

STATE DEPARTMENTS AND AGENCIES

Administration

CHAPTER 15

DEPARTMENTS OF STATE IN GENERAL

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NOTE: Governor as state agent for federal funds, see sections 4.07 and 4.075.

15.01 DEPARTMENTS OF THE STATE. The following agencies are designated as the departments of the state government: the department of administration; the department of agriculture; the department of commerce; the department of corrections; the department of economic development; the department of education; the department of economic security; the department of finance; the department of health; the department of human rights; the department of labor and industry; the department of military affairs; the department of natural resources; the department of personnel; the

department of public safety; the department of public service; the department of public welfare; the department of revenue; the department of transportation; the department of veterans affairs; and their successor departments.

[1925 c 426 art 1 s 1; 1939 c 431 art 1 s 1; 1939 c 441 s 1; 1961 c 113 s 2; 1969 c 1129 art 3 s 1; 1973 c 492 s 14; 1973 c 507 s 45; 1973 c 582 s 3; 1975 c 271 s 1; 1976 c 149 s 2; 1976 c 166 s 7; 1977 c 430 s 5,25 subd 2; 1977 c 444 s 1] (53-1, 53-1a)

15.012 STATE AGENCIES; DESIGNATION BY TYPE. A multi-member state agency hereafter created whose membership includes two or more appointed members shall be named according to the following:

(a) An agency in the executive branch, other than a department, whose primary purpose is to perform prescribed official or representative functions shall be designated a "board". To be classified as a board, an agency must have at least one of the following powers: (i) the power to perform administrative acts, which may include the expenditure of state money, (ii) the power to issue and revoke licenses or certifications, (iii) the power to make rules, or (iv) the power to adjudicate contested cases or appeals.

(b) An agency in the executive branch whose primary purpose is to advise state officers, departments, boards, or other agencies shall be designated a "committee". To be classified as a committee, an agency must have none of the powers available to boards other than the power to compensate its members.

(c) A committee of which at least one-half of the members are required to be certain officers or representatives of specified businesses, occupations, industries, political subdivisions, organizations, or other groupings of persons other than geographical regions shall be designated a "council".

(d) An agency in the legislative branch composed exclusively of members of the legislature shall be designated a "legislative commission".

(e) An agency in the executive branch other than a department whose primary purpose is to issue bonds for the financing, ownership and development of facilities within the state shall be designated an "authority".

(f) A committee or council scheduled upon its creation to expire two years after the effective date of the act creating it or the date of appointment of its members, whichever is later, unless a shorter term is specified in statute, shall be designated an "advisory task force".

[1975 c 271 s 2; 1976 c 149 s 3]

15.014 ADVISORY TASK FORCES. Subdivision 1. **Policy.** It is the policy of the legislature to encourage state agencies to solicit and receive advice from members of the public. This advice can best be rendered by an advisory task force of a reasonable number of persons working for a limited duration on a specific and clearly defined subject. By this section it is the intent of the legislature to provide for a common nomenclature scheme, facilitate the gathering of advice, and limit the proliferation of costly, unnecessary or outmoded advisory agencies.

Subd. 2. Creation; limitations. A commissioner of a state department, a state board or other agency having the powers of a board as defined in section 15.012, may create advisory task forces to advise the commissioner or agency on specific programs or topics within the jurisdiction of the department or agency. A task force so created shall have no more than 15 members. The task force shall expire and the terms and removal of members shall be as provided in section 15.059, subdivision 6. The members of no more than four task forces created pursuant to this section in a department or agency may be paid expenses in the same manner and amount as paid to state employees. No member of a task force shall be compensated for his services in a manner not provided for in statute. A commissioner, board, council, committee, or other state agency may not create any other multi-member agency unless specifically authorized by statute or unless the creation of the agency is authorized by federal law as a condition precedent to the receipt of federal money.

Subd. 3. Task force for curriculum development purposes. In addition to the task forces for which compensation of members is authorized in subdivision 2, the state board of education may create not to exceed ten task forces, to be compensated as provided in section 15.059, subdivision 6. A task force created pursuant to this subdivision shall be for curriculum development purposes only and shall expire within one year after its creation. The task force shall report to the state board before its ex-

piration or upon the completion of its task, whichever occurs first.

[1976 c 149 s 4; 1977 c 163 s 1]

15.015 TRANSFER OF FUNCTIONS UNDER GOVERNMENT REORGANIZATION ACT OF 1969, EFFECT. Subdivision 1. Any department or other administrative agency to which the functions, powers, and duties of a previously existing department or other agency are by Laws 1969, Chapter 1129 assigned and transferred shall be deemed and held to constitute a continuation of the former department or agency as to matters within the jurisdiction of the former department or agency, and not a new authority for the purpose of succession to all rights, powers, duties and obligations of the former department or agency as constituted at the time of such assignment or transfer except as otherwise provided by Laws 1969, Chapter 1129, with the same force and effect as if such functions, powers and duties had not been assigned or transferred. Provided, however, all portions of the department of public safety's budget which incorporates expenditures from the highway user tax distribution fund shall be subject to the approval of the commissioner of transportation prior to the submission of such budget to the commissioner of administration.

Subd. 2. Any proceeding, court action, prosecution, or other business or matter undertaken or commenced prior to the passage of Laws 1969, Chapter 1129 by a department or other agency, the functions, powers, and duties whereof are by Laws 1969, Chapter 1129 assigned and transferred to another department or agency, and still pending at the time of the passage of Laws 1969, Chapter 1129, may be conducted and completed by the new department or agency in the same manner and under the same terms and conditions and with the same effect as though it were undertaken or commenced and were conducted or completed by the former department or agency prior to said transfer.

Subd. 3. Except as otherwise provided in Laws 1969, Chapter 1129, the head of a department or other agency whose functions, powers, and duties are by Laws 1969, Chapter 1129 assigned and transferred to another department or agency shall transfer and deliver to such other department or agency all contracts, books, maps, plans, papers, records, and property of every description within his jurisdiction or control. The head of such other department or agency to which such assignment or transfer is made is hereby authorized to take possession of said property.

Subd. 4. All unexpended funds appropriated to any department, board or other agency for the purposes of any of its functions, powers, or duties which are transferred by Laws 1969, Chapter 1129 to another department, commission or agency, are hereby transferred to such department or agency. Where unexpended funds appropriated to any department, board or agency for the purposes of any of its functions, powers, or duties are changed by Laws 1969, Chapter 1129 so that the functions, powers, or duties are in more than one department, commission, or agency, the commissioner of administration shall allocate the appropriation between the state departments, commissions, or agencies concerned.

Subd. 5. Except as otherwise provided in Laws 1969, Chapter 1129, all persons in the classified service of the state and employed by any department, board or agency for the purposes of any of its functions, powers or duties which are transferred by Laws 1969, Chapter 1129 to another department, commission or agency, are hereby transferred to such other department, commission or agency. The positions of all persons in the unclassified service of the state and employed by any department, board or agency for the purposes of any of its functions, powers, or duties which are transferred by Laws 1969, Chapter 1129 to another department, commission or agency, are hereby abolished. Notwithstanding the provisions of Minnesota Statutes 1967, Section 43.20, any person in the unclassified service whose position is abolished hereunder may be employed as a provisional appointee for not to exceed 12 months following the date of the abolishment of his position.

Subd. 6. The commissioner or other head of a state department created pursuant to Laws 1969, Chapter 1129 may have an official seal which he may use to authenticate his official acts, but no official act of the commissioner or other state head is invalidated if not authenticated with the official seal.

[1969 c 1129 art 10 s 1; 1976 c 166 s 7]

15.02 PRESENT POWERS TRANSFERRED. Except as otherwise herein provided, all the powers, duties, and functions conferred by law upon and required to be performed by the several state departments, bureaus, divisions, and other administra-

tive agencies mentioned in Laws 1939, Chapter 431, at the time of its passage shall hereafter be exercised, performed, and administered by the commissioners of the several departments and the boards, commissions, and agencies therein specified.

[1939 c 431 art 8 s 4] (53-1e)

15.03 EXISTING POWERS CONTINUED. All now existing powers, duties, and functions heretofore exercised by any department, division, bureau, or other agency abolished by Laws 1939, Chapter 431, or by the chief of any such division, bureau, or agency, shall be exercised by the head of the department or by the agency to which the same are herein assigned.

[1939 c 431 art 8 s 5] (53-1f)

15.04 POWERS CONTINUED. Any department or other administrative agency to which the functions, powers, and duties of a previously existing department or other agency are by Laws 1939, Chapter 431, assigned and transferred shall be deemed and held to constitute a continuation of the former department or agency as to matters within the jurisdiction of the former department or agency, and not a new authority, for the purpose of succession to all rights, powers, duties, and obligations of the former department or agency as constituted at the time of such assignment or transfer, except as otherwise provided by Laws 1939, Chapter 431, with the same force and effect as if such functions, powers, and duties had not been assigned or transferred.

[1939 c 431 art 8 s 8] (53-1i)

ADMINISTRATIVE PROCEDURE ACT

15.041 [Repealed, 1957 c 806 s 13]

15.041 CITATION. Sections 15.0411 to 15.052, may be cited as the Administrative Procedure Act.

[1969 c 599 s 1; 1977 c 443 s 8]

15.0411 DEFINITIONS. Subdivision 1. For the purposes of sections 15.0411 to 15.052 the terms defined in this section have the meanings ascribed to them.

Subd. 2. "Agency" means any state officer, board, commission, bureau, division, department, or tribunal, other than a court, having a statewide jurisdiction and authorized by law to make rules or to adjudicate contested cases. "Agency" also means the capitol area architectural and planning board. Sections 15.0411 to 15.052 do not apply to (a) agencies directly in the legislative or judicial branches, (b) emergency powers in sections 12.31 to 12.37, (c) corrections board ~~and pardon board~~, (d) the unemployment insurance program in the department of economic security, (e) the director of mediation services, (f) the workers' compensation division in the department of labor and industry, (g) the workers' compensation court of appeals, (h) board of pardons, or (i) the department of military affairs. Sections 15.0418 to 15.0426 do not apply to the Minnesota municipal board.

Subd. 3. "Rule" includes every agency statement of general applicability and future effect, including the amendment, suspension, or repeal thereof, made to implement or make specific the law enforced or administered by it or to govern its organization or procedure, but does not include (a) rules concerning only the internal management of the agency or other agencies, and which do not directly affect the rights of or procedure available to the public; or (b) rules of the commissioner of corrections relating to the internal management of institutions under his control and those rules governing the inmates thereof prescribed pursuant to section 609.105; or (c) rules of the division of game and fish published in accordance with section 97.53; or (d) rules relating to weight limitations on the use of highways when the substance of such rules is indicated to the public by means of signs; or (e) opinions of the attorney general.

Subd. 4. "Contested case" means a proceeding before an agency in which the legal rights, duties, or privileges of specific parties are required by law or constitutional right to be determined after an agency hearing. "Contested case" does not include hearings held by the department of corrections involving the discipline or transfer of inmates or other hearings relating solely to inmate management.

[1957 c 806 s 1; 1959 c 263 s 3; 1961 c 136 s 1; 1963 c 633 s 1; Ex1967 c 1 s 6; 1969 c 9 s 6; 1969 c 567 s 3; 1969 c 1129 art 2 s 1, art 3 s 1; 1973 c 254 s 3; 1973 c 654 s 15; 1975 c 271 s 6; 1975 c 359 s 23; 1975 c 380 s 1; 1976 c 2 s 1; 1976 c 68 s 1,2; 1976 c 134 s 78; 1977 c 430 s 7; 1977 c 443 s 1; 1978 c 674 s 2,3]

15.0412 RULES, PROCEDURES. Subdivision 1. Each agency shall adopt, amend, suspend or repeal its rules in accordance with the procedures specified in sections 15.0411 to 15.052, and only pursuant to authority delegated by law and in full compliance with its duties and obligations. Except as provided in subdivision 3, sections 15.0411 to 15.052 shall not be authority for an agency to adopt, amend, suspend or repeal rules. No agency shall adopt a rule which duplicates language contained in Minnesota Statutes unless the hearing examiner determines that duplication of the language is crucial to the ability of a person affected by a rule to comprehend its meaning and effect.

Subd. 2. To assist interested persons dealing with it, each agency shall, in a manner prescribed by the commissioner of administration, prepare a description of its organization, stating the process whereby the public may obtain information or make submissions or requests. The commissioner of administration shall annually publish these descriptions in the state register.

Subd. 3. Each agency shall adopt rules setting forth the nature and requirements of all formal and informal procedures related to the administration of official agency duties to the extent that those procedures directly affect the rights of or procedures available to the public.

Subd. 4. No rule shall be adopted by any agency unless the agency first holds a public hearing thereon, affording all affected interests an opportunity to participate, and gives notice of its intention to hold such a hearing at least 30 days prior to the date set for the hearing by United States mail, to representatives of associations or other interested groups or persons who have registered their names with the secretary of state for that purpose and in the state register. The notice in the state register shall include the full text of the rule proposed for adoption; provided that, with the approval of the chief hearing examiner, the agency may incorporate by reference provisions of federal law or rule or other materials from sources which the chief hearing examiner determines are conveniently available for viewing, copying and acquisition by interested persons. The chief hearing examiner shall not approve incorporation by reference of materials which are less than 3000 words in length or which would require less than five pages of publication in the state register. The agency shall make available at least one free copy of the proposed rule to any person requesting it. At the public hearing the agency shall make an affirmative presentation of facts establishing the need for and reasonableness of the rule proposed for adoption and fulfilling any relevant substantive or procedural requirements imposed on the agency by law or rule. After allowing written material to be submitted and recorded in the hearing record for five working days after the public hearing ends, or for a longer period not to exceed 20 days if ordered by the hearing examiner, the hearing examiner assigned to the hearing shall proceed to write a report as provided for in section 15.052, subdivision 3, which report shall be completed within 30 days after the close of the hearing record unless the chief hearing examiner, upon written request of the agency and the hearing examiner, orders an extension. In no case shall an extension be granted if the chief hearing examiner determines that an extension would prohibit a rule from being adopted or becoming effective until after a date for adoption or effectiveness as required by statute. The report shall be available to all affected persons upon request for at least five working days before the agency takes any final action on the rule. If the agency adopts the rule, it shall be submitted with the complete hearing record to the attorney general, who shall review the rule as to form and legality. If the agency, the chief hearing examiner or the attorney general requests, the hearing examiner shall cause a transcript to be prepared of the hearing. The agency shall give notice to all persons who requested to be informed that the hearing record has been submitted to the attorney general. The attorney general shall, within 20 days, either approve or disapprove the rule. If he approves the rule, he shall promptly file it in the office of the secretary of state. If he disapproves the rule, he shall state in writing his reasons therefor, and the rule shall not be filed in the office of the secretary, nor published. A rule shall become effective after it has been subjected to all requirements described in this subdivision and five working days after publication in the state register, as hereinafter provided, unless a later date is required by statutes or specified in the rule. If the rule as adopted does not differ from the proposed rule as published in the state register, publication may be made by publishing notice in the state register that the

rule has been adopted as proposed and by publishing a citation to the prior publication. If the rule as adopted differs from the proposed rule, the adopted rule or subdivisions thereof which differ from the proposed rule shall be published together with a citation to the prior state register publication of the remainder of the proposed rule.

Subd. 5. When an agency is directed or authorized by statute, federal law or court order to adopt, amend, suspend or repeal a rule in a manner that does not allow for compliance with subdivision 4, the agency shall promulgate a temporary rule in accordance with this subdivision. The proposed temporary rule shall be published in the state register and for at least 20 days thereafter the agency shall afford all interested persons an opportunity to submit data and views on the proposed temporary rule in writing. The proposed temporary rule may be modified if the modifications are supported by the data and views submitted to the agency. The agency shall submit to the attorney general the proposed temporary rule as published, with any proposed modifications. The attorney general shall review the proposed temporary rule as to form and legality and shall approve or disapprove the proposed temporary rule and any proposed modifications within five working days. The temporary rule shall take effect upon approval of the attorney general. Failure of the attorney general to approve or disapprove within five working days shall be deemed approval. As soon as practicable notice of the attorney general's decision shall be published in the state register and the adopted rule shall be published in the manner as provided for adopted rules in subdivision 4. Temporary rules adopted under this subdivision shall be effective for not longer than 90 days and may be reissued or continued in effect for an additional 90 days, but may not immediately be reissued thereafter without following the procedure of subdivision 4.

Subd. 6. When an agency seeks to obtain information or opinions in preparing to propose the adoption, amendment, suspension, or repeal of a rule from sources outside of the agency, the agency shall publish notice of its action in the state register and shall afford all interested persons an opportunity to submit data or views on the subject of concern in writing or orally. Such notice and any written material received by the agency shall become a part of the hearing record to be submitted to the attorney general under subdivision 4.

Subd. 7. If the adoption of a rule by an agency will require the expenditure of public moneys by local public bodies, the notice of the proposed rule as required by this section shall be accompanied by a written statement giving the agency's reasonable estimate of the total cost to all local public bodies in the state to implement the rule for the two years immediately following adoption of the rule if the estimated total cost exceeds \$100,000 in either of the two years. For purposes of this section, local public bodies shall mean officers and governing bodies of the political subdivisions of the state and other officers and bodies of less than state wide jurisdiction which have the authority to levy taxes.

[1957 c 806 s 2; 1974 c 344 s 1-3; 1975 c 380 s 2; 1975 c 413 s 1; 1976 c 138 s 1; 1977 c 443 s 2]

15.0413 EFFECT OF ADOPTION OF RULES; PUBLICATION; APPROPRIATION. Subdivision 1. Every rule approved by the attorney general and filed in the office of the secretary of state as provided in section 15.0412 shall have the force and effect of law 20 days after its publication in the state register unless a later date is required by statute or specified in the rule. The secretary of state shall keep a permanent record of rules filed with that office open to public inspection.

Subd. 2. Each rule hereafter amended, suspended, or repealed shall become amended, suspended, or repealed 20 days after the new or amended rule or notice of suspension or repeal is published in the state register unless a later date is required by statute or specified in the rule.

Subd. 3. Rules hereafter promulgated, amended, suspended, or repealed of any state officer, board, commission, bureau, division, department, or tribunal other than a court, having statewide jurisdiction and authorized by law to make rules, but excluded from the definition of "agency" in section 15.0411 shall have the force and effect of law if they are filed in the office of the secretary of state in the same manner as rules adopted pursuant to section 15.0412 are so filed and if they are submitted to the commissioner of administration in a manner he shall prescribe and published in the state register. This subdivision, however, shall not apply to rules of the regents of the University of Minnesota.

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Subd. 4. [Repealed, 1975 c 380 s 22]

Subd. 5. [Repealed, 1975 c 380 s 22]

Subd. 6. [Repealed, 1975 c 380 s 22]

[1957 c 806 s 3; 1963 c 822 s 1; 1969 c 399 s 1; 1974 c 344 s 4-7; 1975 c 380 s 3-5; 1977 c 443 s 3]

15.0414 [Repealed, 1963 c 822 s 4]

15.0415 PETITION FOR ADOPTION OF RULE. Any interested person may petition an agency requesting the adoption, suspension, amendment or repeal of any rule. The petition shall be specific as to what action is requested and the need for the action. Upon receipt of such a petition an agency shall have 60 days in which to make a specific and detailed reply in writing as to its planned disposition of the request. If the agency states its intention to hold a public hearing on the subject of the request, it shall proceed according to section 15.0412. The attorney general shall prescribe by rule the form for all petitions under this section and may prescribe further procedures for their submission, consideration, and disposition.

[1957 c 806 s 5; 1975 c 380 s 6]

15.0416 DETERMINATION OF VALIDITY OF RULE. The validity of any rule may be determined upon the petition for a declaratory judgment thereon, addressed to the district court where the principal office of the agency is located, when it appears that the rule, or its threatened application, interferes with or impairs, or threatens to interfere with or impair the legal rights or privileges of the petitioner. The agency shall be made a party to the proceeding. The declaratory judgment may be rendered whether or not the petitioner has first requested the agency to pass upon the validity of the rule in question.

[1957 c 806 s 6]

15.0417 RULE DECLARED INVALID. In proceedings under section 15.0416 the court shall declare the rule invalid if it finds that it violates constitutional provisions or exceeds the statutory authority of the agency or was adopted without compliance with statutory rule-making procedures. Any party to proceedings under section 15.0416, including the agency, may appeal an adverse decision of the district court to the supreme court.

[1957 c 806 s 7; 1977 c 443 s 4]

15.0418 CONTESTED CASE; HEARING, NOTICE. In any contested case all parties shall be afforded an opportunity for hearing after reasonable notice. The notice shall state the time, place and issues involved, but if, by reason of the nature of the proceeding, the issues cannot be fully stated in advance of the hearing, or if subsequent amendment of the issues is necessary, they shall be fully stated as soon as practicable, and opportunity shall be afforded all parties to present evidence and argument with respect thereto. Prior to assignment of a case to a hearing examiner as provided by section 15.052, all papers shall be filed with the agency. Subsequent to assignment of the case, the agency shall certify the official record to the office of hearing examiners, and thereafter, all papers shall be filed with that office. The office of hearing examiners shall maintain the official record which shall include subsequent filings, testimony and exhibits. All filings are deemed effective upon receipt. Upon issuance of the hearing examiner's report, the official record shall be certified to the agency. Informal disposition may also be made of any contested case by stipulation, agreed settlement, consent order or default.

[1957 c 806 s 8; 1976 c 68 s 3]

15.0419 EVIDENCE IN CONTESTED CASES. Subdivision 1. In contested cases agencies may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonable prudent men in the conduct of their affairs. They shall give effect to the rules of privilege recognized by law. They may exclude incompetent, irrelevant, immaterial and repetitious evidence.

Subd. 2. All evidence, including records and documents (except tax returns and tax reports) in the possession of the agency of which it desires to avail itself, shall be offered and made a part of the record in the case, and no other factual information or evidence (except tax returns and tax reports) shall be considered in the determination of the case. Documentary evidence may be received in the form of copies or excerpts,

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or by incorporation by reference.

Subd. 3. Every party or agency shall have the right of cross-examination of witnesses who testify, and shall have the right to submit rebuttal evidence.

Subd. 4. Agencies may take notice of judicially cognizable facts and in addition may take notice of general, technical, or scientific facts within their specialized knowledge. Parties shall be notified in writing either before or during hearing, or by reference in preliminary reports or otherwise, or by oral statement in the record, of the material so noticed, and they shall be afforded an opportunity to contest the facts so noticed. Agencies may utilize their experience, technical competence, and specialized knowledge in the evaluation of the evidence presented to them.

[1957 c 806 s 9]

15.042 [Repealed, 1957 c 806 s 13]

15.0421 PROPOSAL FOR DECISION IN CONTESTED CASE. In all contested cases the decision of the officials of the agency who are to render the final decision shall not be made until the report of the hearing examiner as required by section 15.052, has been made available to parties to the proceeding for at least ten days and an opportunity has been afforded to each party adversely affected to file exceptions and present argument to a majority of the officials who are to render the decision.

[1957 c 806 s 10; 1975 c 380 s 7]

15.0422 DECISIONS, ORDERS. Every decision and order adverse to a party of the proceeding, rendered by an agency in a contested case, shall be in writing or stated in the record and shall be accompanied by a statement of the reasons therefor. The statement of reasons shall consist of a concise statement of the conclusions upon each contested issue of fact necessary to the decision. Parties to the proceeding shall be notified of the decision and order in person or by mail. A copy of the decision and order and accompanying statement of reasons together with a certificate of service shall be delivered or mailed upon request to each party or to his attorney of record.

[1957 c 806 s 11]

15.0423 REVIEW OF LICENSING OR REGISTRATION PROCEEDINGS, STAY. Subdivision 1. Where an appeal is taken or certiorari proceeding is instituted to determine the right of a board or other administrative agency to revoke or refuse to issue or reissue a license or registration which expires upon a specified date, the term of such license or registration shall not expire until 30 days after final determination of such appeal or certiorari proceeding.

Subd. 2. This section does not alter, change or affect the determination made by the board or other administrative agency, or by the reviewing court, as to the suspension, revocation or denial of the license or registration during the pendency of the appeal or certiorari proceeding.

[1963 c 565 s 1,2]

15.0424 JUDICIAL REVIEW OF AGENCY DECISIONS. Subdivision 1. **Application.** Any person aggrieved by a final decision in a contested case of any agency as defined in section 15.0411, subdivision 2 (including those agencies excluded from the definition of "agency" in section 15.0411, subdivision 2, but excepting the tax court, the workers' compensation court of appeals sitting on workers' compensation cases, the department of economic security, the director of mediation services, and the department of public service), whether such decision is affirmative or negative in form, is entitled to judicial review thereof, but nothing in this section shall be deemed to prevent resort to other means of review, redress, relief, or trial de novo provided by law now or hereafter enacted. The term "final decision" as herein used shall not embrace a proposed or tentative decision until it has become the decision of the agency either by express approval or by the failure of an aggrieved person to file exceptions thereto within a prescribed time under the agency's rules.

Subd. 2. **Petition, service.** (a) Proceedings for review shall be instituted by serving a petition thereof personally or by certified mail upon the agency or one of its members or upon its secretary or clerk and by filing such petition in the office of the clerk of district court for the county wherein the agency has its principal office or the county of residence of the petitioners, all within 30 days after the agency shall have served such decision and any order made pursuant thereto by mail on the parties of record therein; subject, however, to the following:

(1) In the case of a tentative or proposed decision which has become the decision of the agency either by express approval or by a failure by an aggrieved person to file exceptions within a prescribed time under the agency's rules, such 30-day period shall not begin to run until the latest of the following events shall have occurred: (a) such decision shall have become the decision of the agency as aforesaid; (b) such decision, either before or after it has become the decision of the agency, shall have been served by mail by such agency on the parties of record in such proceeding.

(2) In case a request for rehearing or reconsideration shall have been made within the time permitted and in conformity with the agency's rules, such 30-day period shall not begin to run until service of the order finally disposing of the application for rehearing or reconsideration, but nothing herein shall be construed as requiring that an application for rehearing or reconsideration be filed with and disposed of by the agency as a prerequisite to the institution of a review proceeding under this section.

(b) The petition shall state the nature of the petitioner's interest, the facts showing the petitioner is aggrieved and is affected by the decision, and the ground or grounds upon which the petitioner contends that the decision should be reversed or modified. The petition may be amended by leave of court although the time for serving the same has expired. The petition shall be entitled in the name of the person serving the same as petitioner and the name of the agency whose decision is sought to be reviewed as respondent. Copies of the petition shall be served, personally or by certified mail, not later than 30 days after the institution of the proceeding, upon all parties who appeared before the agency in the proceeding in which the order sought to be reviewed was made; and for the purpose of such service the agency upon request shall certify to the petitioner the names and addresses of all such parties as disclosed by its records, which certification shall be conclusive. The agency and all parties to the proceeding before it shall have the right to participate in the proceedings for review. The court in its discretion may permit other interested parties to intervene.

(c) Every person served with the petition for review as provided in this section and who desires to participate in the proceedings for review thereby instituted shall serve upon the petitioner, within 20 days after service of the petition upon such person, a notice of appearance stating his position with reference to the affirmance, vacation, reversal or modification of the order or decision under review. Such notice, other than by the named respondent, shall also be served on the named respondent and the attorney general and shall be filed, together with proof of service thereof, with the clerk of the reviewing court within ten days after such service. Service of all subsequent papers or notices in such proceedings need be made only upon the petitioner, the named respondent, the attorney general, and such other persons as have served and filed the notice as herein provided, or have been permitted to intervene in said proceedings as parties thereto by order of the reviewing court.

Subd. 3. Stay of decision; stay of other appeals. The filing of the petition shall not stay the enforcement of the agency decision; but the agency may do so, or the reviewing court may order a stay upon such terms as it deems proper. When an appeal from a final decision is commenced under this section in any district court of this state, any other later appeal under this section from such final decision involving the same subject matter shall be stayed until final decision of the first appeal.

Subd. 4. Transmittal of record. Within 30 days after service of the petition, or within such further time as the court may allow, the agency shall transmit to the reviewing court the original or a certified copy of the entire record of the proceeding under review; but, by stipulation of all parties to the review proceeding, the record may be shortened. Any party unreasonably refusing to stipulate to limit the record may be taxed by the court for the additional costs. The court may require or permit subsequent corrections or additions to the record when deemed desirable.

Subd. 5. New evidence, hearing by agency. If, before the date set for hearing, application is made to the court for leave to present additional evidence on the issues in the case, and it is shown to the satisfaction of the court that the additional evidence is material and that there were good reasons for failure to present it in the proceeding before the agency, the court may order that the additional evidence be taken before the agency upon such conditions as the court deems proper. The agency may modify its findings and decision by reason of the additional evidence and shall file with the reviewing court, to become a part of the record, the additional evidence, together with any modifications or new findings or decision.

Subd. 6. **Procedure on review.** The review shall be conducted by the court without a jury and shall be confined to the record, except that in cases of alleged irregularities in procedure before the agency, not shown in the record, testimony thereon may be taken in the court. The court shall, upon request, hear oral argument and receive written briefs. Except as otherwise provided all proceedings shall be conducted according to the rules of civil procedure.

[1963 c 809 s 1; 1965 c 698 s 3; Ex1967 c 1 s 6; 1969 c 567 s 3; 1969 c 1129 art 2 s 1; 1971 c 25 s 67; 1973 c 254 s 3; 1975 c 271 s 6; 1975 c 359 s 23; 1976 c 134 s 78; 1977 c 307 s 29; 1977 c 430 s 25 subd 1; 1978 c 674 s 60]

15.0425 SCOPE OF JUDICIAL REVIEW. In any proceedings for judicial review by any court of decisions of any agency as defined in section 15.0411, subdivision 2 (including those agencies excluded from the definition of agency in section 15.0411, subdivision 2) the court may affirm the decision of the agency or remand the case for further proceedings; or it may reverse or modify the decision if the substantial rights of the petitioners may have been prejudiced because the administrative finding, inferences, conclusion, or decisions are:

- (a) In violation of constitutional provisions; or
 - (b) In excess of the statutory authority or jurisdiction of the agency; or
 - (c) Made upon unlawful procedure; or
 - (d) Affected by other error of law; or
 - (e) Unsupported by substantial evidence in view of the entire record as submitted; or
 - (f) Arbitrary or capricious.
- [1963 c 809 s 2]

15.0426 APPEALS TO SUPREME COURT. An aggrieved party, including an agency which issued a decision or order in the case, may secure a review of any final order or judgment of the district court under sections 15.0424 or 15.0425 by appeal to the supreme court. Such appeal shall be taken in the manner provided by law for appeals from orders or judgments of the district court in other civil cases.

[1963 c 809 s 3; 1977 c 443 s 5]

15.043 [Repealed, 1957 c 806 s 13]

15.044 [Repealed, 1957 c 806 s 13]

15.045 [Repealed, 1955 c 603 s 4]

15.046 [Repealed, 1975 c 61 s 26; 1976 c 149 s 63]

15.047 MANUAL OF STATE AGENCY RULES, PUBLICATION. Subdivision 1. The commissioner of administration shall publish a manual of state agency rules, which shall include all agency rules currently in effect. The manual shall be so designed as to allow for economic publication and distribution and efficient use. The commissioner shall require each agency which has adopted and published rules in the state register to pay its proportionate cost of publishing those rules in the manual in excess of the fees received pursuant to subdivision 2.

Subd. 2. Copies of rules published pursuant to this section may be sold by the commissioner of administration for a reasonable fee. The commissioner shall provide without cost one copy of the manual and any supplementary material for the manual to each county library maintained pursuant to section 375.33 or 134.12, excepting counties containing cities of the first class. If a county has not established a county library pursuant to section 375.33 or 134.12, the copies shall be provided to a public library designated by the county board after consultation with the regional library, if any, established pursuant to section 375.335 for the region in which the county is located.

Subd. 3. [Repealed, 1963 c 822 s 4]
 [1945 c 590 s 3; 1955 c 603 s 1-3; 1963 c 822 s 3; 1975 c 380 s 9; 1977 c 323 s 2; 1977 c 414 s 1]

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15.048 EFFECT OF PUBLICATION OF RULES OR ORDERS. The publication or citation of a rule or order in the state register in a manner as required by sections 15.0411 to 15.052 raises a rebuttable presumption that:

(1) The rule or order was duly adopted, issued, or promulgated;

(2) The rule or order was duly filed with the secretary of state and available for public inspection at the day and hour endorsed thereon; and

(3) The copy of the rule or order published in the state register is a true copy of the original.

[1945 c 590 s 4; 1975 c 380 s 10; 1977 c 443 s 6]

15.049 JUDICIAL NOTICE TAKEN. Judicial notice shall be taken of material published in the state register.

[1945 c 590 s 5; 1975 c 380 s 11]

15.05 PUBLICATION ACCOUNT. An administrative rules and state register publication account is created in the state treasury. All receipts from the sale of rules and the state register shall be deposited in the account. All funds in the administrative rules and state register publication account in the state treasury are appropriated annually to the commissioner of administration to carry out the provisions of sections 15.047 and 15.051.

[1975 c 380 s 15]

15.051 STATE REGISTER. Subdivision 1. **Purpose.** The commissioner of administration shall publish a state register containing all notices for hearings concerning rules, giving time, place and purpose of the hearing and the full text of the action being proposed. Further, the register shall contain all rules, amendments, suspensions, or repeals thereof, pursuant to the provisions of this chapter. The commissioner shall further publish any executive order issued by the governor which shall become effective 15 days after publication except as provided in section 4.035, subdivision 2. The commissioner shall further publish any official notices in the register which a state agency requests him to publish. Such notices shall include, but shall not be limited to, the date on which a new agency becomes operational, the assumption of a new function by an existing state agency, or the appointment of commissioners. The commissioner may prescribe the form and manner in which agencies submit any material for publication in the state register, and he may withhold publication of any material not submitted according to the form or procedures he has prescribed.

The commissioner of administration may organize and distribute the contents of the register according to such categories as will provide economic publication and distribution and will offer easy access to information by any interested party.

Subd. 2. **Publication.** The commissioner of administration shall publish the state register whenever he deems necessary, except that no material properly submitted to him for publication shall remain unpublished for more than ten working days.

The state register shall have a distinct and permanent masthead with the title "state register" and the words "state of Minnesota" prominently displayed. All issues of the state register shall be numbered and dated.

Subd. 3. **Submission of items for publication.** Any state agency which desires to publish a notice of hearing, rule or regulation or change thereof shall submit a copy of the entire document, including dates when adopted, and filed with the secretary of state, to the commissioner of administration in addition to any other copies which may be required to be filed with the commissioner by other law.

Subd. 4. **Cost; distribution.** When an agency properly submits a rule, proposed rule, notice, or other material to the commissioner of administration, the commissioner shall then be accountable for the publication of the same in the state register. The commissioner of administration shall require each agency which requests the publication of rules, proposed rules, notices, or other material in the state register to pay its proportionate cost of the state register unless other funds are provided and are sufficient to cover the cost of the state register.

The state register shall be offered for public sale at a location centrally located as determined by the commissioner of administration and at a price as the commissioner of administration shall determine. The commissioner of administration shall further provide for the mailing of the state register to any person, agency, or organiza-

tion if so requested, provided that reasonable costs are borne by the requesting party. The supply and expense appropriation to any state agency is deemed to include funds to purchase the state register. Ten copies of each issue of the state register, however, shall be provided without cost to the legislative reference library and ten copies to the state law library. One copy shall be provided without cost to a public library in each county seat in the state or, if there is no public library in a county seat, to a public library in the county as designated by the county board. The commissioner shall advise the recipient libraries of the significance and content of the state register and shall encourage efforts to promote its usage.

[1974 c 344 s 8; 1975 c 380 s 12-14; 1977 c 305 s 3,4; 1977 c 323 s 1; 1977 c 443 s 7]

NOTE: Subdivision 4 was also amended by Laws 1977, Chapter 323, Section 1, to read:

"Subd. 4. **Cost; distribution.** When an agency properly submits a rule, proposed rule, notice, or other material to the commissioner of administration, the commissioner shall then be accountable for the publication of the same in the state register. The commissioner of administration shall require each agency which requests the publication of rules, proposed rules, notices, or other material in the state register to pay its proportionate cost of the state register unless other funds are provided and are sufficient to cover the cost of the state register.

The state register shall be offered for public sale at a location centrally located as determined by the commissioner of administration and at a price as the commissioner of administration shall determine. The commissioner of administration shall further provide for the mailing of the state register to any person, agency, or organization if so requested, provided that reasonable costs are borne by the requesting party. The supply and expense appropriation to any state agency is deemed to include funds to purchase the state register. Ten copies of each issue of the state register, however, shall be provided without cost to the legislative reference library and ten copies to the state law library. One copy of each issue of the state register shall be provided without cost to each county library maintained pursuant to section 375.33 or 134.12 except in counties containing cities of the first class. If a county has not established a county library pursuant to section 375.33 or 134.12, the copies shall be provided to a public library designated by the county board after consultation with the regional library, if any, established pursuant to section 375.335 for the region in which the county is located."

15.052 OFFICE OF HEARING EXAMINERS. Subdivision 1. A state office of hearing examiners is created. The office shall be under the direction of a chief hearing examiner, who shall be learned in the law and appointed by the governor, with the advice and consent of the senate, for a term ending on June 30 of the sixth calendar year after appointment. The chief hearing examiner shall appoint additional hearing examiners to serve in his office as necessary to fulfill the duties prescribed in this section. All hearing examiners shall be in the classified service except that the chief hearing examiner shall be in the unclassified service, but may be removed from his position only for cause. Additionally, all hearing examiners shall have demonstrated knowledge of administrative procedures and shall be free of any political or economic association that would impair their ability to function officially in a fair and objective manner.

Subd. 2. When regularly appointed hearing examiners are not available, the chief hearing examiner may contract with qualified individuals to serve as hearing examiners for specific assignments. Such temporary hearing examiners shall not be employees of the state and shall be remunerated for their service at a rate not to exceed \$150 per day.

Subd. 3. All hearings of state agencies required to be conducted under this chapter shall be conducted by a hearing examiner assigned by the chief hearing examiner. In assigning hearing examiners to conduct such hearings, the chief hearing examiner shall attempt to utilize personnel having expertise in the subject to be dealt with in the hearing. Only hearing examiners learned in the law shall be assigned to contested case hearings. It shall be the duty of the hearing examiner to: (1) advise an agency as to the location at which and time during which a hearing should be held so as to allow for participation by all affected interests; (2) conduct only hearings for which proper notice has been given; (3) see to it that all hearings are conducted in a fair and impartial manner; and (4) make a report on each proposed agency action in which the hearing examiner functioned in an official capacity, stating his findings of fact and his conclusions and recommendations, taking notice of the degree to which the agency has (i) documented its statutory authority to take the proposed action, (ii) fulfilled all relevant substantive and procedural requirements of law or rule, and (iii) demonstrated the need for and reasonableness of its proposed action with an affirmative presentation of facts.

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Subd. 4. The chief hearing examiner shall promulgate rules to govern the procedural conduct of all hearings, relating to both rule adoption, amendment, suspension or repeal hearings and contested case hearings. Such procedural rules for hearings shall be binding upon all agencies and shall supersede any other agency procedural rules with which they may be in conflict. The procedural rules for hearings shall include in addition to normal procedural matters provisions relating to recessing and reconvening new hearings when the proposed final rule of an agency is substantially different from that which was proposed at the public hearing. The procedural rules shall establish a procedure whereby the proposed final rule of an agency shall be reviewed by the chief hearing examiner to determine whether or not a new hearing is required because of substantial changes or failure of the agency to meet the requirements of section 15.0412, subdivision 4. Upon his own initiative or upon written request of an interested party, the chief hearing examiner may issue a subpoena for the attendance of a witness or the production of such books, papers, records or other documents as are material to the matter being heard. The subpoenas shall be enforceable through the district court in the district in which the subpoena is issued.

Subd. 5. The office of hearing examiners may maintain a court reporter system and in addition to or in lieu thereof may contract with non-governmental sources for court reporter services. The court reporters may additionally be utilized as the chief hearing examiner directs. Unless the chief hearing examiner determines that the use of a court reporter is more appropriate, an audio magnetic recording device shall be used to keep a record at any hearing which takes place under this chapter.

Court reporters serving in the court reporter system of the office of hearing examiners shall be in the classified service.

Subd. 6. In consultation with the commissioner of administration the chief hearing examiner shall assess agencies the cost of services rendered to them in the conduct of hearings. All agencies shall include in their budgets provisions for such assessments.

Subd. 7. A state office of hearing examiner account is hereby created in the state treasury. All receipts from services rendered by the state office of hearing examiner shall be deposited in the account, and all funds in the account shall be annually appropriated to the state office of hearing examiner for carrying out the duties specified in this section.

Subd. 8. The chief hearing examiner may enter into contracts with political subdivisions of the state and such political subdivisions of the state may contract with the chief hearing examiner for the purpose of providing hearing examiners and reporters for administrative proceedings. For such services there shall be an assessment in the manner provided in subdivision 6.

Subd. 9. In consultation and agreement with the chief hearing examiner, the commissioner of administration shall, pursuant to authority vested in him by section 16.13, transfer from state agencies, such employees as he deems necessary to the state office of hearing examiners. Such action shall include the transfer of any state employee currently employed as a hearing examiner, if the employee qualifies under this section.

[1975 c 380 s 16; 1977 c 443 s 9,10]

15.054 PUBLIC EMPLOYEES NOT TO PURCHASE MERCHANDISE FROM GOVERNMENTAL AGENCIES; EXCEPTIONS; PENALTY. No officer or employee of the state or any of its political subdivisions shall sell or procure for sale or have in his possession or control for sale to any other officer or employee of the state or the subdivision, as appropriate, any property or materials owned by the state or subdivision except pursuant to conditions provided in this section. Property or materials owned by the state or a subdivision, except real property, and not needed for public purposes, may be sold to an employee of the state or the subdivision after reasonable public notice at public auction or by sealed bid if the employee is the highest responsible bidder and if he is not directly involved in the auction or sealed bid process. Requirements for reasonable public notice may be prescribed by other law or ordinance so long as at least one week's published or posted notice is specified. A state employee may purchase no more than one motor vehicle from the state in any 12 month period. A person violating the provisions of this section is guilty of a misdemeanor. This section shall not apply to the sale of property or materials acquired or produced by the state or subdivision for sale to the general public in the ordinary course of business. Noth-

ing in this section shall prohibit an employee of the state or a political subdivision from selling or having in his possession for sale public property if the sale or possession for sale is in the normal course of the employee's duties.

[1977 c 347 s 5]

15.055 [Repealed, 1977 c 347 s 4]

15.056 [Repealed, 1965 c 45 s 73]

15.057 PUBLICITY REPRESENTATIVES. No state department, bureau or division, whether the same operates on funds appropriated or receipts or fees of any nature whatsoever, except the department of transportation, the department of economic development, the game and fish division, the department of economic security, and the state agricultural society shall use any of such funds for the payment of the salary or expenses of a publicity representative. The head of any such department, bureau, or division shall be personally liable for funds used contrary to this provision. This act shall not be construed, however, as preventing any such department, bureau, or division from sending out any bulletins or other publicity required by any state law or necessary for the satisfactory conduct of the business for which such department, bureau, or division was created.

[1965 c 901 s 54; 1967 c 299 s 9; 1967 c 475 s 1; 1969 c 567 s 3; 1973 c 254 s 3; 1976 c 166 s 7; 1977 c 430 s 25 subd 1]

15.0575 ADMINISTRATIVE BOARDS AND AGENCIES. Subdivision 1. **Procedure.** The membership terms, compensation, and removal of members and the filling of membership vacancies of boards shall be governed by this section whenever specifically provided by law. As used in this section, "boards" shall refer to all boards, commissions, agencies, committees, councils, authorities and courts whose provisions are governed by this section.

Subd. 2. **Membership terms.** The terms of the members shall be four years with the terms ending on the first Monday in January. The appointing authority shall appoint as nearly as possible one-fourth of the members to terms expiring each year. If the number of members is not evenly divisible by four, the greater number of members, as necessary, shall be appointed to terms expiring in the year of commencement of the governor's term and the year or years immediately thereafter. If the membership is composed of categories of members from occupations, industries, political subdivisions, the public or other groupings of persons, and if the categories have two or more members each, the appointing authority shall appoint as nearly as possible one-fourth of the members in each category at each appointment date. Members may serve until their successors are appointed and qualify. If the appointing authority fails to appoint a successor by July 1 of the year in which a term expires, the term of the member for whom a successor has not been appointed shall extend, subject to the advice and consent of the senate if the member was appointed by the governor, until the first Monday in January four years after the scheduled end of the original term.

Subd. 3. **Compensation.** Members of the boards shall be compensated at the rate of \$35 per day spent on board activities, when authorized by the board, plus expenses in the same manner and amount as received by state employees. Members who are full time state employees or full time employees of the political subdivisions of the state shall not receive the \$35 per day, but they shall suffer no loss in compensation or benefits from the state or a political subdivision as a result of their service on the board. Members who are full time state employees or full time employees of the political subdivisions of the state may receive the expenses provided for in this subdivision unless the expenses are reimbursed by another source.

Subd. 4. **Removal; vacancies.** A member may be removed by the appointing authority at any time (1) for cause, after notice and hearing, or (2) after missing three consecutive meetings. The chairman of the board shall inform the appointing authority of a member missing the three consecutive meetings. After the second consecutive missed meeting and before the next meeting, the secretary of the board shall notify the member in writing that he may be removed if he misses the next meeting. In the case of a vacancy on the board, the appointing authority shall appoint, subject to the advice and consent of the senate if the member is appointed by the governor, a person to fill the vacancy for the remainder of the unexpired term.

[1976 c 134 s 1]

15.058 LICENSING BOARD MEMBERS, COMPENSATION, TERMS, REMOVAL, REPORTS. Membership terms, compensation of members, removal of members, the filling of membership vacancies, and fiscal year and reporting requirements for those agencies in the executive branch other than departments whose primary functions include licensing, certification or registration of persons in specified professions or occupations shall be as provided in sections 214.07 to 214.09.

[1975 c 136 s 76]

15.059 ADVISORY COUNCILS AND COMMITTEES. Subdivision 1. **Application.** The terms, compensation and removal of members, and the expiration date of an advisory council or committee shall be governed by this section whenever specifically provided by law. As used in this section "council or committee" shall mean all advisory boards, councils, committees and commissions whose provisions are governed by this section.

Subd. 2. **Membership terms.** The terms of the members of the advisory councils and committees shall be four years. The terms of one-half of the members shall be coterminous with the governor and the terms of the remaining one-half of the members shall end on the first Monday in January one year after the terms of the other members. If there is an odd number of members, the smallest possible majority of the members shall have terms coterminous with the governor. If the membership is composed of categories of members from occupations, industries, political subdivisions, the public or other groupings of persons, and if the categories as specified in statute have two or more members each, the appointing authority shall appoint as nearly as possible one-half of the members in each category at each appointment date. Members may serve until their successors are appointed and qualify. If a successor has not been appointed by the July 1 after the scheduled end of a member's term, the term of the member for whom a successor has not been appointed shall be extended until the first Monday in January four years after the scheduled end of the term.

Subd. 3. **Compensation.** Members of the advisory councils and committees shall be compensated at the rate of \$35 per day spent on council or committee activities, when authorized by the council or committee, plus expenses in the same manner and amount as state employees. Members who are state employees or employees of political subdivisions shall not receive the \$35 per day if the major part of their activities occur during normal working hours for which they are also compensated by the state or political subdivision. A member who is an employee of the state or a political subdivision shall not suffer a loss in compensation or benefits from the state or political subdivision as a result of his service on the council or committee. Members who are full time state employees or full time employees of the political subdivisions of the state may receive the expenses provided for in this section unless the expenses are reimbursed by another source. A state employee who serves on an advisory council or committee as a representative of a specific state department or agency shall not receive the \$35 per day.

Subd. 4. **Removal.** A member may be removed by the appointing authority at any time at the pleasure of the appointing authority. The chairman of the advisory council or committee shall inform the appointing authority of a member missing the three consecutive meetings. After the second consecutive missed meeting and before the next meeting, the secretary of the council or committee shall notify the member in writing that he may be removed if he misses the next meeting. In the case of a vacancy on the board, the appointing authority shall appoint a person to fill the vacancy for the remainder of the unexpired term.

Subd. 5. **Expiration date.** Unless an earlier date is specified by law, the existence of each advisory council and committee governed by this section shall terminate on June 30, 1983.

Subd. 6. **Advisory task forces.** Advisory task forces created after July 1, 1975 and governed by this subdivision shall expire two years after the effective date of the act creating the advisory task force or the date of appointment of the members, whichever is later, unless a shorter term is specified in statute. Members shall not receive the \$35 per diem specified in this section but shall receive expenses in the same manner and amount as state employees. Members appointed to these advisory task forces shall serve until the expiration date of the advisory task force and may be removed pursuant to subdivision 4.

[1975 c 315 s 1; 1976 c 149 s 5,6; 1977 c 444 s 2]

15.0593 AGENCIES CREATED BY EXECUTIVE ORDER. The governor may by executive order create in his office advisory task forces, councils and committees to advise or assist him on matters relating to the laws of this state. A task force, council or committee so created shall have no more than 15 members, and vacancies may be filled by the governor. Members of a task force, council or committee shall receive no per diem but may be paid expenses in the same manner as state employees. A task force, council or committee shall expire two years after the date of order unless otherwise specified consistent with section 4.035, subdivision 3. The task force, council or committee shall be named beginning with the prefix "Governor's Task Force on", "Governor's Council on" or "Governor's Committee on". The governor shall not create a board, commission, authority or other similar multi-member agency except as provided in this section. A multi-member agency previously created by executive order shall be renamed and shall be consistent with the provisions of this section. Nothing in this section shall apply, to the extent inconsistent with statute or federal law, to any multi-member agency specifically authorized by statute or specifically authorized by federal law as a condition precedent to the receipt of federal moneys.

[1977 c 305 s 5]

15.0595 COMPENSATION AND PER DIEM; SOURCE OF FUNDS. The source of payment of per diems and expenses for agencies governed by sections 15.0575 and 15.058 shall be appropriations or funds otherwise available to the agencies. The source of payment of per diems and expenses for agencies governed by section 15.059 shall be appropriations or funds otherwise available to the appointing authority of agency members.

[1977 c 444 s 3]

15.0597 APPOINTMENTS TO MULTI-MEMBER AGENCIES. Subdivision 1. **Definitions.** As used in this section, the following terms shall have the meanings given them.

(a) "Agency" means (1) a state board, commission, council, committee, authority, task force or other similar multi-member agency created by statute and having statewide jurisdiction; and (2) the metropolitan council, metropolitan transit commission, metropolitan airports commission, metropolitan parks and open space commission, metropolitan sports facilities commission, metropolitan waste control commission, capitol area architectural and planning board, and any agency with a regional jurisdiction created in this state pursuant to an interstate compact.

(b) "Vacancy" or "vacant agency position" means (1) a vacancy in an existing agency, or (2) a new, unfilled agency position; provided that "agency" shall not mean (1) a vacant position on an agency composed exclusively of persons employed by a political subdivision or another agency, or (2) a vacancy to be filled by a person required to have a specific title or position.

(c) "Secretary" means the secretary of state.

Subd. 2. Collection of data. The chairman of an existing agency, or the appointing authority for the members of a newly created agency, shall provide the secretary, on forms prepared and distributed by the secretary, with the following data pertaining to that agency:

(a) The name of the agency, its mailing address, and telephone number;

(b) The legal authority for the creation of the agency and the name of the person appointing agency members;

(c) The powers and duties of the agency;

(d) The number of authorized members, together with any prescribed restrictions on eligibility such as employment experience or geographical representation;

(e) The dates of commencement and expiration of the membership terms and the expiration date of the agency, if any;

(f) The compensation of members, and appropriations or other funds available to the agency;

(g) The regular meeting schedule, if any, and approximate number of hours per month of meetings or other activities required of members;

(h) The roster of current members, including mailing addresses and telephone numbers; and

(i) A breakdown of the membership showing distribution by county and legislative district, and, only if the member has voluntarily supplied the information, the sex, political party preference or lack thereof, race and national origin of the members.

Subd. 3. Publication of agency data. The secretary of state shall provide for periodic updating of the required data and shall annually arrange for the publication in the state register of the compiled data from all agencies on or about November 15 of each year. Beginning in 1979, the compilation may be published together with the agency descriptions required by section 15.0412, subdivision 2. Copies of the compilation shall be delivered to the governor and the legislature. Copies of the compilation shall be made available by the secretary to any interested person at cost, and copies shall be available for viewing by interested persons and for sale. The chairman of an agency who does not submit data required by this section or section 15.0412, subdivision 2, or who does not notify the secretary of a vacancy in his agency, shall not be eligible for a per diem or expenses in connection with agency service until December 1 of the following year.

Subd. 4. Notice of vacancies. The chairman of an agency, in respect to vacancies in existing agencies, or the appointing authority, in respect to newly created agency positions, shall notify the secretary of a vacancy within 15 days after the occurrence of the vacancy. Every 15 days the secretary shall prepare a list of all vacancies in state agencies, together with a list of the vacancies scheduled to occur within the next 45 days as a result of the expiration of membership terms or the creation of new agency positions. This listing shall be published in the next available issue of the state register, and one copy of the listing shall be made available at the office of the secretary to any interested person. The secretary shall distribute by mail copies of the listings to requesting persons. The listing for all vacancies scheduled to occur in the month of January shall be published in the state register together with the compilation of agency data required to be published pursuant to subdivision 3.

Subd. 5. Nominations for vacancies. Any person may nominate himself to be appointed to an agency vacancy by completing an application on a form prepared and distributed by the secretary. Any person or group of persons may, on a similar application form, nominate another person to be appointed to a vacancy so long as the person so nominated consents in writing on the application form to the nomination. The application form shall specify the nominee's name, mailing address, telephone number, preferred agency position sought, a statement that the nominee satisfies any legally prescribed qualifications, and any other information the nominating person feels would be helpful to the appointing authority. The application form shall permit the nominating person at his discretion to indicate the nominee's sex, political party preference or lack thereof, race and national origin. If a person submits an application at the behest of or upon the suggestion of an appointing authority, the person shall so indicate on the application form. The secretary shall, upon 15 days after publication of a vacancy in the state register or upon 15 days prior to a scheduled vacancy, whichever date occurs first, submit copies of all applications received for a position to the appointing authority charged with filling the vacancy. If no applications have been received by the secretary for the vacant position by the date he is required to submit copies to the appointing authority, he shall so inform the appointing authority. Applications received by the secretary shall be deemed to have expired one year after receipt of the application or upon appointment and, if required, advice and consent by the senate to a vacancy, whichever occurs first. An application for a particular agency position shall be deemed to be an application for all vacancies in that agency occurring prior to the expiration of the application.

Subd. 6. Appointments. In making an appointment to a vacant agency position, the appointing authority shall consider applications for positions in that agency supplied by the secretary. No appointing authority may appoint someone to a vacant agency position until (1) ten days after receipt of the applications for positions in that agency from the secretary or (2) receipt of notice from the secretary that no applications have been received for vacant positions in that agency. The appointing authority shall issue a public announcement and inform the secretary of the name of the person the appointing authority intends to appoint to fill the agency vacancy at least five days before the date of appointment. If the appointing authority intends to appoint a person other than one for whom an application was submitted pursuant to this section, the appointing authority shall complete an application form on behalf of the appointee and submit it to the secretary. If the appointment requires the advice and consent of the senate, the secretary shall, prior to consideration by the senate of the

appointment, supply the president of the senate with a copy of the application, together with a copy of any documents which the appointee is required by virtue of his appointment to submit to the ethical practices board. With respect to the ethical practices board, the secretary shall also submit a copy of the application and documents to the speaker of the house of representatives prior to consideration of the appointment by the house of representatives.

Subd. 7. **Report.** Together with the compilation required in subdivision 3, the secretary shall annually deliver to the governor and the legislature a report containing the following information:

- (a) Vacancies occurring in the preceding year;
- (b) The number of vacancies occurring as a result of scheduled ends of terms, unscheduled vacancies and the creation of new positions;
- (c) Breakdowns by county, legislative district and, if known, the sex, political party preference or lack thereof, race and national origin, for members whose agency membership terminated during the year and appointees to the vacant positions; and
- (d) The number of vacancies filled from applications submitted by (1) the appointing authorities for the positions filled, (2) nominating persons and self-nominees who submitted applications at the behest of or upon the suggestion of appointing authorities, and (3) all others.

Subd. 8. **Transfer of administrative functions.** If the commissioner of administration with the approval of the governor determines that the administration of the open appointment process provided for in this section more properly belongs in another agency of the state, he may, on or after July 1, 1981, transfer this function to that agency by reorganization order.

[1978 c 592 s 1,2]

15.06 APPOINTMENT OF DEPARTMENT HEADS; TERMS; DEPUTIES. Subdivision 1. **Applicability.** This section applies to the following departments or agencies: the departments of administration, agriculture, corrections, economic development, economic security, education, finance, health, human rights, labor and industry, natural resources, personnel, public safety, public welfare, revenue, transportation, and veterans affairs; the banking, insurance and securities divisions and the consumer services section of the department of commerce; the energy, housing finance and pollution control agencies; the office of commissioner of iron range resources and rehabilitation; the bureau of mediation services; and their successor departments and agencies. The heads of the foregoing departments or agencies are referred to in this section as "commissioners".

Subd. 2. **Term of office; successor.** The term of a commissioner shall end with the term of the office of governor. If the appointing authority is the governor, the term shall end on the date the governor who appointed the commissioner vacates his office. The appointing authority shall submit to the president of the senate the name of an appointee as permanent commissioner within 45 legislative days after the end of the term of a commissioner and within 45 legislative days after the occurrence of a vacancy. The appointee shall take office as permanent commissioner when the senate notifies the appointing authority that it has consented to the appointment. A commissioner shall serve at the pleasure of the appointing authority. Effective on and after July 1, 1987, a commissioner may only be removed for cause after notice and hearing.

Subd. 3. **Vacancy; temporary commissioner.** The purpose of this subdivision is to provide a procedure to insure the immediate accession to office of a temporary commissioner in the event of a vacancy in the office of commissioner. If at the end of a term of a commissioner the incumbent commissioner is not designated as acting commissioner pursuant to subdivision 4, or if a vacancy occurs in the office of a commissioner, the deputy commissioner as defined in subdivision 7 shall immediately become temporary commissioner without further official action. If there is more than one deputy commissioner, the appointing authority of the commissioner shall designate which of the deputies shall be temporary commissioner. If there is no deputy commissioner, the appointing authority of the commissioner shall designate a temporary commissioner.

Subd. 4. **End of term; vacancy; acting commissioner.** The purpose of this subdivision is to provide alternative means whereby an appointing authority may designate a person other than a temporary commissioner to serve as acting commissioner until

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advice and consent of the senate is received in respect to a permanent appointee. These alternative means include the following:

(1) At the end of the term of a commissioner, the incumbent commissioner may at the discretion of the appointing authority serve as acting commissioner until his successor is appointed and qualifies.

(2) An appointing authority may appoint a person other than a deputy to serve as acting commissioner and to replace any other acting or temporary commissioner designated pursuant to subdivisions 3 or 4.

(3) Prior to the advice and consent of the senate, the appointing authority may designate the permanent appointee as commissioner.

Subd. 5. Effect of designation of acting or temporary commissioner. A person who is designated commissioner, acting commissioner or temporary commissioner pursuant to subdivisions 3 or 4 shall immediately have all the powers and emoluments and perform all the duties of the office. Upon the appointment of a commissioner or acting commissioner to succeed any other acting or temporary commissioner, the subsequent appointee shall immediately take the place of any other acting or temporary commissioner. No person shall serve as commissioner or acting commissioner after the senate has voted to refuse to consent to his appointment as permanent commissioner. Notice of the designation of a commissioner or acting commissioner, or the assumption of office by a temporary commissioner, shall be filed with the president of the senate and the speaker of the house with a copy delivered to the secretary of state and published in the next available edition of the state register.

Subd. 6. General powers of commissioners. Except as otherwise expressly provided by law, a commissioner shall have the following powers:

(1) To delegate to any of his subordinate employees the exercise of his specified statutory powers or duties as he may deem advisable, subject to his control; provided, that every delegation shall be made by written order, filed with the secretary of state; and further provided that only a deputy commissioner may have all the powers or duties of the commissioner;

(2) To appoint all subordinate employees and to prescribe their duties; provided, that all departments and agencies shall be subject to the provisions of chapter 43;

(3) With the approval of the commissioner of administration, to organize his department or agency as he may deem advisable in the interest of economy and efficiency; and

(4) To prescribe procedures for the internal management of his department or agency to the extent that the procedures do not directly affect the rights of or procedure available to the public.

Subd. 7. Deputy commissioner. For purposes of this section, a "deputy commissioner" shall also include a "deputy director" when the department head bears the title "director". A deputy commissioner of a department or agency specified in subdivision 1 shall be in the unclassified civil service and shall be immediately subordinate to the commissioner. He shall have all the powers and authority of the commissioner unless the commissioner directs otherwise, and he shall speak for the commissioner within and without the department or agency. The primary duty of a deputy shall be to assist the commissioner in the general management of the entire department or agency or of major parts thereof, and shall not consist of operating single functional areas. A deputy commissioner serves at the pleasure of the commissioner.

Subd. 8. Number of deputy commissioners. Unless specifically authorized by statute, other than section 43.09, subdivision 2a, no department or agency specified in subdivision 1 shall have more than one deputy commissioner. Notwithstanding any other law to the contrary, none of the departments or agencies shall have more than two deputy commissioners.

Subd. 9. Private employment. No former commissioner or deputy commissioner may, within one year after leaving the position of commissioner or deputy commissioner in a department or agency, appear or participate in proceedings of that department or agency representing the interests of private persons.

[1939 c 431 art 8 s 6; 1977 c 305 s 1; 1977 c 430 s 25] (53-1g)

15.061 CONSULTANT, PROFESSIONAL AND TECHNICAL SERVICES. Pursuant to the provisions of section 16.098, the head of a state department or agency

may, with the approval of the commissioner of administration, contract for consultant services and professional and technical services in connection with the operation of the department or agency. A contract negotiated under this section shall not be subject to the competitive bidding requirements of chapter 16.

[1969 c 1139 s 64; 1978 c 480 s 1]

15.063 BIENNIAL REPORTS; SUBMISSION. Notwithstanding any law to the contrary, the biennial reports required to be submitted to the legislature by various departments and agencies shall be submitted by November 15 of each even numbered year.

[Ex1971 c 3 s 63]

15.07 INFORMATION FURNISHED. Whenever in Laws 1939, Chapter 431, power is vested in a department or an official to inspect, examine, secure data or information, or to procure assistance from another department, a duty is hereby imposed upon the department upon which the demand is made to make such power effective, and to furnish such data or information or the opportunity for inspection and examination.

[1939 c 431 art 8 s 2] (53-1c)

15.08 COMMISSIONERS OF FINANCE AND ADMINISTRATION; ACCESS TO RECORDS. The commissioner of finance and the commissioner of administration and their designated agents shall have free access to the records of all state departments and agencies, and may issue subpoenas for and compel the attendance of witnesses and the giving of testimony and the production of books, records, accounts, documents, and papers; and may administer oaths to witnesses or take their affirmation. If any person shall fail or refuse to appear or testify regarding that upon which he may be lawfully interrogated, or to produce any books, records, accounts, documents or papers material in the matter under consideration, after having been lawfully required by order or subpoena, any judge of the district court in any county of the state where the order or subpoena was made returnable, on application of the commissioner of finance or commissioner of administration, as the case may be, shall compel obedience or punish disobedience as for contempt, as in the case of disobedience of a similar order or subpoena issued by such court.

[1939 c 431 art 8 s 3; 1973 c 492 s 14] (53-1d)

15.09 COURT PROCEEDINGS CONTINUED. Any proceeding, court action, prosecution, or other business or matter undertaken or commenced prior to the passage of Laws 1939, Chapter 431, by a department or other agency, the functions, powers, and duties whereof are thereby assigned and transferred to another department or agency, and still pending at the time of its passage, may be conducted and completed by the new department or agency in the same manner and under the same terms and conditions and with the same effect as though they were undertaken or commenced and were conducted or completed by the former department or agency prior to the transfer.

[1939 c 431 art 8 s 9] (53-1j)

15.10 RECORDS DELIVERED TO DEPARTMENT HEADS. The head of a department or other agency whose functions, powers, and duties are by Laws 1939, Chapter 431, assigned and transferred to another department or agency, shall transfer and deliver to such other department or agency all contracts, books, maps, plans, papers, records, and property of every description within his jurisdiction or control, and shall also transfer thereto any or all employees engaged in the exercise of such functions, powers, or duties. The head of such other department or agency to which such assignment or transfer is made is hereby authorized to take possession of the property, and shall take charge of the employees and shall employ them in the exercise of their respective functions, powers, and duties transferred as aforesaid, without reduction of compensation; subject to change or termination of employment or compensation as may be otherwise provided by law.

[1939 c 431 art 8 s 10] (53-1k)

15.11 [Repealed, 1961 c 561 s 17]

15.12 [Repealed, 1961 c 561 s 17]

15.13 [Repealed, 1976 c 2 s 3]

15.14 APPLICATION. Except as hereinbefore otherwise provided, the provisions and limitations of Laws 1939, Chapter 431, shall be applicable to and shall govern each and every department, bureau, commission, board, agency, and institution of the state government, including state universities, state hospitals, and other state institutions, wherever located, and all elected or appointed officers, officials, and employees of the state government. No provision of any subsequent act shall be construed as inconsistent with the provisions of Laws 1939, Chapter 431, or shall operate to limit or abrogate the effect of any provisions thereof or to remove any person, officer, or agency from the operation thereof unless and except only so far as it may be expressly provided in such subsequent act that the provisions of Laws 1939, Chapter 431, shall not be applicable, or shall be superseded, modified, amended, or repealed.

[1939 c 431 art 8 s 15; 1957 c 576 s 1,2; 1975 c 321 s 2] (53-1p)

15.15 EXEMPTIONS FROM APPLICATION. The provisions and limitations of Laws 1939, Chapter 431, shall not be applicable to the regents of the university, nor to any persons, institutions, or employees under their jurisdiction, nor to the professional and regulatory examining and licensing boards enumerated in Mason's Minnesota Statutes of 1927, Chapter 35, the 1938 Supplement to Mason's Minnesota Statutes of 1927, Chapter 35, Laws 1943, Chapter 474, and Laws 1951, Chapter 672; provided, their books and accounts shall be subject to examination by the legislative auditor at any time, as in the case of other state agencies.

[1939 c 431 art 8 s 13; 1949 c 48 s 1; 1953 c 129 s 5; 1973 c 492 s 14] (53-1n)

15.16 TRANSFER OF LANDS BETWEEN DEPARTMENTS. Subdivision 1. **Agreement.** In order to facilitate the transfer of the control of state owned lands between state departments of government and avoid the necessity of condemning state lands by a department of government of the state, any department of the state government of the State of Minnesota may acquire the control of state lands for public purposes from the department of state government having such lands under its control and supervision, upon such terms and conditions as may be mutually agreed upon by the heads of the interested state departments.

Subd. 2. **Executive council to determine terms.** In the event the heads of such departments are unable to agree as to the terms and conditions of a transfer of control of these state lands the executive council, upon application of a state department having the power to acquire lands for public purposes, shall determine the terms and conditions and may order the transfer of the control of state lands to the department so requesting.

Subd. 3. **Commissioner of finance and treasurer to transfer funds.** The commissioner of finance and the state treasurer are hereby authorized and directed to transfer funds between state departments to effect the terms and conditions to transfer the control of real estate as hereinbefore provided.

Subd. 4. **Attorney general to prescribe form of transfer.** The transfer of control of real estate as hereinbefore provided shall be made on such transfer documents as the attorney general shall prescribe and all such transfer documents shall be permanently filed in the office of the commissioner of finance.

Subd. 5. **Obtaining recommendation.** No control of state-owned lands shall be transferred between state departments without first consulting the legislative building commission, or other appropriate legislative committee or committees and obtaining a recommendation thereon. The recommendation shall be advisory only. Failure to obtain a prompt recommendation shall be deemed a negative recommendation.

[1941 c 387 s 1-4; 1973 c 492 s 14; 1973 c 720 s 52]

15.161 ACCEPTANCE OF FEDERAL LANDS OR BUILDINGS; CONSULTATION WITH LEGISLATIVE COMMITTEES. The head of a state department or agency shall consult with the chairman of the house appropriations committee and the chairman of the senate finance committee before accepting any federal land or buildings thereon or any interest therein which is declared surplus by federal authorities and obtaining a recommendation thereon which shall be advisory only. Failure to obtain a recommendation thereon promptly shall be deemed a negative recommendation.

[1973 c 720 s 60]

15.162 COLLECTION, SECURITY AND DISSEMINATION OF RECORDS; DEFINITIONS. Subdivision 1. As used in sections 15.162 to 15.1671 the terms defined

in this section have the meanings given them.

Subd. 1a. "Arrest information" shall include (a) the name, age, and address of an arrested individual; (b) the nature of the charge against the arrested individual; (c) the time and place of the arrest; (d) the identity of the arresting agency; (e) information as to whether an individual has been incarcerated and the place of incarceration. "Arrest information" does not include data specifically made private, confidential or non-public pursuant to section 260.161 or any other statute.

Subd. 2. "Commissioner" means the commissioner of the department of administration.

Subd. 2a. "Confidential data on individuals" means data which is (a) made not public by statute or federal law applicable to the data and is inaccessible to the individual subject of that data; or (b) collected by a civil or criminal investigative agency as part of an active investigation undertaken for the purpose of the commencement of a legal action, provided that the burden of proof as to whether such investigation is active or in anticipation of a legal action is upon the agency. Confidential data on individuals does not include arrest information that is reasonably contemporaneous with an arrest or incarceration. The provision of clause (b) shall terminate and cease to have force and effect with regard to the state agencies, political subdivisions, statewide systems, covered by the ruling, upon the granting or refusal to grant an emergency classification pursuant to section 15.1642 of both criminal and civil investigative data, or on July 31, 1979, whichever occurs first.

Subd. 3. "Data on individuals" includes all records, files and processes which contain any data in which an individual is or can be identified and which are retained or intended to be retained on a permanent or temporary basis. It includes data collected, stored, or disseminated by manual, mechanical, electronic or any other means. Data on individuals are classified as public, private or confidential.

Subd. 4. "Individual" means a natural person. In the case of a minor, "individual" includes a parent or guardian or an individual acting as a parent or guardian in the absence of a parent or guardian, except that the responsible authority shall withhold data from parents or guardians, or individuals acting as parents or guardians in the absence of parents or guardians, upon request by the minor if the responsible authority determines that withholding the data would be in the best interest of the minor.

Subd. 5. "Political subdivision" any county, statutory or home rule charter city, school district, special district and any board, commission, district or authority created pursuant to law, local ordinance or charter provision. It includes any nonprofit corporation which is a community action agency organized pursuant to the economic opportunity act of 1964 (P.L. 88-452) as amended, to qualify for public funds, or any nonprofit social service agency which performs services under contract to any political subdivision, statewide system or state agency, to the extent that the nonprofit social service agency or nonprofit corporation collects, stores, disseminates, and uses data on individuals because of a contractual relationship with state agencies, political subdivisions or statewide systems.

Subd. 5a. "Private data on individuals" means data which is made by statute or federal law applicable to the data: (a) not public; and (b) accessible to the individual subject of that data. Private data on individuals does not include arrest information that is reasonably contemporaneous with an arrest or incarceration.

Subd. 5b. "Public data on individuals" means data which is accessible to the public in accordance with the provisions of section 15.17.

Subd. 6. "Responsible authority" in a state agency or statewide system means the state official designated by law or by the commissioner as the individual responsible for the collection, use and dissemination of any set of data on individuals or summary data. "Responsible authority" in any political subdivision means the individual designated by the governing body of that political subdivision as the individual responsible for the collection, use, and dissemination of any set of data on individuals or summary data, unless otherwise provided by state law.

Subd. 7. "State agency" means the state, the university of Minnesota, and any office, officer, department, division, bureau, board, commission, authority, district or agency of the state.

Subd. 8. "Statewide system" includes any record-keeping system in which data on individuals is collected, stored, disseminated and used by means of a system common to one or more state agencies or more than one of its political subdivisions or any combination of state agencies and political subdivisions.

Subd. 9. "Summary data" means statistical records and reports derived from data on individuals but in which individuals are not identified and from which neither their identities nor any other characteristic that could uniquely identify an individual is ascertainable.

[1974 c 479 s 1; 1975 c 401 s 1; 1976 c 239 s 2; 1976 c 283 s 1-5; 1977 c 375 s 1-5; 1978 c 790 s 1]

15.163 LISTS OF NONPUBLIC DATA. Subdivision 1. On or before August 1, 1976, the responsible authority shall prepare a public document containing his name, title and address, and a description of each category of record, file, or process relating to private or confidential data on individuals maintained by his state agency, statewide system, or political subdivision. Forms used to collect private and confidential data shall be included in the public document. Beginning August 1, 1977 and annually thereafter, the responsible authority shall update the public document and make any changes necessary to keep it accurate.

Subd. 2. The commissioner may require responsible authorities to submit copies of the public document required in subdivision 1, and may request additional information relevant to data collection practices, policies and procedures.

[1974 c 479 s 2; 1975 c 401 s 2; 1976 c 239 s 3; 1976 c 283 s 6, 7]

15.164 [Repealed, 1975 c 401 s 9]

15.1641 DUTIES OF RESPONSIBLE AUTHORITY. (a) Data on individuals is under the jurisdiction of the responsible authority who may appoint an individual to be in charge of each file or system containing data on individuals.

(b) Collection and storage of public, private or confidential data on individuals and use and dissemination of private and confidential data on individuals shall be limited to that necessary for the administration and management of programs specifically authorized by the legislature, local governing body or mandated by the federal government.

(c) Private or confidential data on individuals shall not be used, collected, stored or disseminated for any purposes other than those stated to an individual at the time of collection in accordance with section 15.165 or, in the case of data collected prior to August 1, 1975, for any purpose other than those originally authorized by law, unless (1) the responsible authority files a statement with the commissioner describing the purpose and necessity of the purpose with regard to the health, safety or welfare of the public and the purpose is approved by the commissioner, or (2) the purpose is subsequently authorized by the state or federal legislature, or (3) the purpose is one to which the individual subject or subjects of the data have given their informed consent.

(d) The use of summary data derived from private or confidential data on individuals under jurisdiction of one or more responsible authorities shall be permitted, provided that summary data is public pursuant to section 15.17. The responsible authority shall prepare summary data from private or confidential data on individuals upon the request of any person, provided that the request is in writing and the cost of preparing the data is borne by the requesting person. The responsible authority may delegate the power to prepare summary data to the administrative officer responsible for any central repository of summary data, or to a person outside of its agency if the person agrees in writing not to disclose private or confidential data on individuals.

(e) The responsible authority shall establish procedures and safeguards to ensure that all public, private or confidential data on individuals is accurate, complete and current. Emphasis shall be placed on the data security requirements of computerized files containing private or confidential data on individuals which are accessible directly via telecommunications technology, including security during transmission.

[1975 c 401 s 3]

15.1642 EMERGENCY CLASSIFICATION. Subdivision 1. **Application.** The responsible authority of a state agency, political subdivision or statewide system may apply to the commissioner for permission to classify data or types of data on individuals as private or confidential, for its own use and for the use of other similar agencies,

political subdivisions or statewide systems on an emergency basis until a proposed statute can be acted upon by the legislature. The application for emergency classification is public.

Upon the filing of an application for emergency classification, the data which is the subject of the application shall be deemed to be classified as set forth in the application for a period of 30 days, or until the application is disapproved or granted by the commissioner, whichever is earlier.

Subd. 2. Contents of application. An application for emergency classification shall include and the applicant shall have the burden of clearly establishing at least the following information:

(a) That no statute currently exists which either allows or forbids classification as private or confidential;

(b) That data similar to that for which the emergency classification is sought has been treated as either private or confidential by other state agencies or political subdivisions, and by the public; and

(c) That a compelling need exists for immediate emergency classification, which if not granted could adversely affect the public interest or the health, safety, well being or reputation of the data subject.

Subd. 3. Determination. The commissioner shall either grant or disapprove the application for emergency classification within 30 days after it is filed. If the commissioner disapproves the application, he shall set forth in detail his reasons for the disapproval, and shall include a statement of what classification he believes is appropriate for the data which is the subject of the application. Ten days after the date of the commissioner's disapproval of an application, the data which is the subject of the application shall become public data on individuals, unless the responsible authority submits an amended application for emergency classification which requests the classification deemed appropriate by the commissioner in his statement of disapproval or which sets forth additional information relating to the original proposed classification. Upon the filing of an amended application, the data which is the subject of the amended application shall be deemed to be classified as set forth in the amended application for a period of 15 days or until the amended application is granted or disapproved by the commissioner, whichever is earlier. The commissioner shall either grant or disapprove the amended application within 15 days after it is filed. Five working days after the date of the commissioner's disapproval of the amended application, the data which is the subject of the application shall become public data on individuals. No more than one amended application may be submitted for any single file or system which contains data on individuals.

If the commissioner grants an application for emergency classification, it shall become effective immediately, and the complete record relating to the application shall be submitted to the attorney general, who shall review the classification as to form and legality. Within 20 days, the attorney general shall approve the classification, disapprove a classification as confidential but approve a classification as private, or disapprove the classification. If the attorney general disapproves a classification, the data which is the subject of the classification shall become public data five working days after the date of the attorney general's disapproval.

Subd. 4. Pending applications. All applications for emergency classification which are pending on June 3, 1977 shall be deemed to have been filed on June 3, 1977.

Subd. 5. Expiration of emergency classification. All emergency classifications granted under this section and still in effect shall expire on July 31, 1979. No emergency classifications shall be granted after July 31, 1979.

[1976 c 283 s 8; 1977 c 375 s 6; 1978 c 790 s 2]

15.1643 INTERNATIONAL DISSEMINATION PROHIBITED. No state agency or political subdivision shall transfer or disseminate any private or confidential data on individuals to the private international organization known as Interpol.

[1978 c 790 s 3]

NOTE: Section 15.1643 is effective April 1, 1980. See Laws 1978, Chapter 790, Section 5, Subdivision 2.

15.165 RIGHTS OF SUBJECTS OF DATA. Subdivision 1. The rights of individuals on whom the data is stored or to be stored shall be as set forth in this section.

Subd. 2. An individual asked to supply private or confidential data concerning himself shall be informed of: (a) the purpose and intended use of the requested data within the collecting state agency, political subdivision or statewide system; (b) whether he may refuse or is legally required to supply the requested data; (c) any known consequence arising from his supplying or refusing to supply private or confidential data; and (d) the identity of other persons or entities authorized by state or federal law to receive the data.

Subd. 3. Upon request to a responsible authority, an individual shall be informed whether he is the subject of stored data on individuals, and whether it is classified as public, private or confidential. Upon his further request, an individual who is the subject of stored private data on individuals shall be shown the data without any charge to him and, if he desires, shall be informed of the content and meaning of that data. After an individual has been shown the private data and informed of its meaning, the data need not be disclosed to him for six months thereafter unless a dispute or action pursuant to this section is pending or additional data on the individual has been collected. The responsible authority shall provide copies of the private data upon request by the individual subject of the data. The cost of providing copies shall be borne by the individual.

The responsible authority shall comply immediately, if possible, with any request made pursuant to this subdivision, or within five days of the date of the request, excluding Saturdays, Sundays and legal holidays, if immediate compliance is not possible. If he cannot comply with the request within that time, he shall so inform the individual, and may have an additional five days within which to comply with the request, excluding Saturdays, Sundays and legal holidays.

Subd. 4. An individual may contest the accuracy or completeness of public or private data concerning himself. To exercise this right, an individual shall notify in writing the responsible authority describing the nature of the disagreement. The responsible authority shall within 30 days either: (a) correct the data found to be inaccurate or incomplete and attempt to notify past recipients of inaccurate or incomplete data, including recipients named by the individual; or (b) notify the individual that he believes the data to be correct. Data in dispute shall be disclosed only if the individual's statement of disagreement is included with the disclosed data.

The determination of the responsible authority may be appealed pursuant to the provisions of the administrative procedure act relating to contested cases.

[1974 c 479 s 4; 1975 c 401 s 4; 1977 c 375 s 7]

15.166 CIVIL PENALTIES. Subdivision 1. Notwithstanding section 466.03, a political subdivision responsible authority or state agency which violates any provision of sections 15.162 to 15.1671 is liable to a person who suffers any damage as a result of the violation, and the person damaged may bring an action against the political subdivision, responsible authority or state agency to cover any damages sustained, plus costs and reasonable attorney fees. In the case of a willful violation, the political subdivision or state agency shall, in addition, be liable to exemplary damages of not less than \$100, nor more than \$1,000 for each violation. The state is deemed to have waived any immunity to a cause of action brought under sections 15.162 to 15.1671.

Subd. 2. A political subdivision, responsible authority or state agency which violates or proposes to violate sections 15.162 to 15.1671 may be enjoined by the district court. The court may make any order or judgment as may be necessary to prevent the use or employment by any person of any practices which violate sections 15.162 to 15.1671.

Subd. 3. An action filed pursuant to this section may be commenced in the county in which the individual alleging damage or seeking relief resides, or in the county wherein the political subdivision exists, or, in the case of the state, any county.

[1974 c 479 s 5; 1975 c 401 s 5; 1976 c 239 s 4,5]

15.167 PENALTIES. Any person who willfully violates the provisions of sections 15.162 to 15.1671 or any lawful rules and regulations promulgated thereunder is guilty of a misdemeanor. Willful violation of sections 15.162 to 15.1671 by any public employee constitutes just cause for suspension without pay or dismissal of the public employee.

[1974 c 479 s 6; 1975 c 401 s 6; 1976 c 239 s 6]

15.1671 DUTIES OF THE COMMISSIONER. The commissioner shall with the advice of the intergovernmental information services advisory council promulgate rules, in accordance with the rulemaking procedures in the administrative procedures act which shall apply to state agencies, statewide systems and political subdivisions to implement the enforcement and administration of sections 15.162 to 15.169. The rules shall not affect section 15.165, relating to rights of subjects of data, and section 15.169, relating to the powers and duties of the privacy study commission. Prior to the adoption of rules authorized by this section the commissioner shall give notice to all state agencies and political subdivisions in the same manner and in addition to other parties as required by section 15.0412, subdivision 3, of the date and place of hearing, enclosing a copy of the rules and regulations to be adopted.

[1975 c 271 s 6; 1975 c 401 s 7]

15.168 [Repealed, 1975 c 401 s 9]

15.169 PRIVACY STUDY COMMISSION. Subdivision 1. **Creation.** There is hereby created a privacy study commission consisting of six members, three of whom shall be appointed by the committee on committees, and three of whom shall be appointed by the speaker of the house. The commission shall act from the time its members are appointed until the commencement of the 1977 regular session of the legislature. Any vacancy shall be filled by the appointing power.

Subd. 2. **Organization and procedure.** At its first meeting the commission shall elect a chairman, a vice-chairman and such other officers from its membership as it may deem necessary. The commission shall adopt rules governing its operation and the conduct of its meetings and hearings, which rules are not subject to the provisions of the administrative procedures act.

Subd. 3. **Duties and powers.** The commission shall make a continuing study and investigation of data on individuals collected, stored, used and disseminated by political subdivisions, state agencies, statewide systems and any other public or private entity in the state of Minnesota the commission may deem appropriate for such study and investigation. The powers and duties of the commission shall include, but are not limited to the following:

(1) the holding of meetings at times and places it designates to accomplish the purposes set forth in Laws 1975, Chapter 401. The commission may hold hearings at times and places convenient for the purpose of taking evidence and testimony to effectuate the purposes of Laws 1975, Chapter 401, and for those purposes the commission may, through its chairman by a three-fourths vote of its members, issue subpoenas, including subpoenas duces tecum, requiring the appearance of persons, production of relevant records and the giving of relevant testimony. In the case of contumacy or refusal to obey a subpoena issued under authority herein provided, the district court in the county where the refusal or contumacy occurred may, upon complaint of the commission, punish as for contempt the person guilty thereof.

(2) the study of all data on individuals collected, stored, used or disseminated in the state of Minnesota including, but not limited to that collected, stored, used or disseminated by any political subdivision, state agency or statewide system in order to determine the standards and procedures in force for the protection of private and confidential data on individuals. In conducting such study, the commission shall:

(a) determine what executive orders, attorney general opinions, regulations, laws or judicial decisions govern the activities under study and the extent to which they are consistent with the rights of public access to data on individuals, privacy, due process of law and other guarantees in the constitution.

(b) determine to what extent the collection, storage, use or dissemination of data on individuals is affected by the requirements of federal law.

(c) examine the standards and criteria governing programs, policies and practices relating to the collection, storage, use or dissemination of data on individuals in the state of Minnesota.

(d) collect and utilize to the maximum extent practicable, all findings, reports, studies, hearing transcripts, and recommendations of governmental legislature, and private bodies, institutions, organizations and individuals which pertain to the problems under study by the commission.

(3) the recommendation to the legislature of the extent, if any, to which the requirements and principles of Laws 1975, Chapter 401 should be applied to information

practices in existence in the state of Minnesota by legislation, administrative action or voluntary adoption of such requirements and principles, and report on such other legislative recommendations as it may determine to be necessary to protect the privacy of individuals while meeting the legitimate needs of government and society for information.

Subd. 4. **Office.** The commission shall maintain an office in the capitol group of buildings in space provided by the commissioner of administration.

Subd. 5. **Supplies; staff.** The commission may purchase equipment and supplies and employ such professional, clerical, and technical assistants from the senate and house staff as it deems necessary in order to perform the duties herein prescribed. The commission may invite consultants and other knowledgeable persons to appear before it and offer testimony and compensate them appropriately.

Subd. 6. **Assistance of other agencies.** The commission may request any information including any data on individuals from any political subdivision, statewide system, or state agency or any employee thereof in order to assist in carrying out the purposes of the act, and notwithstanding any law to the contrary, such employee or agency is authorized and directed to promptly furnish any such data or information requested.

Subd. 7. **Expenses, reimbursement.** Members of the commission shall be compensated as provided in section 3.102.

Subd. 8. **Penalties for disclosure.** (1) Any member, assistant or staff of the commission who, by virtue of his employment or official position, has possession of, or access to, agency records which contain private or confidential data on individuals the disclosure of which is prohibited by law, and also knowing or having reason to know that disclosure of such data is prohibited, willfully discloses such data in any manner to any person or agency not entitled to receive it shall be guilty of a misdemeanor.

(2) Any member, assistant or staff of the commission who knowingly and willfully requests or obtains any private or confidential data on individuals under false pretenses the disclosure of which such person is not entitled by law shall be guilty of a misdemeanor.

Subd. 9. **Report to the legislature.** The commission shall report its findings and recommendations to the legislature as soon as they are available, in any case not later than November 15, 1976, and may supplement them thereafter until January 15, 1977. One copy of the report shall be filed with the secretary of the senate, one copy with the chief clerk of the house of representatives and ten copies with the legislative reference library.

Subd. 10. **Appropriation.** There is appropriated from the general fund the sum of \$25,000 for the biennium ending June 30, 1977, or as much thereof as necessary, to pay the expenses incurred by the commission. Expenses of the commission shall be approved by the chairman or another member as the rules of the commission provide and paid in the same manner that other state expenses are paid.

[1975 c 401 s 8]

15.17 OFFICIAL RECORDS. Subdivision 1. **Must be kept.** All officers and agencies of the state, and all officers and agencies of the counties, cities and towns, shall make and keep all records necessary to a full and accurate knowledge of their official activities. All such public records shall be made on paper of durable quality and with the use of ink, carbon papers, and typewriter ribbons of such quality as to insure permanent records. Every public officer, and every county officer with the approval of the county board, is empowered to record or copy records by any photographic, photostatic, microphotographic, or microfilming device, approved by the Minnesota historical society, which clearly and accurately records or copies them, and such public officer or such county officer may make and order that such photographs, photostats, microphotographs, microfilms, or other reproductions, be substituted for the originals thereof, and may direct the destruction or sale for salvage or other disposition of the originals from which the same were made. Any such photographs, photostats, microphotographs, microfilms, or other reproductions so made shall for all purposes be deemed the original recording of such papers, books, documents and records so reproduced when so ordered by any officer with the approval of the county board, and shall be admissible as evidence in all courts and proceedings of every kind. A facsimile or exemplified or certified copy of any such photograph, photostat, microphotograph, microfilm, or other reproduction, or any enlargement or reduction

thereof, shall have the same effect and weight as evidence as would a certified or exemplified copy of the original.

Subd. 2. Responsibility for records. The chief administrative officer of each public agency shall be responsible for the preservation and care of the agency's public records, which shall include written or printed books, papers, letters, contracts, documents, maps, plans, and other records made or received pursuant to law or in connection with the transaction of public business. It shall be the duty of each such agency, and of the chief administrative officer thereof, to carefully protect and preserve public records from deterioration, mutilation, loss, or destruction. Records or record books may be repaired, renovated, or rebound when necessary to preserve them properly.

Subd. 3. Delivery to successor. Every legal custodian of public records, at the expiration of his term of office or authority, or on his death his legal representative, shall deliver to his successor in office all public records in his custody; and the successor shall receipt therefor to his predecessor or his legal representative and shall file in his office a signed acknowledgment of the delivery. Every public officer shall demand from his predecessor in office, or his legal representative, the delivery of all public records belonging to his office.

Subd. 4. Accessible to public. Every custodian of public records shall keep them in such arrangement and condition as to make them easily accessible for convenient use. Photographic, photostatic, microphotographic, or microfilmed records shall be considered as accessible for convenient use regardless of the size of such records. Except as otherwise expressly provided by law, he shall permit all public records in his custody to be inspected, examined, abstracted, or copied at reasonable times and under his supervision and regulation by any person; and he shall, upon the demand of any person, furnish certified copies thereof on payment in advance of fees not to exceed the fees prescribed by law. Full convenience and comprehensive accessibility shall be allowed to researchers including historians, genealogists and other scholars to carry out extensive research and complete copying of all public records except as otherwise expressly provided by law.

[1941 c 553 s 1-4; 1957 c 28 s 1,2; 1973 c 123 art 5 s 7; 1973 c 422 s 1]

15.171 OFFICIAL RECORDS; COMPILATION, MAINTENANCE AND STORAGE OF INFORMATION. Notwithstanding any other law, any public officer who has jurisdiction over a collection of official records may select and use, subject to the approval of the commissioner of administration, alternative methods for the compilation, maintenance and storage of the information contained in those records, subject to the following conditions:

(1) The methods selected must provide for access to the information contained in the records by those authorized by law to have access to that information; and

(2) The methods selected must provide for the preservation of the information contained in the records to the extent specified by law.

[1974 c 323 s 1]

15.172 APPROVAL OF ALTERNATE METHOD. At least 90 days prior to the date upon which he proposes to put into effect an alternate method of compilation, maintenance, and storage of records, the public official shall submit a description of the proposed method and the reasons for adopting it to the commissioner of administration. If the commissioner of administration finds that the proposed method complies with the conditions specified in section 15.171, he shall approve its use; if not, he shall disapprove its use. A failure of the commissioner of administration to act before the date upon which the public official proposes to put the alternative method into effect shall be deemed a disapproval of that method.

[1974 c 323 s 2]

15.173 NOTICE OF ALTERNATIVE METHOD. Whenever the commissioner of administration approves an alternate method of compilation, maintenance and storage, he shall maintain a written notice of that approval, the date of taking effect of the alternate method, a description of the method and the reasons for its adoption in his office as a public record. In the case of a record having less than statewide significance, the public official having jurisdiction over the records shall file a written notice containing the same information as the notice maintained by the commissioner of administration with the county auditor, clerk or other similar recording officer of the af-

fectured governmental subdivision and such notices shall also be maintained as public records.

[1974 c 323 s 3]

15.174 RECORDS NOW IN USE. Notwithstanding section 15.171, any public official using an alternate method of compilation, maintenance and storage of a record on August 1, 1974, may continue to use that alternate method unless and until that method is expressly disapproved by the commissioner of administration. Such an official shall file a description of the method and the reasons for its use on or before August 1, 1974. Failure of the commissioner of administration to approve or disapprove such a method within 90 days shall be deemed an approval. Notice of such methods shall be filed as required in section 15.173.

[1974 c 323 s 4]

15.18 DISTRIBUTION OF PUBLICATIONS. Except as provided in sections 5.08, 16.02, and 648.39, when any department, agency, or official of the state issues for public distribution any book, document, journal, map, pamphlet, or report copies thereof shall be delivered immediately as follows:

Four copies to the Minnesota Historical Society;

One copy to the general library of the University of Minnesota, and may, upon request of the librarian, deliver additional copies;

Two copies to the state library, and such additional copies as the state librarian deems necessary for exchange with other libraries, with other states, with the United States, and with governments of foreign countries;

One copy to the public library of any city of the first class;

One copy to the library of each state university as defined in chapter 136.

[1947 c 365 s 1; 1963 c 179 s 1; 1975 c 321 s 2]

15.181 [Renumbered 43.33]

15.19 [Repealed, 1969 c 265 s 2]

15.191 IMPREST CASH FUNDS. Subdivision 1. **Emergency disbursements.** Imprest cash funds for the purpose of making minor disbursements, and providing for change, may be established by state departments or agencies from existing appropriations in the manner prescribed by this section.

Subd. 2. **Approval.** Before an imprest cash fund is established an application showing the need therefor shall be presented to the commissioner of finance who shall fix the amount of the fund for the department or agency. Upon the approval of the application by the commissioner of finance, the imprest cash fund is established and the commissioner of finance shall notify the applicant.

Subd. 3. **Warrant against designated appropriation.** Imprest cash funds established under this section shall be created by warrant drawn against the appropriation designated by the commissioner of finance.

[1969 c 265 s 1; 1973 c 492 s 14; 1976 c 231 s 2]

15.21 [Obsolete by Law 1957 c 936, see sections 15A.02 to 15A.15.]

15.22 [Obsolete by Law 1957 c 936, see sections 15A.02 to 15A.15.]

15.23 [Obsolete by Law 1957 c 936, see sections 15A.02 to 15A.15.]

15.31 STATE EMPLOYEES, LIABILITY INSURANCE, PAYMENT OF PREMIUMS. The state shall pay premiums on insurance policies insuring its employees against liability from claims for bodily injuries, death or property damage made upon such employees while operating state owned vehicles in the performance of, in connection with or incidental to their duties as state employees. Payment of such premiums shall be made from funds appropriated or otherwise available to the various departments and agencies of the state. The payment of such premiums shall not impose upon the state any liability whatsoever for the payment of damages as a result of a claim against the state employee.

[1953 c 676 s 1]

15.315 [Repealed, 1976 c 331 s 43]

15.35 [Repealed, 1965 c 780 s 9]

15.36 [Repealed, 1965 c 780 s 9]

15.37 [Repealed, 1967 c 103 s 10]

15.375 UNITED FUND PAYROLL DEDUCTIONS. Subdivision 1. As used in this section, "United Fund" means the organization conducting the single, annual, consolidated effort to secure funds for distribution to agencies engaged in charitable and public health, welfare, and service purposes, which is commonly known as the United Fund, or the organization which serves in place of the United Fund organization in communities where an organization known as the United Fund is not organized.

Subd. 2. The commissioner of finance, upon the written request of a state officer or employee, may deduct each payroll period from the salary or wages of the officer or employee the amount specified therein for payment to the United Fund, and issue his warrant therefor to the United Fund.

[1965 c 766 s 1; 1973 c 492 s 14]

15.38 NON-INSURANCE OF STATE PROPERTY; STILLWATER PRISON, EXCEPTION. No public funds shall be expended on account of any insurance upon state property against loss or damage by fire or tornado, nor shall any state officer or board contract for or incur any indebtedness against the state on account of any such insurance, except that the commissioner of corrections is authorized in his discretion to insure the state of Minnesota against loss by fire or tornado to the state prison at Stillwater, or the contents thereof, in any insurance companies licensed to do business in this state, in such an amount as he may from time to time determine and to pay the premiums therefor from the revolving fund of the institution.

[1919 c 256 s 1; 1929 c 78 s 1; 1953 c 593 s 2; 1959 c 263 s 2; 1974 c 406 s 3]
(3599)

15.39 ECONOMIC SECURITY DEPARTMENT BUILDINGS. Subdivision 1. Notwithstanding the provisions of section 15.38, or any other law to the contrary, the commissioner of the department of economic security of the state of Minnesota may insure the state of Minnesota against loss by fire, flood, windstorm, or tornado to state owned buildings occupied by said department, in any insurance companies licensed to do business in this state in such an amount as he may from time to time determine and to pay premiums therefor from federal funds granted for the administration of the department of economic security.

Subd. 2. The commissioner is hereby authorized to requisition from the employment services administration fund any amount necessary to pay premiums for the insurance specified in subdivision 1 and moneys in the amount necessary are hereby appropriated for that purpose.

[1961 c 515 s 1,2; 1969 c 567 s 3; 1973 c 254 s 3; 1977 c 430 s 25 subd 1]

15.40 LACK OF CARE IN KEEPING PROPERTY SAFE FROM FIRE LOSS, NONFEASANCE IN OFFICE. Every state officer, board, or other authority having the control of any state buildings or property shall keep the same at all times as safe from fire loss as is reasonably possible. Failure of any state officer, board, or authority having control over any state property to keep the same as safe from fire loss as is reasonably possible shall constitute nonfeasance in office and be grounds for removal.

[1919 c 256 s 4] (3602)

15.41 CONSTRUCTION PERMITS, REQUISITES. Subdivision 1. Every agency of the State of Minnesota and every political subdivision thereof shall specify on every construction permit the name and address of the applicant therefor, and the general contractor thereon if there be one. This information shall be a matter of public record, and available to any interested person during business hours.

Subd. 2. All construction permits shall be posted in a conspicuous and accessible place at the premises or site of construction.

[1957 c 125 s 1,2]

15.415 CORRECTIONS IN TRANSACTIONS, WAIVER. In any instance where a correction concerning any state department or agency transaction involves an

amount less than the administrative cost of making the correction, the correction shall be waived unless it is possible at a relatively nominal expense to include the correction in a later transaction. If the amount of any correction is less than \$2 it shall be prima facie evidence that the cost of the correction would exceed the amount involved.

[1971 c 390 s 1]

15.42 [Renumbered 15.041]

15.43 ACCEPTANCE OF ADVANTAGE BY STATE EMPLOYEE; PENALTY.

Subdivision 1. **Financial interest of agents.** No employee of the state or of the University of Minnesota in direct contact with suppliers or potential suppliers to the state or the university, or who may directly or indirectly influence a purchasing decision or contract by establishing specification, testing purchased products, evaluating contracted services, or otherwise has official involvement in the purchasing or contracting process may:

(1) Have any financial interest or have any personal beneficial interest directly or indirectly in contracts or purchase orders for goods or services used by, or purchased for resale or furnished to a department or agency of the state or the university; or

(2) Accept directly or indirectly from a person, firm, or corporation to which a contract or purchase order has been or may be, awarded, a rebate, gift, money, or anything of value other than advertising novelties having wide distribution and are of nominal value. No such employee may further accept any promise, obligation or contract for future reward.

Subd. 2. **Textbooks exempted.** Textbooks authored by an employee of the state's education systems or of the University of Minnesota may be used as required course material upon receipt of written approval from the head of the department. Instructors in state institutions and at the university may accept free samples of textbooks and related teaching materials.

Subd. 3. **Other exemptions.** The commissioners of public welfare and corrections, and the chancellors of the state university and community college systems may by rule prescribe procedure for the acceptance of gifts from any person or organization, provided that such gifts are accepted by the commissioner or chancellor, or his designated representative, and that such gifts are used solely for the direct benefit of patients, inmates or students under the jurisdiction of the accepting state officer.

Subd. 4. **Penalties.** A violation of this section is a misdemeanor.

[1973 c 349 s 2; 1973 c 400 s 1; 1975 c 321 s 2]

STATE EMPLOYEES

PREVENTIVE HEALTH SERVICES

15.45 DEFINITIONS. Subdivision 1. For the purposes of sections 15.45 to 15.47, the terms defined in this section have the meanings given them.

Subd. 2. "Preventive health services" means services intended to:

(1) Protect state employees against health hazards in their work environment;

(2) Insure and facilitate the placement and suitability of employees, according to their physical capacities and their emotional make up, in work which they can reasonably perform with an acceptable degree of efficiency and without endangering their own health and safety or that of their fellow employees; and

(3) Encourage personal health maintenance.

Subd. 3. "Commissioner" means the state commissioner of health.

[1963 c 766 s 1; 1977 c 305 s 45]

15.46 PREVENTIVE HEALTH SERVICES FOR STATE EMPLOYEES. The board may establish and operate a program of preventive health services for state employees, and shall provide such staff, equipment, and facilities as are necessary therefor. The board shall develop these services in accordance with and limited to the accepted practices of and standards for occupational preventive health services in the state of Minnesota. Specific services shall be directed to the work environment and to the health of the employee in relation to his job. The board shall cooperate with pri-

vate and public community agencies providing health, safety, employment, and welfare services.

[1963 c 766 s 2]

15.47 TRANSFER OF POWERS AND DUTIES. All the powers and duties now vested in or imposed upon the commissioners of administration and transportation relating to emergency first aid stations and other employee health services established and operated by such commissioners are hereby transferred to, vested in, and imposed upon the state commissioner of health. All the powers and duties of the commissioners of administration and transportation in relation thereto are abolished.

[1963 c 766 s 4; 1976 c 166 s 7; 1977 c 305 s 45]

**CAPITOL AREA ARCHITECTURAL
AND PLANNING BOARD**

15.50 CAPITOL AREA ARCHITECTURAL AND PLANNING BOARD. Subdivision 1. (a) The legislature finds that the purposes of the board are to (1) preserve the dignity, beauty and architectural integrity of the capitol, the buildings immediately adjacent to it and the capitol grounds; (2) protect, enhance, and increase the open spaces within the capitol area when deemed necessary and desirable for the improvement of the public enjoyment thereof; (3) develop proper approaches to the capitol area for pedestrian movement, the highway system, and mass transit system so that the area achieves its maximum importance and accessibility; and (4) establish a flexible framework for growth of the capitol buildings which will be in keeping with the spirit of the original design.

(b) A capitol area architectural and planning board, herein referred to as the board, consisting of seven members is hereby created. The lieutenant governor shall be a member of the board. Three members shall be appointed by the governor by and with the advice and consent of the senate; three members shall be appointed by the mayor of the city of Saint Paul, with the advice and consent of the city council. Each person appointed to the board shall qualify by taking the oath of office. Effective following the end of terms of members expiring June 30, 1975, the number of members to be appointed by the governor shall increase to four and the number of members to be appointed by the mayor of the city of Saint Paul shall decrease to two.

(c) The lieutenant governor is the chairman of the board. The attorney general is the legal advisor to the board. The board may elect a vice-chairman who may preside at meetings in the absence of the lieutenant governor and such other officers as it may deem necessary to carry out its duties.

(d) The board shall select an executive secretary to serve the board. It may employ such other officers and employees as it may deem necessary all of whom shall be in the classified service of the state civil service. The board may contract for professional and other similar service on such terms as it may deem desirable.

Subd. 2. (a) The board shall prepare, prescribe, and from time to time amend a comprehensive use plan for the capitol area, herein called the area which shall initially consist of that portion of the city of Saint Paul comprehended within the following boundaries: Beginning at the point of intersection of the centerline of the Arch-Pennsylvania freeway and the centerline of Marion Street, thence southerly along the centerline of Marion Street to the north line of the right-of-way of Interstate Highway 94, thence easterly along the said north line to the centerline of Cedar Avenue, thence southeasterly along the centerline of Cedar Avenue to the centerline of Tenth Street, thence northeasterly along the centerline of Tenth Street to the centerline of Minnesota Street, thence northwesterly along the centerline of Minnesota Street to the centerline of Eleventh Street, thence northeasterly along the centerline of Eleventh Street to the centerline of Jackson Street, thence northwesterly along the centerline of Jackson Street to the centerline of the Arch-Pennsylvania freeway extended, thence westerly along the centerline of the Arch-Pennsylvania freeway extended and Marion Street to the point of origin. Pursuant to the comprehensive plan, or any portion thereof, the board may regulate, by means of zoning regulations adopted pursuant to the administrative procedures act, the kind, character, height, and location, of buildings and other structures constructed or used, the size of yards and open spaces, the percentage of lots that may be occupied, and the uses of land, buildings and other structures, within the area. The violation of such zoning regulations shall be a misdemeanor. The board may, at its option, proceed to abate any such violation by injunc-

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tion. The board and the city of St. Paul shall cooperate in assuring that the area adjacent to the capitol area is developed in a manner that is in keeping with the purpose of the board and the provisions of the comprehensive plan.

(b) The commissioner of administration shall act as a consultant to the board with regard to the physical structural needs of the state. He shall make studies and report the results to the board when they request him to do so for their planning purpose.

(c) No public building, street, parking lot, or monument, or other construction shall be built or altered on any public lands within the area unless the plans for the same conforms to the comprehensive use plan as specified in clause (d) and to the requirement for competitive plans as specified in clause (e). No alteration substantially changing the external appearance of any existing public building approved in the comprehensive plan or the exterior or interior design of any proposed new public building the plans for which were secured by competition under clause (e), may be made without the prior consent of the board. The commissioner of administration shall consult with the board regarding internal changes having the effect of substantially altering the architecture of the interior of any proposed building.

(d) The comprehensive plan shall show the existing land uses and recommend future uses including: areas for public taking and use; zoning for private land and criteria for development of public land, including building areas and open spaces; vehicular and pedestrian circulation; utilities systems; vehicular storage; elements of landscape architecture. No substantial alteration or improvement shall be made to public lands or buildings in the area save with the written approval of the board.

(e) The board shall secure by competitions, plans for any new public building. Plans for any comprehensive plan, landscaping scheme, street plan, or property acquisition, which may be proposed, or for any proposed alteration of any existing public building, landscaping scheme or street plan may be secured by a similar competition. Such competition shall be conducted under rules prescribed by the board and may be of any type which meets the competition standards of the American Institute of Architects. Designs selected shall become the property of the state of Minnesota and the board may award one or more premiums in each such competition and may pay such costs and fees as may be required for the conduct thereof. At the option of the board, plans for projects estimated to cost less than \$500,000 may be approved without competition provided such plans have been considered by the architectural committee described in clause (f). Plans for projects estimated to cost less than \$200,000 and for construction of streets need not be considered by the architectural committee if in conformity with the comprehensive plan.

(f) The board shall not adopt any plan under clause (e) hereof unless it shall first receive the comments and criticism of a committee of three architects who have been selected and appointed as follows: one by the board of the arts, one by the board, and one by the Minnesota Society of the American Institute of Architects. Members of such committee shall not be contestants under clause (e) hereof. Such comments and criticism shall be a matter of public information. Such committee shall advise the board on all architectural and planning matters. For that purpose:

(1) Such committee shall be kept currently informed concerning, and have access to, all data, including all plans, studies, reports and proposals, relating to the area as the same are developed or in the process of preparation whether by the commissioner of administration, the state planning director, the metropolitan council, the city of Saint Paul, or by any architect, planner, agency or organization, public or private, retained by the board or not retained and engaged in any work or planning relating to the area. A copy of any such data prepared by any public employee or agency shall be filed with the board promptly upon completion;

(2) The board may employ such stenographic or technical help as may be reasonable to assist such committee perform its duties;

(3) When so directed by the board; such committee may serve as, and any member or members thereof may serve on, the jury or as professional advisor for any architectural competition. The board shall select the architectural advisor and jurors for any competition with the advice of the committee.

(g) The comprehensive plan for the area shall be developed and maintained in close cooperation with the state planning agency and the planning department and the council for the city of Saint Paul and the board of the arts, and no such plan or

amendment thereof shall be effective without 90 days' notice to the planning department of the city of Saint Paul and the board of the arts.

(h) The board and the commissioner of administration jointly, shall prepare, prescribe, and from time to time revise standards and policies governing the repair, alteration, furnishing, appearance and cleanliness of the public and ceremonial areas of the state capitol building. Pursuant to this power, the board shall consult with the director of the Minnesota state historical society and receive his advice regarding the historic fidelity of plans for the capitol building. The standards and policies developed as herein provided shall be binding upon the commissioner of administration. The provisions of sections 15.0411 to 15.0426 shall not apply to this clause.

(i) The board in consultation with the commissioner of administration shall prepare and submit to the legislature and the governor no later than October 1 of each even-numbered year a report on the status of implementation of the comprehensive plan together with a program for capital improvements and site development, and the commissioner of administration shall provide the necessary cost estimates for such a program.

(j) The state shall, by the attorney general upon the recommendation of the board and within appropriations available for that purpose, acquire by gift, purchase or eminent domain proceedings any real property situated in the area described in this section and it shall also have the power to acquire an interest less than a fee simple interest in the property, if it finds that it is needed for future expansion or beautification of the area.

(k) The board is the successor of the state veterans' service building commission, and as such may adopt regulations and may reenact the regulations adopted by its predecessor under Laws 1945, Chapter 315, and acts amendatory thereof.

(l) The board shall meet at the call of the chairman and at such other times as it may prescribe.

(m) The commissioner of administration is authorized to and shall assign quarters in the state veterans service building to (1) the department of veterans affairs of which such part as the commissioner of administration and commissioner of veterans affairs may mutually determine shall be on the first floor above the ground and (2) the American Legion, Veterans of Foreign Wars, Disabled American Veterans, Military Order of the Purple Heart, United Spanish War Veterans, and Veterans of World War I, and their auxiliaries, incorporated, or when incorporated, under the laws of the state, and (3) as space becomes available to such other state departments and agencies as he may deem desirable.

Subd. 2a. The membership terms, compensation, removal of members and filling of vacancies on the board shall be as provided in section 15.0575.

Subd. 3. The administrative and planning expenses of the board shall be borne by the state. The expenses of the board for competition premiums, land acquisition or improvement or any other capital expenditures in or upon properties owned or to be owned by the state shall be borne by the state. The expenses of any other public body for such expenditures shall be borne by the body concerned. The city of Saint Paul may expend moneys currently in the city of Saint Paul Capitol Approach Improvement Fund established by Laws 1945, Chapter 315, and acts amendatory thereof for capital improvements contained in the city's approved capital improvement budget. The budget is to be adopted in accordance with provisions contained in the city charter.

Subd. 4. [Repealed, 1974 c 580 s 18]

Subd. 5. The moneys appropriated to the board are subject to the requirements of budget and allotment as prescribed by chapter 16A. Except for budgeting and allotting the board shall be subject to none of the provisions of chapters 16 or 16A.

Subd. 6. (a) The city of Saint Paul shall have the power to convey without compensation therefor to the state any property owned by it within the boundaries of the capitol area pursuant to the plan adopted by the board; and the state shall have the authority to transfer to the city of Saint Paul without compensation any property acquired by it for the purposes of Laws 1969, Chapter 1150, which lies within the street lines of the streets to be established as a part of the city's portion of said plan.

(b) The tax-forfeited lands which are held by the state in trust for the several taxing subdivisions of the state and which are within the boundaries of the capitol

area as fixed by the plan recommended to the governor by the governor's advisory committee or by the plan adopted by the board as provided in Laws 1969, Chapter 1150, shall not be subject to sale or repurchase under any act, now in effect or hereafter enacted unless it shall be expressly provided in such act that the provisions of Laws 1969, Chapter 1150, shall be superseded, modified or repealed.

(c) [Repealed, 1974 c 435 art 6 s 1]

(d) The commissioner of revenue shall have power upon application by the board to release any lands referred to in clause (b) from the trust in favor of the taxing subdivisions of the state. Upon the execution of such release, the commissioner shall certify the fact of such release to the county auditor of Ramsey county. The forms of such release and certificate shall be prescribed by the attorney general.

(e) Neither any member of the board, nor any person employed or retained by the board shall have any financial interest, direct or indirect, in any business enterprise or activity, or in the construction or maintenance of facilities for such enterprise or activity, within the capitol area for which approval of the board is in any way required by law. Any person violating the provisions of this paragraph shall be guilty of a gross misdemeanor.

Subd. 7. No advertising devices may be erected after June 10, 1969, within the boundaries of the capitol area unless done so pursuant to reasonable rules and regulations of the board. "Advertising device" means any billboard, sign, poster, display or other device visible to and primarily intended to advertise or to attract, and shall include any structure erected primarily for use in connection with the display of any such device and all lighting or other attachments used in connection therewith. Advertising devices to advertise a business conducted on the premises where the advertising device is located may be permitted and erected in accordance with reasonable rules and regulations established by the board. Advertising devices which do not meet the requirements of the rules and regulations may be ordered by the board to be removed. The owner of the advertising device and the owner of the real property involved shall be paid just compensation for their interests affected.

Any person who shall violate the provisions of this section shall be guilty of a misdemeanor.

Subd. 8. [Repealed, 1974 c 580 s 18]

[*Ex1967 c 13 s 13; 1969 c 399 s 1; 1969 c 1150 s 1-6; 1971 c 25 s 9,10; 1971 c 926 s 1-3; 1973 c 501 s 1; 1973 c 582 s 3; 1974 c 580 s 4-7; 1975 c 271 s 6; 1976 c 134 s 6,7; 1976 c 234 s 6; 1976 c 239 s 129,130; 1977 c 410 s 2*]

INTERCHANGE OF

GOVERNMENT EMPLOYEES

15.51 DECLARATION OF POLICY. The state of Minnesota recognizes that intergovernmental cooperation is an essential factor in resolving problems affecting this state and that the interchange of personnel between and among governmental agencies at the same or different levels of government is a significant factor in achieving such cooperation.

[*Ex1967 c 46 s 1*]

15.52 DEFINITIONS. Subdivision 1. For the purposes of sections 15.51 to 15.57 the following words and phrases have the meanings ascribed to them in this section.

Subd. 2. "Sending agency" means any department, political subdivision or agency of the federal government or a state government which sends any employee thereof to another government agency under sections 15.51 to 15.57.

Subd. 3. "Receiving agency" means any department, political subdivision or agency of the federal government or a state government which receives an employee of another government agency under sections 15.51 to 15.57.

[*Ex1967 c 46 s 2; 1969 c 1140 s 1,2*]

15.53 AUTHORITY TO INTERCHANGE EMPLOYEES. Subdivision 1. No department, agency, political subdivision or instrumentality of the state is authorized to participate in a program of interchange of employees with departments, agencies, or instrumentalities of the federal government, the state, or another state, as a sending or receiving agency except in accordance with sections 15.51 to 15.57.

Subd. 2. The period of individual assignment or detail under an interchange program shall not exceed 24 months, nor shall any person be assigned or detailed for more than 24 months during any 36 month period. Details relating to any matter covered in sections 15.51 to 15.57 may be the subject of an agreement between the sending and receiving agencies. Elected officials shall not be assigned from a sending agency nor detailed to a receiving agency.

[Ex1967 c 46 s 3; 1969 c 1140 s 3; Ex1971 c 48 s 11 subd 1]

15.54 STATUS OF EMPLOYEES OF THIS STATE. Subdivision 1. Employees of a sending agency participating in an exchange of personnel as authorized in section 15.53 may be considered during such participation to be on detail to regular work assignments of the sending agency.

Subd. 2. Employees who are on detail shall be entitled to the same salary and benefits to which they would otherwise be entitled and shall remain employees of the sending agency for all other purposes except that the supervision of their duties during the period of detail may be governed by agreement between the sending agency and the receiving agency.

Subd. 3. Any employee who participates in an exchange under the terms of this section who suffers disability or death as a result of personal injury arising out of and in the course of an exchange, or sustained in performance of duties in connection therewith, shall be treated, for the purposes of the sending agency's employee compensation program, as an employee, as defined in such act, who has sustained such injury in the performance of such duty, but shall not receive benefits under that act for any period for which he is entitled to and elects to receive similar benefits under the receiving agency's employee compensation program.

[Ex1967 c 46 s 4]

15.55 TRAVEL EXPENSES OF EMPLOYEES OF THIS STATE. A sending agency in this state may, in accordance with the travel regulations of such agency, pay the travel expenses of employees assigned to a receiving agency on either a detail or leave basis, but shall not pay the travel expenses of such employees incurred in connection with their work assignments at the receiving agency. During the period of assignment, the sending agency may pay a per diem allowance to the employee on assignment or detail. Such per diem allowance shall be in lieu of, but not to exceed, the travel expense allowable under state travel rules promulgated by the commissioner of personnel.

[Ex1967 c 46 s 5; 1977 c 347 s 7]

15.56 STATUS OF EMPLOYEES OF OTHER GOVERNMENTS. Subdivision 1. When any unit of government of this state acts as a receiving agency, employees of the sending agency who are assigned under authority of sections 15.51 to 15.57 may be considered to be on detail to the receiving agency.

Subd. 2. Appointments of persons so assigned may be made without regard to the laws or regulations governing the selection of employees of the receiving agency. Such person shall be in the unclassified service of the state.

Subd. 3. Employees who are detailed to the receiving agency shall not by virtue of such detail be considered to be employees thereof, except as provided in subdivision 4. The salary and supervision of the duties of such employees during the period of detail may be governed by agreement between the sending agency and the receiving agency.

Subd. 4. Any employee of a sending agency assigned in this state who suffers disability or death as a result of personal injury arising out of and in the course of such assignment, or sustained in the performance of duties in connection therewith, shall be treated for the purpose of receiving agency's employee compensation program, as an employee, as defined in such act, who has sustained such injury in the performance of such duty, but shall not receive benefits under that act for any period for which he elects to receive similar benefits as an employee under the sending agency's employee compensation program.

Subd. 5. Sending and receiving agencies may contract for the services of interchanged employees and by contract arrange for the method and amount of payment for employees and other terms of their employment, so far as not governed by sections 15.51 to 15.57. Any interchange of employees contemplated by a department,

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agency, or instrumentality of the state which is subject to the provisions of chapter 16, shall be submitted for review to the commissioner of administration before arrangements are entered into for such interchange.

Subd. 6. Consultants who are not full time employees may be paid by both the sending and receiving agencies, but not for the same work. Sections 15.51 to 15.57 shall not affect the method of paying or employing persons for full time or part time service in the military service of the state or the United States.

[Ex1967 c 46 s 6; 1969 c 1140 s 4,5; 1975 c 276 s 1]

15.57 TRAVEL EXPENSES OF EMPLOYEES OF OTHER GOVERNMENTS. A receiving agency in this state may, in accordance with the travel regulations of such agency, pay travel expenses of persons assigned thereto under sections 15.51 to 15.57 during the period of such assignments on the same basis as if they were regular employees of the receiving agency.

[Ex1967 c 46 s 7]

15.58 AGREEMENTS BETWEEN FEDERAL AND RECEIVING AGENCIES. Notwithstanding the provisions of sections 15.51 to 15.57, a receiving agency in this state participating in an interchange of employees under the Intergovernmental Personnel Act of 1970 may enter into a written agreement with a federal agency. Such agreement may provide for the state agency to pay all or a portion of the salary and fringe benefits of the federal employee assigned. Such payments may be made directly to the employee or as reimbursement to the federal agency.

[Ex1971 c 48 s 11 subd 2]

15.59 EMPLOYEE INTERCHANGE BETWEEN STATE AND PRIVATE INDUSTRY. In addition to the interchange of government employees, any department, political subdivision or agency of state government and private industry may serve as sending and receiving agencies as provided in section 15.52, and interchange employees pursuant to the requirements of sections 15.53 to 15.57.

[1974 c 320 s 1]

EMPLOYMENT UNDER FEDERAL

EMPLOYMENT ACTS

15.61 UNEMPLOYED AND UNDEREMPLOYED; EMPLOYMENT BY STATE AND OTHER GOVERNMENTAL UNITS. Subdivision 1. The state of Minnesota, its departments, agencies and instrumentalities, and any county, city, town, school district or other body corporate and politic, may employ unemployed and underemployed persons as defined in the federal Emergency Employment Act of 1971, as amended, and Comprehensive Employment and Training Act of 1973, as amended, pursuant to the terms of those acts.

Subd. 2. The provisions of Minnesota Statutes 1969, Sections 197.45 to 197.48 and 43.30 and any other law or ordinance relating to preference in employment and promotion of persons having served in the armed services, the provisions of any law, rule or regulation, the provisions of any city charter or any ordinance or resolution, or the provisions of any other law or statute in conflict with the provisions of the federal Emergency Employment Act of 1971, as amended, and Comprehensive Employment and Training Act of 1973, as amended, shall not be applicable to the employment of the persons specified in subdivision 1.

Subd. 3. [Repealed, 1977 c 455 s 95]

[Ex1971 c 25 s 1; 1974 c 511 s 15; 1975 c 2 s 1; 1975 c 271 s 6]

15.62 ATHLETIC LEAVE OF ABSENCE. Subdivision 1. For the purposes of this section, the terms defined in this subdivision shall have the meanings here given them:

(a) "public employee" has the meaning given it in section 179.63;

(b) "team" includes any group leader, coach, official or athlete who comprise the official delegation of the United States to world or olympic competition.

Subd. 2. A public employee who qualifies as a member of the United States team for athletic competition on the world, Pan American or olympic level, in a sport con-

tested in either Pan American or olympic competitions, shall be granted a leave of absence without loss of pay or other benefits or rights for the purpose of preparing for and engaging in the competition. In no event shall the paid leave under this section exceed the period of the official training camp and competition combined or 90 calendar days a year, whichever is less.

Subd. 3. If the public employee granted the leave is an employee of a school district or other political subdivision, the state shall reimburse the employer for the actual cost to the employer of employing a substitute. There is appropriated the sum of \$17,596 to the department of finance for the purpose of this section, and shall be available during the biennium ending June 30, 1979.

[1977 c 354 s 1]