RFP. Unanticipated questions always arise during the development phase, which requires external expertise...

Consideration should be given to involving the affected agencies as early as possible so that the agency can network by phone or travel if deemed appropriate to see how other States have handled similar projects.

Department of Wildlife Response: ...the RFP is the most important step in contracting for privatization. Correct actions at the front end of the process is essential to ensure a quality product at the lowest cost.

...our major single recommendation would be that a state agency be designated as the single depository of expertise with a staff to assist agencies through this process....we contacted and/or worked with numerous state agencies, but none of us had a total perspective on how to accomplish the desired end result.

2. **Examination of statutes to remove potential barriers to contracting and other forms of privatization if cost effectiveness can be determined.** Adoption of guidelines/procedures similar to those utilized by Colorado to determine the cost effectiveness and feasibility of privatization of services.

Department of Administration Response: I am unaware of any existing barriers to contracting or other forms of privatization. I do not know what the Colorado procedures are; however, since state agencies are always looking for ways to deliver services more cost effectively, I would think viable privatized projects would be a top consideration.

Department of General Services Response: I am reasonably familiar with the statutes and I can think of none that impose detrimental barriers. What is suggested here is that the law be changed to allow a negotiation process rather than an RFP or ITB process. Rarely, can cost effectiveness be demonstrated without one of these two processes. I heard numerous times that money can be saved by sitting down with businesses and "working it out". That may or may not be true, but there is absolutely no

way to prove it. Even in the two accepted processes vendors oftentimes come in after the fact and say, "Oh, I could have done that a lot cheaper." The truth is, these processes are absolutely essential to protect the public trust. The process must be within the accepted guidelines and the method of award must be determined prior to the examination of any bid or RFP. This can be the only way to make the system work properly.

3. Require the Department of Transportation to have all non-construction contracts reviewed by the Board of Examiners.

Department of Administration Response: The question of all non-construction Department of Transportation contracts being reviewed by the Board of Examiners was referred to Deputy Attorney General Jim Spencer for an opinion as to existing law. Upon its receipt, I will respond more fully.

A copy of a memorandum from James T. Spencer, Senior Deputy Attorney General, states:

"At your request, (Judy Matteucci) the Attorney General has reviewed the above referenced legal opinion (Legal Opinion of Deputy Attorney General William Raymond dated August 30, 1983 [included following Department of Transportation's response following Tab VI]). Please be advised that we affirm the opinion's conclusion and that you are entitled to rely on it as an official opinion of this office. Please call if you have questions."

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The Department processes approximately 60 to 70 construction contracts per year. Agreements for services vary between 600 to 700 per year and include such items as:

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6. Right-of-way acquisitions and sales of excess right-of-way.
7. Utility agreements regarding relocation, removal, upgrading etc.
8. Temporary worker services.
9. Other Services.

Note: Copies of Department of Transportation policy on contracts and the Deputy Attorney General's opinion can be found following the Department of Transportation's response under Tab VI.

4. **Legislation to similar to SB 487, as considered by the 1991 Legislature, or legislation similar to that adopted by Arizona requiring certain activities to be performed by the private sector unless there is a compelling reasons for service to be provided by the public sector.**

Department of Administration Response: A review of SB 487, 1991 Session appear to indicate that such a commission would create yet another layer of bureaucracy. Both the legislative fiscal staff and the budget office are currently charged with the responsibility of reviewing for cost effective delivery of services which are done on a continuous basis, but most extensively during budget development. Furthermore, SB 487 is ambiguous as to the delineation of duties assigned to the Economic Development Commission, would be confusing to implement and was costly (Note: Fiscal Note prepared during the 1991 Session estimated a cost of \$392,000 to implement the legislation. The comments from the budget office at that time were: "...the fiscal impact is a guesstimate and, until such level of experience is obtained, should only be used as a guide."). Again, I

believe agencies will begin to explore further use of privatization as a result of the need to provide services cost effectively.

Department of General Services Response: A simple example of SB 487 occurred recently when the Federal Government required that the State prove they could warehouse and distribute donated commodities more cheaply than private enterprise. We wrote a very lengthy report justifying the existence of trucks, drivers, warehouse, warehousemen and other related requirements to the Federal Government and we believed that the information was adequate to prove our position. The government rejected that justification and required us to go through the bid process and to specify each and every aspect of the delivery and warehouse system, except administration of the program. We had to include the exact amounts, time requirements, warehouse space, distances traveled, weight and numerous other details to the satisfaction of government authority. As it turned out the State was successful in proving that it could handle the commodities more cheaply than a commercial enterprise, but the process was extremely technical and time consuming. The bidders in this instance were extremely annoyed and disappointed when no award was made. Even though we cautioned them in the beginning, that an award might not be made, there can be repercussions because of the expense to private enterprise. We believe we were in the position to judge the best course to follow in this instance and nothing was served by the exercise. Further, a board made up of private citizens, or whoever, could reject either the State performing a function or private business, based on considerations other than what is best for the taxpayer. Therefore, I believe in privatization, but strongly believe that it ought to be at the call of the agency under the supervision of the Governor.

5. **Review of Legislation similar to that adopted by Montana for a privatization review procedure (encompassing Prison Industry competition with the private sector).** This legislation provides for a review by the legislative audit committee.

Department of Administration Response: I am not familiar with the legislation adopted by Montana. If the legislative audit committee wants to begin conducting reviews of the cost effectiveness of certain privatized services as part of their audits, that would seem to be within their scope. I do not believe creation of another review committee solely for the purpose of privatization review would be necessary. Again, the cost effectiveness questions get reviewed during each budget cycle.

SENATOR WILLIAM RAGGIO, CHAIRMAN
SCR 2 SUBCOMMITTEE
June 5, 1992
Page 31

Department of General Services Response: Someone other than Prison Industries should review projects that could compete with private industry, but a board to review all projects is unnecessary. Further, a legislative review commission should not even be a consideration.

SCR2FINALRECS/cd
PRIVATIZATION

cc: Dan Miles
Bob Guernsey
Tom Linden
Ryan Campbell

APPENDIX C
COLORADO WORKBOOK



STATE OF COLORADO

OFFICE OF STATE AUDITOR
(303) 866-2051

TIMOTHY M. O'BRIEN, C.P.A.
State Auditor

Legislative Services Building
200 East 14th Avenue
Denver, Colorado 80203

Dear Public Official,

The Colorado State Auditor's Office has developed this workbook to assist government agencies in making systematic decisions about privatizing public services.

To use the workbook, the government agency begins with the Privatization Profile Form (Blue Pages).

If the results of the Profile suggest that privatization looks promising, the agency then completes the Detailed Cost Analysis Form (Yellow Pages).

Some of the questions asked on the Privatization Profile and Detailed Cost Analysis Forms may not be applicable to the service being considered for privatization and other questions not included may need to be addressed.

The Colorado State Auditor's Office believes that following this process will increase the chances for a good decision on whether to privatize.

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PRIVATIZATION PROFILE FORM

INSTRUCTIONS

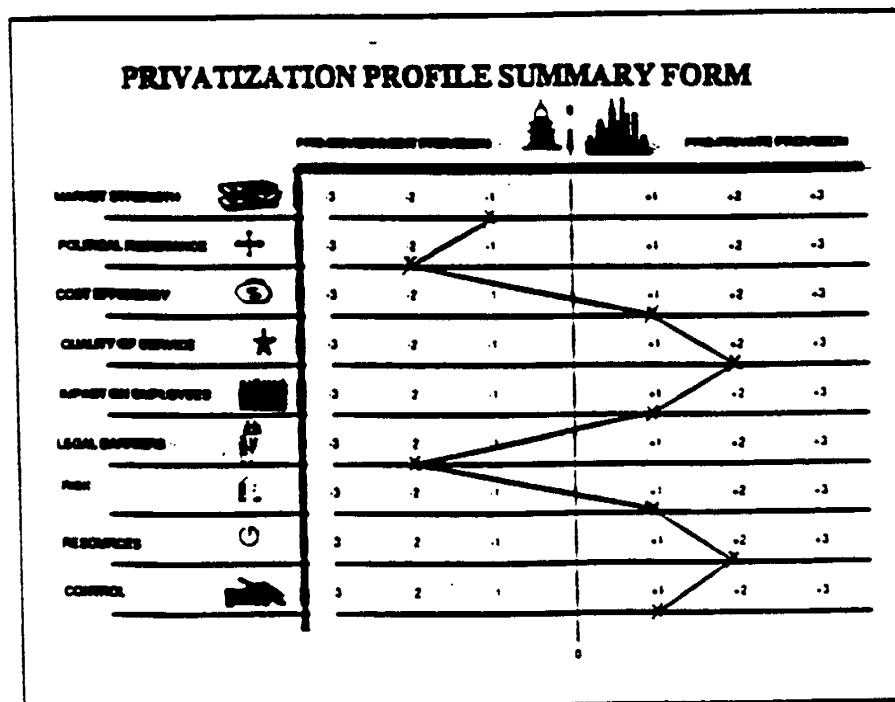
The Privatization Profile provides an agency with an overall picture of a public service's potential for privatization. To get this overall picture, an agency uses this form to answer a series of questions on criteria related to privatization.

STEP 1

The first step is to rate each of the following criteria on the provided scales. The first scale begins on page 3 of this form. Each scale shows values from +3 to -3. The higher and more positive the number, the greater the potential for privatization for the service. Each criterion may have several facts to consider, but the agency determines one rating for all facts. A mark is placed on the scale corresponding to the rating. Once a criterion has been rated, a rationale for this rating must be written.

STEP 2

After all criteria have been rated, the ratings should be transferred to the Privatization Profile Summary Form on the last page of this form. A line should be drawn on the summary which connects all of the ratings. The form is designed so that any ratings on the right side of the scale are pro-private sector provision and those to the left are pro-government provision. For example:



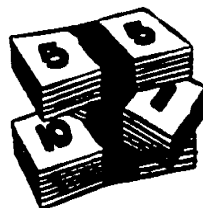
STEP 3

The profile can then be reviewed for privatization potential. If the line on the Privatization Profile Summary Form rests in the right half of the chart, the service may be a good candidate for privatization. If the line rests in the left half of the chart, the service may not be a good candidate for privatization. Some lines will show mixed ratings, where some of the criteria are pro-privatization and others are pro-government. When this occurs, the next step is to determine if the pro-government ratings should and could be overcome. Ways to overcome problem criteria are listed below each criterion. If the pro-government ratings cannot be overcome, judgement must be made whether they are important enough to stop the privatization review. Pro-government ratings can sometimes be overridden if other criteria strongly favor privatization. The service may still be a good candidate for privatization.

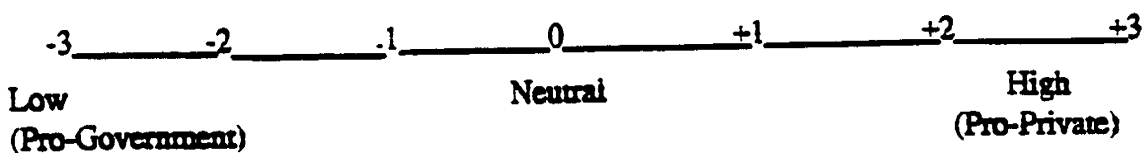
STEP 4

If the profile shows that the service is a good candidate for privatization, the agency then proceeds to the detailed cost analysis.

PRIVATIZATION PROFILE FORM



MARKET STRENGTH



Definition: Market strength is the commercial characteristics of the service. Is the private sector able and interested in delivering the service.

ABILITY AND AVAILABILITY OF PROVIDERS

- Does the private sector provide the service?
- Can the private sector provide the service?
- Are there multiple providers? Multiple vendors ensures competition and fair contract prices. Having multiple vendors is favorable to successful privatization. If multiple vendors exist, this shows there is market strength on the pro-privatization side of the scale. The lack of multiple vendors is not always fatal to privatization, if other compelling criteria exist.
- Is the financial commitment so large, that providers will not want to deliver the service? If the commitment is too large, it may not be easy for private firms to provide a service. This is because it may take many years to recoup the initial investment and the state may not want to commit a certain provider for that long of period. However, if a long-term commitment is possible, the negative effect of large initial investments can be overcome.
- Would privatization result in a monopoly situation? Monopolies eliminate competition and may increase costs because they can unfairly raise the price of services. However, some monopolies are helpful because they are more efficient. If a monopoly is not desirable for the service, and the potential for a monopoly exists, this would support the government side of the scale.

COMPLEXITY AND DURATION OF SERVICE

- Is the service or services being considered complex or relatively simple? Usually privatization succeeds with less complex services. For example, the entire Department of Transportation is being privatized.

(Continued on Back)

ment of Health is complex and would not be a good candidate for total privatization. A food service is less complex and may therefore may be a good candidate for privatization. If the service is very complex, this may support the government side of the scale.

- Is the service short-term or long-term? The shorter the duration of a project the more successful the privatization. For example, emergency repairs are short duration and may be good candidates for privatization. In contrast, oversight of the state's Medicaid Program is a longer duration project and may not be as good of a candidate for privatization.

MITIGATION SUGGESTIONS IF PRIVATIZATION IS DESIRED

If the scale is tipped away from privatization, here are some strategies that should be considered to mitigate the problems:

- Share the responsibility of provision of the service among providers or between the government agency and the private firm.
- Expand the number of private providers to decrease the chance of a monopoly forming.
- Write contracts to ensure multiple vendors and competition exists.
- Determine if long-term contracts can be written to facilitate recoveries of investments for contractors.
- Break down the size of the service into smaller projects. In high risk services, pilot contracts, can be desirable before full-scale privatization is attempted.

Write the rationale for the criterion's rating in the following space:

-3 -2 -1 0 +1 +2 +3

High Neutral Low
(Pro-Government) (Pro-Private)

- Would the public, users of the service, interest groups, or elected officials be highly resistant to changes in provision of this service? Some services delivered by government may have problems and therefore be good candidates for privatization. These problem services may have low resistance to change. Likewise, some government services may have high political support. People want the government to provide the service. This may indicate high political resistance to change. If there is low political resistance to change, this may support privatization.
- Is the service a new or existing one? Privatization of a new service is easier than an existing service.

If the scale is tipped away from privatization, here are some strategies that should be considered to mitigate the problems:

- Reduce resistance by designing compromises in contracts or agreements.
- Re-schedule implementation until a better time of year or date to avoid the resistance.
- Focus on privatizing new and emerging services.
- Focus on services that government is not satisfactorily providing.
- Involve various groups in the decision making process.

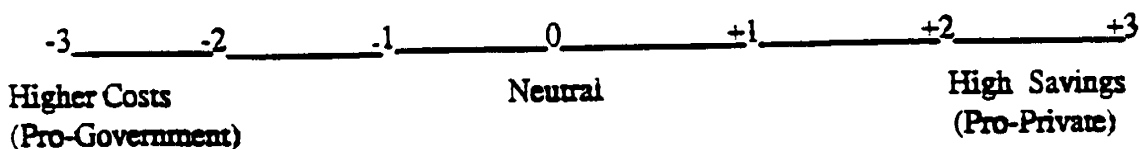
-72-

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

PRIVATIZATION PROFILE FORM



COST EFFICIENCY



Definition: Cost efficiency is the expected cost of services, assuming no change in the level or quality of service.

- Assuming that the quality and level of service remains the same, will costs decrease or increase if the service is privatized?
- Will the savings from privatizing lower government expenditures and cost of the service to the clients? The agency might report a savings on its budget, but the public might have to pay a fee to the private company. This fee in effect reduces any savings the public might receive. If the privatization reduces both the government's and the public's cost, this supports privatization.

Note: A detailed cost analysis must be completed if the profile indicates this is a good privatization candidate. A detailed cost analysis form has been developed for this purpose.

MITIGATION SUGGESTIONS IF PRIVATIZATION IS DESIRED

If the scale is tipped away from privatization, some strategies that should be considered to mitigate the problem are to:

- Build controls over cost into contracts or agreements through incentives for reducing costs.
- Review bid or contract specifications and determine if changes would result in lower costs to provide the service.

(See Back)

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-3 -2 -1 0 +1 +2 +3

Decrease No Change Increase
(Pro-Government) (Pro-Private)

- Will the overall quality of the service likely increase or decrease with privatization?
- Does privatization threaten preservation of client confidentiality, or impartiality toward clients?
- Will privatization compromise public trust, confidence, safety, or welfare?
- Will certain targeted population groups likely be neglected, if a private firm provides the service?
- Will accountability and responsiveness to the legislative branch, government agency, or consumer of service likely increase or decrease?
- Can the service objectives be well defined and easily measured? If yes, this may support the private side of the scale.

MITIGATION SUGGESTIONS IF PRIVATIZATION IS DESIRED

- The agency can place more emphasis on oversight for quality control.
- If good measures of the quality of services are not available, the agency might be able to develop them.

-76-

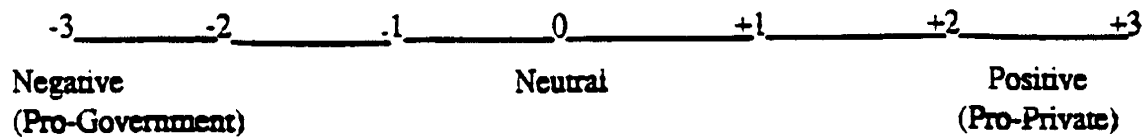
- Write the rationale for the criterion's rating in the following space:**

-77-

PRIVATIZATION PROFILE FORM



IMPACT ON EMPLOYEES



Definition: Impact on employees is the effect that privatization will have on government employees.

- Will the net effect of privatization on government employees be positive or negative? Employees may lose their jobs, transfer, receive training, be promoted, or employed with a private firm. The more negative the effect on employees, the more the government side of the scale is supported.
- How many employees are affected by the privatization? The fewer number of employees affected, the more the private side is supported.
- Will civil service policies, such as Affirmative Action, be weakened if a private firm provides the service?

MITIGATION SUGGESTIONS IF PRIVATIZATION IS DESIRED

If the scale is tipped away from privatization, here are some strategies that should be considered to mitigate the problems:

- Provide job transfers into other employment opportunities.
- Provisions can be written into contracts that ensure that some civil service policies, such as Affirmative Action and due process, are carried out by the provider.
- Include a provision in the contract to ensure the private firms hire the displaced employees.
- Focus on new services that are not currently provided by government agencies.
- Extend retirement and health benefits coverage to displaced employees.
- Provide employees with early retirement options.
- Provide job placement and training to employees.

(See Back)

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-3 -2 -1 0 +1 +2 +3

High Neutral Low
(Pro-Government) (Pro-Private)

- Are there any laws that mandate who should actually provide the service (government vs. private providers)? If the government must provide the service, this is supportive of government delivery of the service.
- Do laws have to change to allow the private sector to provide the service? If yes, are there many and highly difficult changes?
- Are there interrelationships with other programs, prescribed by law, that inhibit or prohibit privatization? If yes, this may be a barrier to privatization.
- Are there federal grant restrictions that interfere with privatization? If yes, are they high or low barriers to privatization?
- Is the privatization compatible with legislative intent?

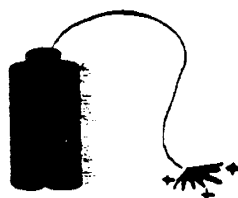
If the scale is tipped away from privatization, the legal limits may relate to only small portions of a service. If so, these portions of the service might be separated from the privatized portion. If laws need to be changed, assess the difficulty of doing so. Is the legislative climate conducive to supporting change? Are there sponsors willing to support needed legislation?

-80-

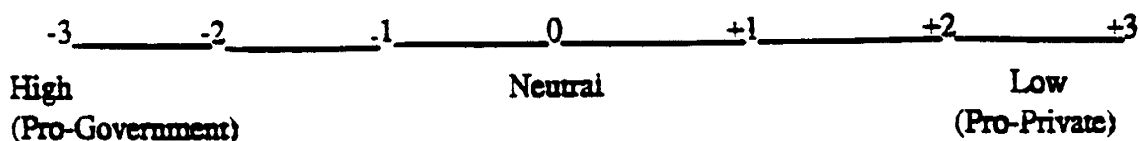
Write the rationale for the criterion's rating in the following space:

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PRIVATIZATION PROFILE FORM



RISK



Definition: Risk is the degree to which privatization of a service increases government exposure to hazards.

- How great is the chance that the private firm may fail to provide the service? If the risk is low, this is supportive of the private side of the scale.
- If the service is interrupted or stopped, will the consequences to the public and government be major or minor? For example, are threats to public safety or substantial disruption possible.
- Is there a risk that providers will reduce or stop services if financial losses occur?
- Does the financial risk from lawsuits from disgruntled users of the service increase or decrease?
- Does the risk of corruption or abuse increase with privatization?
- Does government benefit from sharing some of the risks with the private sector?
- Does the private firm or government have responsibility for cost overruns? If the private sector has some of the responsibility for dealing with cost overruns, this supports the private side of the scale.

MITIGATION SUGGESTIONS IF PRIVATIZATION IS DESIRED

If the scale is tipped away from privatization, here are some strategies that should be considered to mitigate the problems:

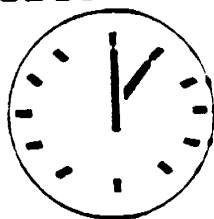
- Write contract provisions to reduce the risk of service interruption, such as reporting requirements.
- Maintain ownership of capital equipment.
- Develop an emergency plan to deal with interruption of service.

(Continued on Back)

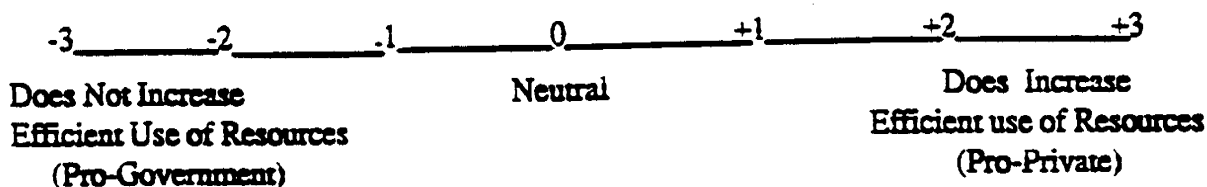
- Rent critical equipment and facilities to the private company.
- Maintain a list of alternative providers.
- Require the contractor to be bonded.
- Slowly phase in privatization until it is certain that contractors are capable and reliable.
- Include cost adjustments into the contract for inflation and increased service requirements.

Write the rationale for the criterion's rating in the following space:

PRIVATIZATION PROFILE FORM



RESOURCES



Definition: Resources refers to the efficient and effective use of existing government assets.

Administrative goals and objectives often include efficient use of their resources. Sometimes public administrators use privatization because it is more flexible or efficient than government delivery of services.

- Does the private sector have expertise that is not easy to develop or maintain in the government agency? Government agencies may not have the personnel and expertise that exists in the private sector. In addition, because of budget limitations, it is impossible for a government agency to maintain this expertise. If current agency personnel lack expertise or are unavailable, this supports the private side of the scale.
- Are there any time constraints that favor or impede privatization? The budget process may be too slow to react to crises. Privatization may be helpful where the service occurs sporadically during the year.
- Does the private sector possess needed equipment or facilities not currently owned by government?
- Are there any resource advantages government has over the private sector?
- Will privatization extend or reduce project completion dates?

MITIGATION SUGGESTIONS IF PRIVATIZATION IS DESIRED

If the scale is tipped away from privatization, here are some strategies that should be considered to mitigate the problems:

- In cases where the government has substantial equipment and facilities, either sell or rent these resources.

(Continued on back)

- Write the rationale for the criterion's rating in the following space:**

-85-

[illegible]

- How important is it for the agency to control the delivery of services? If it is less important, this supports the private side of the scale.
- Does the government agency have the ability to establish and maintain control mechanisms over the privatized service? What is the agency's ability to write and manage contracts? Can the agency adequately oversee the delivery of services, if those services are provided by a private firm? If adequate control can be maintained, this supports the private side of the scale.
- Is the quantity and quality of service easy to measure and control? Some government services are difficult to measure. Some qualitative factors can be hard to measure and thereby control. If the service's quantity and quality are easy to measure, this is supportive of the private side of the scale.

If the scale is tipped away from privatization, here are some strategies that should be considered to mitigate the problems:

- Write more detail into the contract to ensure control.
- Require that the contractor maintain records that allow easy oversight.
- Teach contract writing, management, and evaluation skills to existing employees.

-86-

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PRIVATIZATION PROFILE SUMMARY FORM

		PRO-GOVERNMENT PROVISION 			0	PRO-PRIVATE PROVISION 		
MARKET STRENGTH 		-3	-2	-1		+1	+2	+3
POLITICAL RESISTANCE 		-3	-2	-1		+1	+2	+3
COST EFFICIENCY 		-3	-2	-1		+1	+2	+3
QUALITY OF SERVICE 		-3	-2	-1		+1	+2	+3
IMPACT ON EMPLOYEES 		-3	-2	-1		+1	+2	+3
LEGAL BARRIERS 		-3	-2	-1		+1	+2	+3
RISK 		-3	-2	-1		+1	+2	+3
RESOURCES 		-3	-2	-1		+1	+2	+3
CONTROL 		-3	-2	-1		+1	+2	+3

PRIVATIZATION PROFILE SUMMARY

DETAILED COST ANALYSIS FORM

INSTRUCTIONS

There are three steps in the detailed cost analysis.

STEP 1.

Calculate the total government provision cost using PART 1 of this form.

Total Government Provision Cost =

STEP 2.

Calculate the total contracting cost using PART 2 of the form.

Total Contracting Cost =

STEP 3.

Calculate the difference between the costs of STEP 1. and STEP 2.

Difference between STEP 1. and STEP 2. =

Instructions are provided for each part. The forms contain various cost factors used in determining an annual dollar cost of providing the service. The list of cost factors covers a broad range of issues that should be considered. These issues may not relate to all privatization candidates. Determining a dollar value for some issues may be difficult.

The result of these three steps is an annual dollar amount. The process results in an annual expected decrease or increase in cost. Agency management should try to identify the characteristics that cause government to have higher or lower costs. If a government has higher cost, can the agency overcome those characteristics and decrease the cost?

DETAILED COST ANALYSIS
PART 1
Government Provision Costs

COSTS OF GOVERNMENT PERFORMING THE SERVICE FOR THE CURRENT OR PROJECTED LEVEL OF SERVICE

This part contains a series of cost factors. Some privatization candidates may have cost factors that are not listed here. These additional cost factors can be added at the bottom.

Consider each applicable cost factor and place the estimated cost, in dollars, in the space provided. Add all amounts for cost factors and place the total at the bottom of this form. Transfer this amount to the space provided at STEP 1.

COST FACTORS	AMOUNT
Salaries of department personnel (Including: taxes, unemployment insurance, PERA, and other fringe benefits)	_____
Service and supplies; fuel, maintenance, etc. (Operating Cost)	_____
Equipment (capital outlay)	_____
Equipment (interest cost)	_____
Operation and maintenance of buildings	_____
Cost of premiums paid for liability and fire insurance or claims paid in a self insurance program.	_____
Allocated administrative costs	_____
Allocated overhead cost of other executive and staff agencies.	_____
Management/supervision/oversight (Similar to contract oversight)	_____
Other cost factors	_____
Total Government Provision Cost =	_____

DETAILED COST ANALYSIS

PART 2

Contracting Costs

This form contains a series of cost factors. The cost factors are grouped in four broad categories:

Start-up Costs
Primary Costs
Contract Oversight Costs
Contractor Support Costs

Some privatization candidates may have cost factors not listed here. Add these additional cost factors where appropriate.

The first step is to consider each applicable cost factor and place an estimated cost, in dollars, in the space provided. Determine a total for each category and place at the bottom of this form. Then add all categories to determine total contracting costs. Transfer this amount to the space provided at STEP 2. (page 23).

START-UP COSTS

To spread out (amortize) the start-up costs over time, divide each estimated cost by the number of years you chose and place this amount in the space provided.

COST FACTORS	AMOUNT
Request for proposal; development, and implementation	_____
Contract development	_____
Bid preparation	_____
Bid selection	_____
Contract monitoring system development	_____
Unemployment benefits liability for displaced workers	_____
Leave benefits buy-out; severance pay, and accrued liabilities for displaced workers	_____
Disposing of unused equipment write-off depreciation, under-utilization of space. (Note: There may be benefits or gains, if sold, if so, subtract rather than add this amount.)	_____
Transition costs, such as duplication of effort	_____
Other cost factors	_____
Total Start-up Cost =	_____

PRIMARY CONTRACTING COSTS

COST FACTORS	AMOUNT
Contract price (annual)	_____
Allowance for cost over-runs (annual)	_____
Affect on state revenues (For example, will the state stop collecting users fees?)	_____
Estimated cost of the state losing any grants or subsidies, if applicable	_____
Other cost factors	_____
Total Primary Contracting Cost =	_____

CONTRACT OVERSIGHT COSTS

COST FACTORS	AMOUNT
Salaries	_____
Fringe Benefits	_____
Service and supplies	_____
Equipment (capital outlay)	_____
Equipment (interest cost)	_____
General operating costs	_____
Operation and maintenance of buildings other cost factors	_____
Total Contract Oversight Cost =	_____

CONTRACT SUPPORT COSTS

COST FACTORS	AMOUNT
Space provided	_____
Equipment provided	_____
Other cost factors	_____
Total Contractor Support Costs =	_____

SUMMARY OF CONTRACTING COSTS

Place the totals for each category in the following spaces. Then add the amounts to obtain the total contracting cost.

Total start-up cost =	_____
Total primary cost =	_____
Total contract oversight cost =	_____
Total contractor support =	_____
Other cost factors =	_____
TOTAL CONTRACTING COSTS =	_____

SOURCE: Adaptation of cost analysis by Savas, Oregon Department of General Services, and Colorado State Auditor's Office.

APPENDIX D
CORRESPONDENCE WITH DEPARTMENT OF PERSONNEL
CONSOLIDATION OF PAYROLL CENTERS

STATE OF NEVADA
LEGISLATIVE COUNSEL BUREAU

LEGISLATIVE BUILDING
CAPITOL COMPLEX
CARSON CITY, NEVADA 89710
Fax No.: (702) 687-5962



LEGISLATIVE COMMISSION (702) 687-6800
JOHN M. VERGIELS, *Senator, Chairman*
John R. Crossley, *Director, Secretary*

INTERIM FINANCE COMMITTEE (702) 687-6821
MATTHEW Q. CALLISTER, *Assemblyman, Chairman*
Daniel G. Miles, *Fiscal Analyst*
Mark W. Stevens, *Fiscal Analyst*

JOHN R. CROSSLEY, *Director*
(702) 687-6800

Wm. GARY CREWS, *Legislative Auditor* (702) 687-6815
ROBERT E. ERICKSON, *Research Director* (702) 687-6825
LORNE J. MALKIEWICH, *Legislative Counsel* (702) 687-6830

July 6, 1992

MEMORANDUM

TO: JUDY TAYLOR, CHIEF
ADMINISTRATIVE SERVICES DIVISION
DEPARTMENT OF PERSONNEL

FROM: GARY L. GHIGGERI
FISCAL ANALYSIS DIVISION

SUBJECT: CONSOLIDATION OF PAYROLL CENTERS

The SCR 2 Subcommittee, at their June 8th meeting, recommended the preparation of a bill draft for the consolidation of the various (state) payroll systems for the classified service with the exclusion of the academic payroll of the University of Nevada System and the Legislative Counsel Bureau.

Discussion preceding and following this recommendation indicated the following:

1. The consolidation would be accomplished by all payroll centers acquiring and utilizing common software with the agencies retaining the capability to prepare and monitor individual payrolls. This software would facilitate the use of a modular approach to meet each agency's unique needs and data would be maintained on the main computer.
2. The one common thread among the various pay centers is the classified service and that legislation and mandates, whether state, local or federal, all apply to the classified service in the same way. The consolidation will effect a central base so that, for example, when raises go into effect, the data will only have to be entered once.
3. The various pay centers would continue to do their payroll (preparation) using their own staff, time-frames and checks.

JUDY TAYLOR, CHIEF
ADMINISTRATIVE SERVICES DIVISION
DEPARTMENT OF PERSONNEL
July 6, 1992
Page 2

Following the approval of the recommended consolidation by the Subcommittee, the Chairman requested that you provide information "as to the mechanics" required by the consolidation of the pay centers and that the "mechanics" be made part of the Subcommittee report.

Please review the above referenced statements 1 - 3 and advise of any discrepancies you note. Also, please provide written information detailing the "mechanics" required to effect the consolidation of the pay centers.

Please contact me should you have any questions concerning this request. Thank you for your assistance.

SCR2PAY/cd
PRIVATIZATION

cc: Glen Rock
Dan Miles
Bob Guernsey
Tom Linden



DEPARTMENT OF PERSONNEL

209 E. Musser Street
Carson City, Nevada 89710
(702) 687-4050

MEMORANDUM

TO: Gary L. Ghiggeri
Fiscal Analysis Division
Legislative Counsel Bureau

FROM: Judy Taylor, Chief *Judy Taylor*
Administrative Services
Department of Personnel

DATE: July 28, 1992

SUBJECT: Consolidation of Payroll Centers

As referenced in your memo to me of July 6th, the SCR 2 Subcommittee recommended at their June 8th meeting that a bill draft for consolidation of the various (state) payroll systems be prepared.

I have reviewed your summary of the discussion preceding and following the recommendation (items 1-3 of your memo) and found no discrepancies. There are some additional considerations, however, which may interest the Subcommittee.

The successful consolidation of state paycenters contemplated by the Subcommittee can be accomplished only through the acquisition of a new payroll system. As you know, such a system was requested in the 91 Legislative Session by the Department of Personnel. Funding for the project, for Central Payroll only, was estimated at \$4 million the first year of the biennium and \$881,000 the second year. Inclusion of the other state payroll centers will increase the overall cost, since it would necessitate an in-depth analysis of each paycenter's requirements and ultimately involve more time from the Department of Data Processing.

Another element of the consolidation for which firm figures are as yet undetermined is savings to individual paycenters. Each paycenter other than Central Payroll currently utilizes their own in-house data processing staff and equipment to generate payroll. Since these paycenters do not have a fee-for-service relationship with their data processing departments, costs for their current systems are estimates only. Before the savings impact for the consolidated system can be defined, costs from each payroll center would need to be detailed.

July 28, 1992
Page 2-

Given that the financial considerations above are successfully dealt with, the mechanics of the new system would be fairly straightforward. First, with the assistance of a consultant, an analysis of each payroll center's needs would be done to assess if the requirements definition completed by the Department of Personnel in 1990 is sufficient. This process, along with the resulting changes to the requirements definition, would take several, possibly six, months. It would be essential that the payroll staff, as well as data processing staff, from each payroll center be involved in this process.

Upon completion of the requirements definition, appropriate software would be purchased and necessary customization begun. Such customization includes program design, time and attendance and leave accounting construction, interfaces and report construction followed by testing, documentation and training, both technical and functional. It is anticipated that this phase of the new system would take approximately eighteen months.

The various payroll centers would then be phased in to the new system at intervals. This would allow for each system to run parallel for a period of time and receive adequate assistance from the system implementation team to ensure a smooth transition into the new environment. The success of the consolidated system will rest on the ability of each payroll center, and the Department of Data Processing, to devote sufficient resources to the project to address those problems which invariably arise in any new system. The benefits of consolidation, in the long run, will certainly justify these early efforts.

Please contact me if you have any questions regarding the above information. The Department of Personnel has, since 1988, devoted a great deal of time to this project and is pleased to share any available information.

JT:akb

cc.: Glenn Rock
Dan Miles
Bob Guernsey
Tom Linden

APPENDIX E
MINORITY REPORT

CHRIS GIUNCHIGLIANI

Assemblywoman

District 1



HOME:

1115 Bracken Avenue
Las Vegas, Nevada 89104
702/366-1663

COMMITTEES:

Chairman

Assembly Management

Member

Assemblywoman

District 1

LEGISLATIVE BUILDING:

401 S. Carson Street
Las Vegas, Nevada 89110
Office: (702) 687-5739
Fax: (702) 687-5962

State of Nevada
Assembly
Sixty-Sixth Session

To: Chairman Raggio and Members of the SCR2 Subcommittee

From: Assemblywoman Chris Giunchigliani

Subject: Minority Report

We want to commend the Chairman and the members of the Subcommittee for their seriousness and diligence in addressing this very complicated and serious subject. The Subcommittee heard from all sides of the debate around this issue and, in general, the final report reflects a well reasoned and balanced approach to this subject.

In particular:

We strongly support the Subcommittee's recommendations for strict monitoring and audits of all state contracts for quality and cost effectiveness. We think implicit in this recommendation is a commitment to adequately fund and staff the responsible governmental units. Furthermore, we believe that the state should utilize the experiences of other states in insuring that the staff responsible for carrying out these responsibilities are trained in the best available practices and are fully protected from outside pressures.

We further support the call for an explicit procedure to bring activities back in-house when contractors are found lacking in either cost or quality. We think these recommendations are essential to insure the state and its citizens are not cheated by shoddy or substandard contractors.

We support the recommendation to carefully examine the nature of services being contracted to avoid "skimming" operations where the contractor gets the easily accomplished services (the "cream") while the state gets stuck with the more difficult and more costly services.

We support the recommendation for periodic rebidding of contracts to maintain a competitive environment and approve of the call for in-house bids, based on most efficient operation of the activity, when a service is being considered for contract.

We strongly support the recommendation that the contractor "beat" the in-house bid by 10% in order to secure the contract. This will help insure that the inevitable costs of transition are covered and also insure that the contract truly will save the state money. For similar reasons, we further support the recommendation that the contractor bid reflect all direct and indirect costs.

In several areas, we support the general thrust of the Subcommittee's proposals but feel the report could be strengthened by extending the report's recommendations. In particular:

We agree that there are certain activities which are inherently governmental and should not be considered for contract including police, fire protection, and tax collection. However, we think that the list of activities which are inherently governmental should explicitly include prison staffing and management. There is nothing more inherently governmental than taking away someone's freedom.

We agree with the Subcommittee's recommendation which encourages competition through competitive bidding. However, we think that this recommendation would be strengthened by not accepting bids where there is only one outside bidder. The problem in such situations is not only with the original bid but in the danger for escalating costs in the future where the cost constraints of competition is lacking. While the report's recommendation for an inhouse bid would help address the concern of the original bid it does little to affect the concern of escalating costs in the future from predatory pricing which would be likely to occur in such a monopolistic situation.

We agree that the Legislative Auditor should play a role in overseeing the executive branch in their carrying out of state policy in this area, but differ on the specific function of the Legislative Auditor as specified in the recommendation. It seems that a key goal of the Subcommittee's recommendations is to establish objective procedures and criteria for deciding which state activities should be done in-house and which activities should be done by outside contractors. Once such a policy is established in law, it should be the responsibility of the executive branch to carrying out that policy. The Legislative branch should then oversee the executive branch in its carrying out of that policy. It does not seem fruitful to us to have the legislative branch to attempt to carry-out the policy. But this is, it seems to us, what is implied by charging the Legislative Auditor to come up with a list of activities to be contracted out and a list to be brought back in house. It seems to us, that a better set of responsibilities to assign the Legislative Auditor would be in the nature of oversight. For example, the Legislative Auditor should be charged with such matters as determining: if the state carried out the cost comparisons in an accurate manner; if the envisioned cost savings in a contract was actually realized; or if the in-house bid actually was based on the most efficient operation.

We concur with the Subcommittee's view that decisions about privatization of government services involve considerations of such criteria as quality of services, impact on employees, legal barriers, risk, resources, and control. However, we are concerned that the guidelines as utilized by the State of Colorado, which are cited in the recommendation, contain a bias in favor of contracting out. For example, in the Colorado privatization methodology, after a discussion of some of the relevant criteria is included a set of "mitigation suggestions" which are essentially a series of steps to take to allow the contracting to occur even if the activity does not meet the established criteria. Therefore we would recommend that the state develop its own guidelines on identifying which activities to bring in-house and which to contract, rather than simply relying on the Colorado methodology.

We strongly agree with the Subcommittee's recommendation to require contractors to disclose their legal history in regard to contracting labor practices. We think that the report would be strengthened by recommending that the existence of such practices should be a major factor in accepting or rejecting a company's bid.

While we support the much of the Subcommittee's work, we think that the recommendations regarding the women's multi-custody level prison at Nellis and the Lovelock Correctional Facility are ill-considered. We spent considerable time working to establish a set of objective recommendations regarding criteria, procedures and safeguards to establish a sound public policy on privatization. We then proceed to recommend privatizing two functions with only minimal reference to our own recommendations. The wording of the recommendation clearly pre-judges the issue without regard to the merits of whether such privatization would meet the recommended criteria.

In addition, we are not convinced the Subcommittee has weighed all the considerations involved in contracting out a prison. Incarceration is the most intrusive act government can take against an individual. In a democracy such as ours, prisons deprive an individual of his/her most cherished possession -- freedom. When incarcerated, the individual is no longer free to make even the most basic of decisions; when to eat, sleep, wash, etc. Those decisions are made for the individual by the people running the institution. The inmate is under the total control of the prison and that control is achieved through force.

We are dealing with a "service" which is very different from other government services. Incarceration is something we do to a person not something we do for a person. Incarceration is something that we only allow government to perform. We are not sure what government is saying when it turns convicted felons over to a profit-making firm. It seems to demean the whole criminal justice process. Does government deserve the trust and support of its citizens if it does not trust itself to administer one of its most basic functions? Is it wise to undertake public policy which makes the administering of punishment a money-making proposition? When we are considering strengthening sentencing requirements, will we be visited by lobbyists from the operators of the prisons for profit seeking to insure that the demand for their services expand and, if so, is this good public policy?

Attached to this minority report is a study done by Harvard professor, John Donahue, which examines the question of whether privatization of prisons is a "good idea" and answers that question "Probably not. The evidence on potential cost savings is too weak and too questionable to warrant so radical and risky an experiment."

Thank you for your consideration.

Assemblywoman Chris Giunchigliani

A handwritten signature in cursive script, reading "Chris Giunchigliani".

Assemblyman Doug Bache

A handwritten signature in cursive script, reading "Doug Bache".

Assemblyman Ken Haller

A handwritten signature in cursive script, reading "Ken L. Haller".

PRISONS FOR PROFIT: PUBLIC JUSTICE, PRIVATE INTERESTS

By John D. Donahue

Economic Policy Institute

*COPY IS AVAILABLE IN FISCAL DIVISION OFFICE
OF THE LEGISLATIVE COUNSEL BUREAU*

APPENDIX F
SUGGESTED LEGISLATION

1. The endorsement of the continued study of the potential consolidation of the various State data processing centers; the Subcommittee noted during this continued study, the various data centers should be cognizant of the potential for consolidation before committing to equipment purchases/capital outlays. (BDR R-645)

SUMMARY--Directs Department of Data Processing to conduct study of feasibility of consolidating state centers for data processing.
(BDR R-645)

CONCURRENT RESOLUTION--Requiring the Department of Data Processing to conduct a study of the feasibility of consolidating the state centers for data processing.

WHEREAS, There exist several centers for data processing within state government, each operating independently of the others; and

WHEREAS, It is important to make the most efficient use of all state resources; and

WHEREAS, The centers for data processing should be operated in a manner which is both efficient and cost-effective; and

WHEREAS, Efficiency and effectiveness would require that the centers of data processing use compatible hardware and software and that they be operated in a manner which avoids the duplication of costs and services; now, therefore, be it

RESOLVED BY THE OF THE STATE OF NEVADA, THE
CONCURRING, That the Department of Data Processing is hereby directed to conduct a study of the desirability and feasibility of consolidating the various state centers for data processing; and be it further

RESOLVED, That if the Department of Data Processing determines that consolidation is desirable and feasible, the Department is directed to prepare a proposed plan for consolidation; and be it further

RESOLVED, That the Department of Data Processing shall submit a report of the results of the study and, if applicable, a plan for consolidation to the Director of the Legislative Counsel Bureau on or before January 16, 1995, for transmittal to the 68th session of the Nevada Legislature; and be it further

RESOLVED, That a copy of this resolution be transmitted by the
of the to the Director of the Department of Data Processing.

2. The formation of the Department of Information Services and Technology. The Department would be comprised of the existing Department of Data Processing and would be a "name change" to reflect the services the Department of Data Processing currently provides. Coordination of the Department's existing functions (data processing and information services) would be a responsibility of the new Department and coordination of all appropriate State telecommunication functions (excluding Judicial and Legislative Branches) would also be a function of the new Department. (BDR 19-638)
3. The newly formed Department of Information Services and Technology be required to:
 - > Develop a long-range (5 to 10 year) Strategic Information Technology Plan.
 - > Develop a short-range tactical plan to improve all State Data Processing functions, effectiveness and efficiency. The short-range tactical plan should also include all identified opportunities for outsourcing. (BDR 19-638)

SUMMARY--Makes various changes relating to department of data processing.

(BDR 19-638)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State or on Industrial Insurance: Yes.

AN ACT relating to the department of data processing; changing the name of the department of data processing to the department of information services and technology; requiring the division of planning and research of the department to develop plans relating to telecommunications and information services; and providing other matters properly relating thereto.

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

Section 1. Chapter 242 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *"Information service" means any service relating to the creation, maintenance, operation or use of an information system.*

Sec. 3. *"Information systems" means any communications or computer equipment, computer software, procedures or personnel used to collect, process, distribute or store information.*

Sec. 4. NRS 242.011 is hereby amended to read as follows:

242.011 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 242.021 to 242.068, inclusive, *and sections 2 and 3 of this act*, have the meanings ascribed to them in those sections.

Sec. 5. NRS 242.021 is hereby amended to read as follows:

242.021 "Committee" means the advisory committee for [data processing.] *information services and technology*.

Sec. 6. NRS 242.031 is hereby amended to read as follows:

242.031 "Department" means the department of [data processing.] *information services and technology*.

Sec. 7. NRS 242.051 is hereby amended to read as follows:

242.051 "Equipment" means any machine or device designed for the automatic handling of [coded] information, including but not limited to recording, storage, transmission and retrieval.

Sec. 8. NRS 242.068 is hereby amended to read as follows:

242.068 "Using agency" means an agency of the state which has a function requiring the use of [equipment.] *an information system*.

Sec. 9. NRS 242.071 is hereby amended to read as follows:

242.071 1. The legislature hereby determines and declares that the creation of the department of [data processing] *information services and technology* is necessary for the coordinated, orderly and economical processing of [data] *information* in state government, to [insure] *ensure* economical use of [equipment] *information systems* and to prevent the unnecessary proliferation of equipment and personnel among the various state agencies.

2. The purposes of the department are:

(a) To perform [data processing] *information services* for state agencies.

(b) To provide technical advice but not administrative control of [data processing] *the information systems* within the [several] state agencies, county agencies and [the] governing bodies and agencies of incorporated cities and towns.

Sec. 10. NRS 242.080 is hereby amended to read as follows:

242.080 1. The department of [data processing] *information services and technology* is hereby created.

2. The department consists of the director and the : [following divisions:]

(a) Division of systems and programming.

(b) Division of facility management.

(c) Division of planning and research.

Sec. 11. NRS 242.111 is hereby amended to read as follows:

242.111 The director shall adopt regulations necessary for the administration of this chapter, including:

1. The policy for [data processing] *the information systems* of the executive branch of government, excluding the University of Nevada System and the Nevada criminal justice information computer operated by the Nevada highway patrol division of the department of motor vehicles and public safety, as that policy relates, but is not limited, to such items as standards for systems and programming and criteria for selection, location and use of [data processing equipment,] *information systems* in order that the [data processing needs] *requirements* of state agencies and officers may be met at the least cost to the state;

2. The department's procedures in [performing data processing,] *providing information services*, which may include provision for the performance, by any agency which uses the services or equipment of the department, of preliminary procedures, such as data recording and verification, within the agency;

3. The effective administration of the division of facility management, including security to prevent unauthorized access to [data] *information systems* and plans for the recovery of systems and applications after they have been disrupted; and

4. Specifications and standards for the employment of all personnel of the department.

Sec. 12. NRS 242.115 is hereby amended to read as follows:

242.115 1. Except as otherwise provided in subsection 2, the division of planning and research of the department [of data processing] shall:

(a) Develop policies and standards for the [data processing requirements] *information systems* of the executive branch of government;

(b) Coordinate the development of a biennial state plan for the [data processing requirements] *information systems* of the executive branch of government;

(c) Develop guidelines to assist state agencies in the development of short- and long-term plans for their [data processing requirements:] *information systems*;

(d) Develop guidelines and procedures for the procurement [of data processing equipment, maintenance of that equipment, procurement of software used with that equipment and programming for the data processing

requirements] and maintenance of the information systems of the executive branch of government;

(e) *Coordinate with the communications subdivision of the Nevada highway patrol division of the department of motor vehicles and public safety and the telecommunications division of the department of general services any activities relating to telecommunications or information services which may be performed by the communications subdivision, telecommunications division or department;*

(f) *Develop and maintain a 10-year plan to establish guidelines to determine the feasibility of technological developments relating to information services and their general application to state agencies;*

(g) *Develop and maintain a 5-year plan to establish guidelines to determine the feasibility of technological developments relating to information services and their specific application to individual state agencies, including the identification of any service which is performed by a state agency which may be performed more efficiently by a private contractor;*

(h) *Develop standards to ensure the security of [equipment and information used in data processing activities of the executive branch of government;*

(f) *Develop guidelines, procedures and specifications for the procurement of hardware and software for personal computers and the maintenance of that equipment for the data processing requirements of the executive branch of government; and*

(g)] *the information systems of the executive branch of government; and*

(i) *Perform other planning and research functions at the direction of the director.*

2. This section does not apply to the University of Nevada System or the Nevada criminal justice information computer operated by the Nevada highway patrol division of the department of motor vehicles and public safety.

Sec. 13. NRS 242.121 is hereby amended to read as follows:

242.121 1. There is hereby created an advisory committee for [data processing] *information services and technology* whose members are:

- (a) The director;
- (b) Three other directors of departments of the state government selected by the governor;
- (c) Two other members who are not public officers or employees, appointed by the governor; and
- (d) One member appointed by the majority floor leader of the senate from the membership of the senate standing committee on finance during the immediately preceding session of the legislature, and one member appointed by the speaker of the assembly from the membership of the assembly standing committee on ways and means during that session.

The governor shall appoint the chairman of the committee from among its members.

2. The committee may meet as often as necessary and may meet regularly at least once every 3 months. Members of the committee who are officers or employees in the executive department of the state serve without additional compensation. Members who are legislators or who are not public officers or employees are entitled to a salary of \$80 for each day or part of a day spent on business of the committee.

3. The committee shall advise the director on matters relating to policies for [data processing] *information services and technology* by elected officers of the state and state agencies, including:

(a) Standards for systems and programming; and

(b) Criteria for the selection, location and use of [equipment for data processing.] *information systems*,

so that needs for [data processing] *information services* of officers and agencies may be met at the least cost and with the use of the latest developments in [the field of data processing.] *information systems and technology*.

Sec. 14. NRS 242.131 is hereby amended to read as follows:

242.131 1. The department shall provide state agencies and elected state officers with all of their required design of *information systems* . [, programming and use of equipment for data processing, and all] *All agencies and officers must use those services and equipment, except as otherwise provided in subsection 2.*

2. The following agencies may negotiate with the department for its services or the use of its equipment, subject to the provisions of this chapter, and the department shall provide such services and the use of such equipment as may be mutually agreed:

(a) Court administrator;

(b) Department of motor vehicles and public safety;

(c) Department of transportation;

(d) Employment security department;

(e) Legislative counsel bureau;

- (f) State industrial insurance system;
- (g) State controller;
- (h) State gaming control board and Nevada gaming commission;
- (i) Department of wildlife; and
- (j) University of Nevada System.

3. Any state agency or elected state officer who uses the services of the department and desires to withdraw substantially from that use must apply to the director for approval. The application must set forth justification for the withdrawal. If the director denies the application, the agency or officer must:

(a) If the legislature is in regular or special session, obtain the approval of the legislature by concurrent resolution.

(b) If the legislature is not in regular or special session, obtain the approval of the interim finance committee. The director shall, within 45 days after receipt of the application, forward the application together with his recommendation for approval or denial to the interim finance committee. The interim finance committee has 45 days after the application and recommendation are submitted to its secretary within which to consider the application. Any application which is not considered by the committee within the 45-day period shall be deemed approved.

4. If the demand for services or use of equipment exceeds the capability of the department to provide them, the department may contract with other agencies or independent contractors to furnish the required services or use of equipment and is responsible for the administration of the contracts.

Sec. 15. NRS 242.135 is hereby amended to read as follows:

242.135 1. The director may recommend to the governor that a state agency or elected officer that is required to use the department's equipment or services be authorized to employ one or more persons to [perform data processing] *provide information services* exclusively for the agency or officer if:

(a) The director finds that it is in the best interests of the state to authorize the employment by the agency or elected officer;

(b) The agency or elected officer agrees to provide annually to the department sufficient information to determine whether the authorized employment continues to be in the best interests of the state; and

(c) The agency or elected officer agrees to ensure that the person or persons employed complies with the provisions of this chapter and the regulations adopted thereunder.

2. The director may recommend to the governor the revocation of the authority of a state agency or elected officer to employ a person or persons pursuant to subsection 1 if the director finds that the person or persons employed have not complied with the provisions of this chapter or the regulations adopted thereunder.

Sec. 16. NRS 242.151 is hereby amended to read as follows:

242.151 The director shall advise the using agencies regarding:

1. The policy for [data processing] *information services* of the executive branch of government, as that policy relates, but is not limited, to such items as standards for systems and programming and criteria for the selection, location and use of [data processing equipment] *information systems* in order that the

[data processing needs] *requirements* of state agencies and officers may be met at the least cost to the state;

2. The procedures in performing [data processing;] *information services*; and

3. The effective administration and use of the computer facility, including security to prevent unauthorized access to data and plans for the recovery of systems and applications after they have been disrupted.

Sec. 17. NRS 242.171 is hereby amended to read as follows:

242.171 1. The department is responsible for [the] :

(a) *The applications of [data processing, for designing systems and placing them] information systems;*

(b) *Designing and placing those systems in operation [, and for the] ;*

(c) *Any application of an information system which it furnishes to state agencies and officers after negotiation; and*

(d) *The writing, testing and performance of programs, for the state agencies and elected state officers which are required to use its services. [The department is also responsible for those applications which it furnishes to state agencies and officers after negotiation.]*

2. The director shall review and approve or disapprove, pursuant to standards for justifying cost, any application of [data processing] *an information system* having an estimated developmental cost of \$50,000 or more. No using agency may commence development work on any such applications until approval and authorization have been obtained from the director.

Sec. 18. NRS 242.181 is hereby amended to read as follows:

242.181 1. Any state agency or elected state officer which uses the equipment [of the division of facility management] *or services of the department* shall adhere to the regulations, standards, practices, policies and conventions [for the division prescribed by the director.] *of the department.*

2. The [division] *department* shall provide services to each agency uniformly with respect to degree of service, priority of service, availability of service and cost of service.

Sec. 19. NRS 242.211 is hereby amended to read as follows:

242.211 1. The [data processing] fund *for information services and technology* is hereby created as an internal service fund. Money from the fund must be paid out on claims as other claims against the state are paid. The claims must be made in accordance with budget allotments and are subject to preaudit examination and approval.

2. All operating, maintenance, rental, repair and replacement costs of equipment and all salaries of personnel assigned to the department must be paid from the [data processing] fund.

3. Each agency using the services of the department shall pay a fee for that use to the [data processing] fund, which must be set by the director in an amount sufficient to reimburse the department for the entire cost of providing those services, including overhead. Each using agency shall budget for those services. All fees, proceeds from the sale of equipment [,] and *any* other money received by the department must be deposited with the state treasurer for credit to the appropriate fund.

Sec. 20. NRS 242.221 is hereby amended to read as follows:

242.221 1. All claims made pursuant to NRS 242.121 to 242.241, inclusive, must, when approved by the department, be audited and paid as other claims against the state are paid.

2. If the state controller finds that current claims against the [data processing] fund *for information services and technology* exceed the amount available in the fund to pay the claims, he may advance temporarily from the state general fund to the appropriate fund the amount required to pay the claims, but no more than 25 percent of the [revenues] *revenue* expected to be received in the current fiscal year from any source authorized for the fund. No amount may be transferred unless requested by the chief of the budget division of the department of administration.

Sec. 21. NRS 242.231 is hereby amended to read as follows:

242.231 Upon the receipt of a statement submitted pursuant to subsection 2 of NRS 242.191, each agency shall authorize the state controller by transfer or warrant to draw money from the agency's account in the amount of the statement for transfer to or placement in the [data processing fund.] *fund for information services and technology*.

Sec. 22. NRS 242.241 is hereby amended to read as follows:

242.241 1. Until the construction costs of \$535,600 for the computer facility in Carson City, Nevada, have been paid, the director shall pay annually from the [data processing] fund *for information services and technology* to the state treasurer for deposit in the state general fund 2 percent of the facility's original acquisition cost.

2. For any subsequent capital additions to the computer facility, the director shall pay annually from that fund to the state treasurer for deposit in the state general fund 2 percent of the original cost of such capital additions, until this cost has been fully paid.

Sec. 23. At the end of the fiscal year 1992-93, the state controller shall transfer the assets and liabilities of the data processing fund, to the extent that the assets are not encumbered for the fiscal year 1992-93, to the fund for information services and technology.

Sec. 24. The legislative counsel shall, in preparing the supplement to Nevada Revised Statutes with respect to any section which is not amended by this act or is further amended by another act, change any reference to the:

1. "Department of data processing" to the "department of information services and technology."

2. "Data processing fund" to the "fund for information services and technology."

Sec. 25. This act becomes effective on July 1, 1993.

4. The consolidation of the various payroll systems (software) used by State agencies (SIIS, NDOT, PERS, University Classified, and Controllers) into one system. The Subcommittee specifically excluded from the consolidation the payroll systems for LCB and University Academic (personnel). Common software would be acquired and utilized by all payroll centers with modifications to fit the specific requirements of the using agencies/departments. (BDR 27-635)

SUMMARY--Requires certain state agencies to obtain approval of department of personnel before purchasing any computer software used for preparation of payroll. (BDR 27-635)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State or on Industrial Insurance: No.

AN ACT relating to state purchasing; requiring certain state agencies to obtain the approval of the department of personnel before purchasing any computer software used for the preparation of a payroll; and providing other matters properly relating thereto.

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

Section 1. Chapter 333 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 2, a state agency shall not purchase any computer software for use in the preparation of its payroll unless the software is first approved by the department of personnel.

2. The provisions of subsection 1 do not apply to the purchase of computer software for use solely in the preparation of the payroll for the academic staff of the University of Nevada System.

3. *As used in this section, "state agency" means any public agency, bureau, board, commission, department, division, officer or employee of the executive department of state government.*

Sec. 2. NRS 333.020 is hereby amended to read as follows:

333.020 [The following words shall have the following meaning within the purview of this chapter, and shall be so construed:] *As used in this chapter, unless the context otherwise requires:*

1. "Chief" means the chief of the purchasing division.
2. "Director" means the director of the department of general services.
3. "Purchasing division" means the purchasing division of the department of general services.
4. "Using agencies" means any and all officers, departments, institutions, boards, commissions and other agencies in the executive department of the state government which derive their support from public [funds] *money* in whole or in part, whether the [same may be funds] *support is money* provided by the State of Nevada, [funds] *money* received from the Federal Government or any branch, bureau or agency thereof, or [funds] *money* derived from private or other sources, [excepting] *except* local governments as defined in NRS 354.474, conservation districts and irrigation districts. The University of Nevada System and the desert research institute of the University of Nevada System are not "using agencies" except as provided in NRS 333.461 [.] *and section 1 of this act.*

5. "Volunteer fire department" means a volunteer fire department which pays industrial insurance premiums pursuant to the provisions of chapter 616 of NRS.

Sec. 3. This act becomes effective upon passage and approval.

6. Clarifying provisions relating to advertisement for bids for public works contracts between \$25,000 and \$100,000. (BDR 28-646)

SUMMARY--Clarifies authority of public bodies to advertise for bids on certain public works. (BDR 28-646)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State or on Industrial Insurance: No.

AN ACT relating to public works; clarifying the authority of public bodies to advertise for bids on certain public works; and providing other matters properly relating thereto.

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

Section 1. NRS 338.143 is hereby amended to read as follows:

338.143 1. Except as otherwise provided in subsection 5, an agency or political subdivision of the state, or a public officer, public employee or other person responsible for awarding a contract for the construction, alteration or repair of a public work, shall not:

(a) Commence such a project, for which the estimated cost exceeds \$100,000, unless it advertises in a newspaper of general circulation in the state for bids for the project; or

(b) Divide such a project into separate portions to avoid the requirements of paragraph (a).

This subsection does not prohibit advertisement for bids for a project if the estimated cost is \$100,000 or less.

2. Approved plans and specifications for the bids must be on file at a place and time stated in the advertisement for the inspection of all persons desiring to bid thereon and for other interested persons. Contracts for the project must be awarded on the basis of bids received.

3. Any or all bids received in response to an advertisement for bids may be rejected if the person responsible for awarding the contract determines that:

- (a) The bidder is not responsive or responsible;
- (b) The quality of the services, materials, equipment or labor offered does not conform to the approved plan or specifications; or
- (c) The public interest would be served by such a rejection.

4. Before an agency or political subdivision of the state may commence a project subject to the provisions of this section, based upon a determination that the public interest would be served by rejecting any bids received in response to an advertisement for bids, it shall prepare and make available for public inspection a written statement containing:

- (a) A list of all persons, including supervisors, who the agency or political subdivision intends to assign to the project, together with their classifications and an estimate of the direct and indirect costs of their labor;
- (b) A list of all equipment that the agency or political subdivision intends to use on the project, together with an estimate of the number of hours each item of equipment will be used and the hourly cost to use each item of equipment;

(c) An estimate of the cost of administrative support for the persons assigned to the project;

(d) An estimate of the total cost of the project; and

(e) An estimate of the amount of money the agency or political subdivision expects to save by rejecting the bids and performing the project itself.

5. This section does not apply to:

(a) Any utility subject to the provisions of chapter 318 or 710 of NRS;

(b) Any work of construction, reconstruction, improvement and maintenance of highways subject to NRS 408.323 or 408.327;

(c) Normal maintenance of the property of a school district; or

(d) The Las Vegas Valley water district created pursuant to chapter 167, Statutes of Nevada 1947.

7. To expedite the Request for Proposal (RFP) process, in situations where the Legislature has mandated the contracting out of governmental services (excluding normal contracting out of services budgeted in the Operating Category) with a threshold of \$100,000, the following procedure be adhered to by the state agency charged with securing the contracted services:
 - > A representative of the agency will meet with a representative of the Purchasing Division, the Attorney General's Office and, if necessary, an outside consultant for the purpose of preparing the initial RFP.
 - > These individuals would be required to report their progress in preparing the RFP within 90 days from authorization of the project, to the Legislature, if in session, or the Interim Finance Committee if the Legislature is not in session.
(BDR 27-644)

SUMMARY--Establishes procedure for preparation of request for proposal for contract for certain services required by legislature. (BDR 27-644)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State or on Industrial Insurance: Yes.

AN ACT relating to state contracts; establishing a procedure for the preparation of a request for a proposal for a contract for certain services required by the legislature; and providing other matters properly relating thereto.

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

Section 1. Chapter 333 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If the legislature requires a using agency to contract for the provision of services in an amount of \$100,000 or more, a representative of that agency shall, as soon as practicable after the contracting of those services has been authorized by the legislature, meet with a representative of the purchasing division, a representative of the attorney general and any other person he considers necessary to discuss the preparation of a request for a proposal.

2. The representative from the using agency which is responsible for contracting for the services described in subsection 1 shall, not later than 90

days after the contracting of those services has been authorized by the legislature, submit a report to the legislature if the legislature is in session, or to the interim finance committee, if the legislature is not in session. The report must include information concerning the status of the request for the proposal and the proposed date of its completion.

Sec. 2. NRS 333.020 is hereby amended to read as follows:

333.020 [The following words shall have the following meaning within the purview of this chapter, and shall be so construed:] *As used in this chapter:*

1. "Chief" means the chief of the purchasing division.
2. "Director" means the director of the department of general services.
3. "Purchasing division" means the purchasing division of the department of general services.
4. *"Request for a proposal" means a statement which sets forth the requirements and specifications of a contract to be awarded by competitive bid.*

5. "Using agencies" means any and all officers, departments, institutions, boards, commissions and other agencies in the executive department of the state government which derive their support from public funds in whole or in part, whether the same may be funds provided by the State of Nevada, funds received from the Federal Government or any branch, bureau or agency thereof, or funds derived from private or other sources, excepting local governments as defined in NRS 354.474, conservation districts and irrigation districts. The University of Nevada System and the desert research institute of the University of Nevada System are not "using agencies" except as provided in NRS 333.461.

[5.] 6. "Volunteer fire department" means a volunteer fire department which pays industrial insurance premiums pursuant to the provisions of chapter 616 of NRS.

9. The Legislative Auditor, as part of the normal Legislative audit process, would report to the Legislative Commission as part of his report:

- > Services that may be likely candidates for privatization.

- > Services that are currently being performed by a private contractor that have the potential of being performed more efficiently by the (state) agency.

The Legislative Commission (Commission) would then have the authority to instruct the Legislative Auditor to conduct further cost analysis if the Commission determines it necessary. (BDR 17-643)

SUMMARY--Requires legislative auditor to include in audit report certain recommendations concerning programs and services provided by state agency or private contractor. (BDR 17-643)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State or on Industrial Insurance: No.

AN ACT relating to legislative audits; requiring the legislative auditor to include in his audit report certain recommendations concerning the programs and services provided by a state agency or private contractor; and providing other matters properly relating thereto.

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

Section 1. NRS 218.823 is hereby amended to read as follows:

218.823 1. The legislative auditor shall present a final written report of each audit to the legislative commission and furnish copies to all members of the legislature, other appropriate state officers and the head of the agency audited.

2. *If, while conducting an audit, the legislative auditor determines that a program, service or function currently performed by:*

(a) An audited agency of the state may be performed more efficiently by a private contractor; or

(b) A private contractor may be performed more efficiently by an agency of the state,

the legislative auditor shall include in his final written report any comments or recommendations regarding that determination.

3. Upon receipt of the final written report, the legislative commission may instruct the legislative auditor to conduct a further analysis of the costs of carrying out any recommendations made pursuant to subsection 2.

4. The legislative commission may by regulation provide for the:

(a) Presentation of the final written report of each audit to the audit subcommittee before the report is presented to the legislative commission.

(b) Distribution of copies of the final written report of an audit to each member of the legislative commission or audit subcommittee, or both, before the report is presented to the legislative commission.

(c) Distribution of copies of the final written report or a summary of the final report to all members of the legislature, other appropriate state officers and the head of the agency audited after the final report is presented to the audit subcommittee.

[3.] 5. Except as otherwise provided by this chapter, the legislative auditor shall not disclose the content of any audit before it is presented to the:

(a) Audit subcommittee, if the final written report is presented to the audit subcommittee pursuant to regulations adopted by the legislative commission.

(b) Legislative commission, if the final written report is not presented to the audit subcommittee pursuant to regulations adopted by the legislative commission.

10. The State Purchasing Division establish criteria by which equipment purchase requests can be evaluated to determine:

-> If the equipment can be leased or rented more efficiently?

-> If there is a service involved, such as maintenance which is better: outsourced or privatized? (BDR 27-642)

SUMMARY--Requires chief of purchasing division of department of general services to establish certain standards to be used by state agencies when purchasing new equipment. (BDR 27-642)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State or on Industrial Insurance: Yes.

AN ACT relating to state purchasing; requiring the chief of the purchasing division of the department of general services to establish certain standards to be used by state agencies when purchasing new equipment; and providing other matters properly relating thereto.

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

Section 1. Chapter 333 of NRS is hereby amended by adding thereto a new section to read as follows:

The chief shall adopt regulations which set forth standards to be used by using agencies when purchasing new equipment in order to determine:

- 1. Whether the equipment can be leased or rented at a cost that is equal to or less than the cost of purchasing the equipment; and*
- 2. If a service is required to maintain the equipment, whether the service would be performed more efficiently by the agency or a private contractor.*

11. The State Purchasing Division adopt guidelines (criteria) modeled after those utilized by the State of Colorado to assist government agencies in making systematic decisions about privatizing public services. Criteria utilized by Colorado include consideration of the following:

- > Market Strength - The commercial characteristics of the service. Is the private sector able and interested in delivering the service.
- > Political Resistance - The amount of opposition to change in who provides the service. This resistance can come from the public, users of the service, interest groups or public officials.
- > Cost Efficiency - The expected cost of services, assuming no change in the level or quality of service.
- > Quality of Service - The expected effect privatization will have on the effectiveness, timeliness, thoroughness, etc. of the service provided. Privatization should not decrease the quality of service, but should match or exceed the present quality.
- > Impact on Employees - The effect that privatization will have on government employees.
- > Legal Barriers - The effect any existing laws have on the privatization decision.
- > Risk - The degree to which privatization of a service increases government exposure to hazards.
- > Resources - The efficient and effective use of government assets.
- > Control - The government's ability to oversee the provision of the service.

In addition to utilizing a numerical scoring (rating based upon the above referenced criteria) to assist agencies in making systematic decisions about privatizing public services, the Subcommittee recommended a written rationale must be provided to substantiate the scoring. (BDR 27-641)

SUMMARY--Requires chief of purchasing division of department of general services to establish criteria for state agency to use in determining whether to contract with private contractor to provide services furnished by agency. (BDR 27-641)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State or on Industrial Insurance: Yes.

AN ACT relating to state purchasing; requiring the chief of the purchasing division of the department of general services to establish criteria for a state agency to use in determining whether to contract with a private contractor to provide services provided by the agency; requiring a state agency to evaluate a proposed contract with a private contractor pursuant to a method of evaluation established by the chief of the purchasing division; and providing other matters properly relating thereto.

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

Section 1. Chapter 333 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The chief shall adopt regulations which set forth criteria to be used by a using agency in determining whether a service performed by the agency would

be performed more efficiently by a private contractor. The regulations must provide for a consideration of:

- (a) The condition of the market for the service;*
- (b) The amount of political opposition to the proposed contract;*
- (c) The cost effectiveness of the proposed contract;*
- (d) The quality of the service being contracted for;*
- (e) The effect of the proposed contract on the employees of the agency;*
- (f) Any provision of law that may prohibit the proposed contract;*
- (g) Any potential liability of the state arising from the proposed contract;*
- (h) The availability of money to pay for the proposed contract;*
- (i) The control retained by the agency pursuant to the provisions of the proposed contract;*
- (j) An analysis of the services being sought by the private contractor to ensure that the budget of the agency is not depleted by contracting only for certain services performed by the agency; and*
- (k) Any other information the chief determines is necessary for the evaluation of the proposed contract.*

2. The chief shall establish a method for evaluating a proposed contract by assigning a numerical value to each of the considerations set forth in subsection 1 and calculating the sum of those numerical values. The numerical values assigned must be based on a scale ranging from -3 to +3, with the higher and more positive number representing the greater potential for contracting with the private contractor to provide the service performed by the using agency.

3. *Before contracting for the services of a private contractor, a using agency shall:*

(a) Evaluate the proposed contract pursuant to the method of evaluation established pursuant to subsection 2 and submit a written statement of the results of the evaluation to the chief. The statement must include a written justification for the numerical value assigned by the using agency to each consideration.

(b) If the evaluation indicates that the service may be performed more efficiently by a private contractor, conduct a detailed analysis of the cost and benefits of contracting for the services of the private contractor.

12. When the criteria (as established by the State Purchasing Division) are utilized and it is determined that it is appropriate to privatize a service, an additional criterion requiring potential contractors to provide the services at a savings of 10% of the in-house bid (if competitively bid in-house) or of current costs for providing the services should be applied on making the final decision. All direct and indirect costs (including contract monitoring and review) would be included in the cost analysis when calculating the in-house bid or the current cost of providing the service and the cost of privatization. (BDR 18-639)

SUMMARY--Establishes requirements for awarding contract to private contractor for service provided by state agency. (BDR 18-639)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State or on Industrial Insurance: No.

AN ACT relating to contracts with the State of Nevada; establishing certain requirements for awarding a contract to a private contractor for a service provided by a state agency; and providing other matters properly relating thereto.

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

Section 1. Title 18 of NRS is hereby amended by adding thereto a new chapter to consist of a new section to read as follows:

1. If a contract for the provision of a service furnished by a state agency is awarded through a process of competitive bidding and a bid is submitted by a private contractor and a state agency, the contract must not be awarded to the private contractor unless his bid is lower, by at least 10 percent, than the bid of the state agency.

2. If a contract for a service furnished by a state agency is not awarded through a process of competitive bidding, such a contract must not be awarded to a private contractor unless the cost of furnishing the service through the

state agency would exceed by 10 percent or more the cost of obtaining the service from the private contractor.

3. To determine the bid of a state agency or the cost of furnishing a service through a state agency, all costs related to the contract, including a reasonable estimate of any costs of a state agency for monitoring or reviewing a contract with a private contractor, must be included.

4. As used in this section, "state agency" means any officer, agency, department, division, board, commission or other similar body of the executive branch of state government.

13. Potential contractors would be required to declare under penalty of perjury, when responding to RFPs, if they have been found guilty of violating state or federal labor laws, fraud, bid-rigging or other similar offenses, violations of criminal law, sexual harassment, equal rights discrimination, etc. (the history of a company would be a factor for consideration). (BDR 18-640)

SUMMARY--Requires consideration of certain previous criminal conduct in determining eligibility of potential contractor for certain state contracts. (BDR 18-640)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State or on Industrial Insurance: No.

AN ACT relating to contracts with the State of Nevada; requiring a person who submits an offer to furnish services that are furnished by a state agency to disclose certain previous criminal conduct; and providing other matters properly relating thereto.

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

Section 1. Title 18 of NRS is hereby amended by adding thereto a new chapter to consist of a new section to read as follows:

1. A person who submits a bid or other offer for a contract to furnish services that are furnished by a state agency shall submit with his bid or offer a declaration signed under penalty of perjury indicating whether he has been convicted of:

(a) Violating any state or federal law governing labor relations or employment practices; or

(b) Perpetrating a fraud or misrepresenting any fact material to the award or renewal of a contract with the Federal Government or a state government.

2. A state agency that is responsible for awarding such a contract may reject a bid or other offer received from any person who submits an affirmative answer in a declaration submitted pursuant to the provisions of subsection 1.

3. As used in this section, "state agency" means any officer, agency, department, division, board, commission or other similar body of the executive branch of state government.

15. The Board of Examiners monitor and evaluate all state agency contracts, other than Public Works and Highway Construction Contracts, to ensure that continued contracting is cost effective and the established quality of service standards are being met. (BDR 23-637)

SUMMARY--Requires state board of examiners to evaluate contracts it approves. (BDR 23-637)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State or on Industrial Insurance: No.

AN ACT relating to independent contractors; requiring the state board of examiners to evaluate the contracts that it approves between state agencies and independent contractors to ensure that contracting is appropriate; and providing other matters properly relating thereto.

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

Section 1. NRS 284.173 is hereby amended to read as follows:

284.173 1. Elective officers and heads of departments, boards, commissions or institutions may contract for the services of persons as independent contractors.

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

3. For the purposes of this section:

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

(b) There must be no:

- (1) Withholding of income taxes by the state;
- (2) Industrial insurance coverage provided by the state;
- (3) Participation in group insurance plans which may be available to employees of the state;
- (4) Participation or contributions by either the independent contractor or the state to the public employees' retirement system;
- (5) Accumulation of vacation leave or sick leave; or
- (6) Unemployment compensation coverage provided by the state if the requirements of NRS 612.085 for independent contractors are met.

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

5. Except as otherwise provided in this subsection, each contract for the services of an independent contractor must be in writing. The form of the contract must be first approved by the attorney general, and, except as otherwise provided in subsection 7, an executed copy of each contract must be filed with the fiscal analysis division of the legislative counsel bureau and the clerk of the state board of examiners. The state board of examiners may waive

the requirements of this subsection in the case of contracts which are for amounts less than \$750.

6. Except as otherwise provided in subsection 7, and except contracts entered into by the University of Nevada, each proposed contract with an independent contractor must be submitted to the state board of examiners. The contracts do not become effective without the prior approval of the state board of examiners, but the state board of examiners may authorize its clerk to approve contracts which are for amounts less than \$2,000 or , in contracts necessary to preserve life and property, for amounts less than \$5,000. The state board of examiners shall adopt regulations to carry out the provisions of this section.

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

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

(b) Contracts executed by the state public works board or any other state department or agency for any work of construction or major repairs of state buildings, if the contracting process was controlled by the rules of open competitive bidding.

(c) Contracts executed by the housing division of the department of commerce.

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

8. The state board of examiners shall evaluate each contract that it approves pursuant to subsection 6 to ensure that contracting for the services of the independent contractor is an economically appropriate method for the state to obtain those services. If the contract submitted for approval continues an existing contractual relationship, the board shall, in addition, ensure that:

(a) The contractor is meeting the established standards for the quality of the services provided; and

(b) The state is receiving the services that the contract purports to provide.

17. All Department of Transportation contracts, exclusive of actual construction contracts, be reviewed for approval by the Board of Examiners. (BDR 23-636)

SUMMARY--Limits authority of department of transportation to enter into certain contracts without approval of state board of examiners.
(BDR 23-636)

FISCAL NOTE: Effect on Local Government: No.
 Effect on the State or on Industrial Insurance: No.

AN ACT relating to state personnel; requiring the department of transportation to submit certain contracts with independent contractors to the state board of examiners for approval; and providing other matters properly relating thereto.

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

Section 1. NRS 284.173 is hereby amended to read as follows:

284.173 1. Elective officers and heads of departments, boards, commissions or institutions may contract for the services of persons as independent contractors.

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

3. For the purposes of this section:

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

(b) There must be no:

(1) Withholding of income taxes by the state;

(2) Industrial insurance coverage provided by the state;

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

(4) Participation or contributions by either the independent contractor or the state to the public employees' retirement system;

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

(6) Unemployment compensation coverage provided by the state if the requirements of NRS 612.085 for independent contractors are met.

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

5. Except as otherwise provided in this subsection, each contract for the services of an independent contractor must be in writing. The form of the contract must be first approved by the attorney general, and, except as otherwise provided in subsection 7, an executed copy of each contract must be filed with the fiscal analysis division of the legislative counsel bureau and the clerk of the state board of examiners. The state board of examiners may waive

the requirements of this subsection in the case of contracts which are for amounts less than \$750.

6. Except as otherwise provided in subsection 7, and except contracts entered into by the University of Nevada, each proposed contract with an independent contractor must be submitted to the state board of examiners. The contracts do not become effective without the prior approval of the state board of examiners, but the state board of examiners may authorize its clerk to approve contracts which are for amounts less than \$2,000 or , in contracts necessary to preserve life and property, for amounts less than \$5,000. The state board of examiners shall adopt regulations to carry out the provisions of this section.

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

(a) Contracts executed by the department of transportation for any work of construction or reconstruction of [highways.] *a highway*.

(b) Contracts executed by the state public works board or any other state department or agency for any work of construction or major repairs of state buildings, if the contracting process was controlled by the rules of open competitive bidding.

(c) Contracts executed by the housing division of the department of commerce.

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

8. As used in this section, "work of construction or reconstruction of a highway" includes only work and services directly related to the actual construction, reconstruction, improvement, maintenance or design of a highway.

The term does not include:

- (a) Administrative work or service; or
- (b) Other work or service which is merely incidental to the construction, reconstruction, improvement, maintenance or design of a highway.