

CHAPTER 16

DEPARTMENT OF ADMINISTRATION

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16.01 COMMISSIONER OF ADMINISTRATION. The department of administration shall be under the supervision and control of a commissioner of administration, in chapter 16 also referred to as the commissioner.

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The commissioner shall be appointed by the governor under the provisions of section 15.06.

[1939 c 431 art 2 s 1; 1949 c 739 s 1; 1951 c 713 s 3; 1969 c 1129 art 8 s 1; 1974 c 406 s 4; 1977 c 305 s 6] (53-4a)

16.011 STATE AGENCY. As used in this chapter, the term "agency of the state" or "state agency" means and includes every department, board, commission, officer, employee, and other agency of the state, including, without limiting the general effect of the foregoing, state universities, state hospitals, state penal institutions, and other state institutions, enterprises, and activities, wherever located, but excepting the regents of the state university and persons and institutions under their control, and excepting all cities, towns, counties, school districts, and other municipal corporations or political subdivisions of the state, and excepting the professional and regulatory examining and licensing boards enumerated in Mason's Minnesota Statutes of 1927, Chapter 35, and the 1938 Supplement to Mason's Minnesota Statutes of 1927, Chapter 35.

[1939 c 431 art 2 s 2; 1957 c 576 s 1,2; 1973 c 123 art 5 s 7; 1975 c 321 s 2] (53-4b)

16.012 LEASE OF SPACE IN CERTAIN STATE BUILDINGS TO STATE DEPARTMENTS. The commissioner of administration may lease portions of the state owned buildings in the capitol complex, the capitol square building, the health building, and the building at 1246 University Avenue, St. Paul, Minnesota, to state departments and agencies and charge rent therefor on the basis of space occupied. Notwithstanding the provisions of any law to the contrary, all moneys collected as rent pursuant to the terms of this section shall be deposited in the state treasury. Moneys collected as rent for the purpose of recovering depreciation costs of buildings built with state dedicated funds shall be credited to the dedicated funds which funded the original acquisition or construction. All other moneys received shall be credited to the general fund.

[1959 c 28 s 1; 1969 c 399 s 1; 1975 c 204 s 68]

16.014 REGIONAL SERVICE CENTER; STATE AGENCIES; COMMISSIONER OF ADMINISTRATION, LEASING AUTHORITY. Subdivision 1. The commissioner of administration may establish a regional service center on a demonstration basis. The state planning agency and the regional development commission of region No. 2 shall cooperate with the commissioner in establishing the service center. The commissioner shall determine which state agencies shall be included in the service center. The commissioner may determine equitable methods of sharing space, personnel and equipment for the agencies he selects to participate in the demonstration service center.

Subd. 2. The commissioner may enter into a rental lease for a base term of five years with a five year leasehold renewal option for the purpose of acquiring suitable space for the service center.

Subd. 3. The commissioner with the assistance of the state planning agency shall submit a report to the legislature on the progress of the service center demonstration program not later than January 1, 1977.

[1975 c 416 s 1]

16.015 [Repealed, 1978 c 792 s 29]

16.016 [Repealed, 1978 c 792 s 29]

16.02 POWERS, DUTIES. Subdivision 1. Subject to other applicable provisions of Laws 1939, Chapter 431, as amended, and to other laws not inconsistent therewith, the commissioner shall have the powers and duties respecting all agencies of the state as set forth in this section.

Subd. 2. To purchase, rent, or otherwise provide for the furnishing of all supplies, materials, equipment, printing, and utility services, prescribe standard specifications therefor, to provide for inspecting and testing the same, and otherwise to enforce compliance with such specifications; to prescribe and designate classes of state printing. The commissioner may also lease, rent or sell equipment, supplies and services to any state department or agency.

Subd. 2a. To supervise and control all state telecommunication facilities which shall include any transmission, emission or reception of signs, signals, writing, images and sounds or intelligence of any nature by wire, radio, optical or other electromagnetic systems. Nothing in this subdivision shall be construed as modifying, amending,

or abridging any powers and duties presently vested in or imposed upon the commissioner of transportation or the commissioner of public safety relating to telecommunications facilities or the commissioner of transportation relating only to radio air navigation facilities or other air navigation facilities.

Subd. 3. To prescribe time, manner, authentication, and form of making requisitions for supplies, materials, equipment, printing, and utility services and the manner and form in which claims therefor shall be submitted, allowed, and paid.

Subd. 4. To supervise and control the making of all contracts for building, highways, and other improvements, and to prescribe the amount of certified checks, deposits, or bonds to be submitted in connection with bids and contracts, when not otherwise provided for by law.

Subd. 5. To cause to be prepared plans and specifications for the construction, alteration, or enlargement of all state buildings, structures, and other improvements except highways and bridges; to approve such plans and specifications; provided that the preparation of such plans and specifications for the capitol area as defined in Minnesota Statutes 1971, Section 15.50 shall not be initiated, contracted for, or conducted without consultation with the capitol area architectural and planning board insofar as such plans and specifications involve the public and ceremonial areas and the exterior of the capitol building and the lobbies, public concourses, and other features of other public buildings in the capitol area which the capitol area architectural and planning board may deem to possess architectural significance, and provided further that the commissioner shall not approve or adopt any such plans and specifications for the capitol area unless such plans and specifications have received the approval of the capitol area architectural and planning board; to advertise for bids and award all contracts in connection with such improvements; to supervise and inspect all work relating thereto; after any contract for such an improvement is let, to approve all lawful changes in plans and specifications, provided that the capitol area architectural and planning board is advised of and gives its approval to, all such changes affecting projects within the capitol area as provided for in this subdivision; to approve estimates for payment; and to accept such improvements when completed according to such plans and specifications.

Subd. 5a. Subdivision 5 shall not apply to the construction of the Minnesota zoological gardens except with respect to the letting of competitive bids.

Subd. 6. To maintain and operate the state capitol building and grounds, subject to whatever standards and policies may be set for the appearance and cleanliness thereof by the capitol area architectural and planning board and the commissioner of administration pursuant to section 15.50, subdivision 2, clause (h), state office building, historical society building, the Normandale, Anoka-Ramsey, North Hennepin, Lakewood, Metropolitan, and South East Metropolitan Community Colleges, the employment services buildings in Minneapolis and St. Paul, the state department of health building, the surplus property building, and the grounds appertaining thereto, also, where deemed advisable and practicable by the commissioner, any other building or premises owned or rented by the state for the use of any state department or other administrative agency; provided, that this shall not apply to state hospitals or to educational, penal, correctional, or other institutions not enumerated in this subdivision the control of which is vested by law in some other agency.

Subd. 6a. To maintain and operate the state owned buildings in the capitol complex, the state department of health building, the employment services building, and the grounds appertaining thereto, also, where deemed advisable and practicable by the commissioner, any other building or premises owned or rented by the state for the use of any state department or other administrative agency; provided, that this shall not apply to state hospitals or to educational, penal, correctional, or other institutions the control of which is vested by law in some other agency. The commissioner may purchase and furnish suitable uniforms for employees of the department when, in the opinion of the commissioner, a uniform is desirable and necessary.

Subd. 6b. To establish rental rates for all living accommodations provided by the state for its employees. All moneys collected as rent by state agencies pursuant to this subdivision shall be deposited in the state treasury and credited to the general fund.

Subd. 7. To provide for the periodical inspection and appraisal of all state property, real and personal, and for keeping current and perpetual inventories thereof, and to require all departments and agencies to make reports of the real and personal property in their custody at such intervals and in such form as he may deem necessary.

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Subd. 8. To inspect all state power, heating, and lighting plants, and to make such rules regulating the operation thereof and to recommend such improvements therein as will promote economical and efficient operation.

Subd. 9. To supervise and control the making of necessary repairs to all state buildings and structures, except structures, other than buildings, under the control of the state transportation department; provided that all repairs to the public and ceremonial areas and the exterior of the state capitol building shall be carried out subject to the standards and policies of the capitol area architectural and planning board and the commissioner of administration adopted pursuant to section 15.50, subdivision 2, clause (h).

Subd. 10. To rent land and other premises when necessary for state purposes. No such land or premises shall be rented for a term exceeding two years at a time; except that, with the approval of the legislative advisory commission, the commissioner may lease land or premises for a term not exceeding five years, subject to cancellation upon 30 days written notice by the state for any reason except rental of other land or premises for the same use; provided further that the rental of non-state owned land and buildings, or substantial portions thereof, by the commissioner within the capitol area as defined in section 15.50 shall not take place unless the commissioner first consults with the capitol area architectural and planning board. Lands needed by the department of transportation for storage of vehicles or road materials may be rented for a term not exceeding five years without the approval of the legislative advisory commission, such leases for terms over two years being subject to cancellation upon 30 days written notice by the state for any reason except rental of other land or premises for the same use.

Subd. 11. [Repealed, 1973 c 492 s 33]

Subd. 12. [Repealed, 1973 c 492 s 33]

Subd. 13. To provide for the printing and distribution of official reports, and other publications of all kinds, and to supervise and control the form of such reports and publications so as to coordinate them, avoid duplications, and make them useful and informative to the public.

Subd. 14. To rent out, with the approval of the governor, any state property, real or personal, not needed for public use, the rental of which is not otherwise provided for or prohibited by law. This shall not apply to state trust fund lands, or other state lands under the jurisdiction of the department of natural resources, or to lands forfeited for delinquent taxes or to lands acquired under section 298.22. No such property shall be rented out for a term exceeding two years at a time without the approval of the state executive council; and no such property shall ever be rented out for more than 25 years.

Subd. 15. To have charge of all central store rooms and supply rooms serving more than one department now or hereafter established and operated by the state.

Subd. 16. To maintain and operate for state departments and agencies a central mailing service, and a duplicating and printing division in which all duplication and printing shall be done; to require that all equipment now or hereafter owned by the state be turned into the central duplicating and printing division for use therein with the following exceptions:

(a) duplicating machines may be used by any department, institution, or state agency not located in St. Paul or Minneapolis, or by the state division of emergency services, or by the attorney general, or by the bureau of criminal apprehension in the administration of police training;

(b) the department of personnel may continue to produce work of confidential nature on their own duplicating machines;

(c) the department of public service may utilize a duplicating machine for the purpose of issuing its orders and other work which is confidential until the time of its release;

(d) the board of investment may lease or purchase a duplicating machine.

The duplicating and printing work to be done by the duplicating and printing division shall be restricted to producing any form, booklet or pamphlet to the extent deemed appropriate by the commissioner of administration.

The terms "duplicating and printing" as used in this subdivision means that material produced by use of stencils, masters and plates.

NOTE: See Laws 1975, Chapter 204, Section 49 for authority of state board of investment.

Subd. 17. To sell all public books and documents which are subject to sale.

Subd. 18. To transfer to or between state departments and agencies or to sell supplies, materials, and equipment which are surplus, obsolete, or unused, making proper adjustments in the accounts and appropriations of the departments or agencies concerned.

Subd. 19. To purchase from the state penal institutions, University of Minnesota printing department and other state institutions all articles manufactured by them which are usable by the state.

Subd. 20. [Repealed, 1973 c 507 s 47]

Subd. 20a. [Repealed, 1973 c 653 s 47]

Subd. 21. [Repealed, 1977 c 410 s 19]

Subd. 22. [Repealed, 1973 c 507 s 47]

Subd. 23. [Repealed, 1963 c 766 s 3]

Subd. 24. To provide for the sale and distribution of copies of laws and resolutions on file in the office of the secretary of state in accordance with the provisions of this subdivision, and as soon as practicable after their enactment:

(a) The commissioner shall establish charges for such laws and resolutions sufficient to cover the cost thereof but not exceeding 25 cents for laws or resolutions of two pages or less or 15 cents per page for each page in addition to two.

(b) Fees established for the sale and distribution of laws and resolutions, including mailing and postage charges, may be accepted by the commissioner of administration in advance, and any unused portions amounting to one dollar or more may be returned to the person entitled thereto upon request, notwithstanding the provision of any other law prohibiting refunds;

(c) The secretary of state and the revisor of statutes shall cooperate with the commissioner of administration in order that he may furnish the services provided for in this subdivision;

(d) Moneys collected by the commissioner of administration under this subdivision shall be deposited in the central services revolving fund in the state treasury. Moneys in such fund are hereby appropriated annually to the commissioner for the purposes of carrying out the provisions of this subdivision.

Subd. 25. To raze unsightly or unsuitable buildings on, to fill excavations in, and to grade, land acquired in the capitol area and to pay the costs thereof from the appropriation for the land acquisition; to prepare sites for construction when construction is specifically authorized by law provided that the costs of such preparation may be paid from the appropriation for the construction. No activity or expenditure shall be commenced under this subdivision until the commissioner has consulted with and received the approval of the capitol area architectural and planning board.

Subd. 26. To undertake all necessary administrative functions of any state board, agency or commission which has been temporarily or permanently dissolved or suspended. Such functions may include but not be limited to: authorizing payment of all obligations of the dissolved or suspended agency including payroll certifications, serving as custodian for and disposing of all property of such an agency, and, in the event that the subject agency is only temporarily dissolved or suspended, serving as chief administrative officer thereof with all powers necessary thereto until the agency is reconstituted. To implement the responsibilities set forth herein the commissioner of administration is authorized to expend any necessary moneys from a dissolved or suspended agency's appropriation and may, at his discretion, delegate his functions pursuant to this subdivision to any state agency, officer or employee.

[1939 c 431 art 2 s 3; 1941 c 381 s 1; 1941 c 392 s 1; 1943 c 270 s 1,2; 1943 c 359 s 1; 1945 c 65 s 1; 1945 c 446 s 1,2; 1947 c 365 s 5; 1953 c 745 s 5; 1955 c 323 s 1; 1955 c 547 s 1; 1961 c 557 s 1; 1965 c 599 s 1; 1969 c 399 s 1; 1969 c 554 s 1; 1969 c 567 s 3; 1969 c 780 s 1; 1969 c 957 s 3; 1969 c 976 s 6; 1969 c 1129 art 3 s 1; 1969 c 1139 s 67,68; 1971 c 25 s 67; 1971 c 902 s 1; 1973 c 37 s 1; 1973 c 254 s 3; 1973 c 349 s 2; 1973 c 507 s 45; 1973 c 720 s 70; 1974 c 184 s 3; 1974 c 260 s 1; 1974 c 315 s 1; 1974 c 428 s 5; 1974 c 580 s 8-11; 1975 c 81 s 1,2; 1975 c 239 s 1; 1975 c 271 s 6; 1976 c 163 s 2; 1976 c 166 s 7; 1976 c 239 s 8; 1977 c 414 s 3-7] (53-18b)

16.021 PERMITS TO SEARCH FOR LOST PROPERTIES. Upon application therefor the commissioner of administration, referred to in sections 16.021 to 16.023 as the commissioner, is hereby authorized to grant a permit to search upon lands owned by the state for abandoned or lost property.

The commissioner may grant such permit upon such terms and conditions, including the division between the state and finder of the proceeds from such property, if unclaimed by the rightful owner, as he may deem proper. The commissioner may require from the applicant a bond conditioned upon the payment to the state of any damage to the premises whereon such search is to be conducted and for the faithful performance of the terms and conditions upon which such permit is granted.

[1943 c 357 s 1]

16.022 CUSTODY OF PROPERTY FOUND. All such lost or abandoned property, if found, shall be placed in the custody of the commissioner and held by him subject to the following provisions. If the rightful owner of such property is known to the commissioner, no publication of notice of the finding of such property shall be necessary. Notice shall be given to such owner by certified mail of the finding of such property and upon the payment by the owner of all expenses incurred in the search therefor such property shall be turned over to him. If the owner of such lost or abandoned property is unknown, the commissioner shall give two weeks' published notice in the county where such property is found of the finding thereof and elsewhere as the commissioner may determine. If within six months after the publication of such notice or the giving of notice by him the rightful owner thereof claims the property, it shall be turned over to him upon payment of the expenses incurred in finding the same and the cost of the publication of such notice.

If such property is not claimed within the time provided in this section, the commissioner, if such property is not money, is authorized if he determines the property to have sufficient value to have such property sold at public sale after two weeks' published notice thereof in the county wherein such property has been found and in such other newspapers as he may deem advisable. If the commissioner determines the property to not have sufficient value to justify the cost of publication and the expense of public sale he may destroy the property or dispose of it as state surplus property.

[1943 c 357 s 2; 1965 c 676 s 1; 1974 c 184 s 4; 1978 c 674 s 60]

16.023 STATE'S SHARE OF PROPERTY FOUND PUT INTO GENERAL FUND. All lost or abandoned moneys found under the permit granted hereunder, and the proceeds from the sale of other abandoned or lost property found under such permit, shall be deposited in the general fund. The commissioner shall authorize in a manner provided by law the payment to the finder of the share due him under the terms and conditions provided when permission to search therefor was granted.

[1943 c 357 s 3; 1969 c 399 s 1; 1977 c 403 s 1]

16.0231 LOST OR ABANDONED PROPERTY. Any lost or abandoned property found in buildings or on lands belonging to or under the control of the state of Minnesota including but not limited to highway right of ways and placed in the custody of the commissioner of administration shall be disposed of in accordance with section 16.022, so far as applicable, except that if the commissioner determines the property to not have sufficient value to justify the cost of publication and the expense of public sale he may destroy the property or dispose of it as state surplus property.

[1965 c 676 s 2; 1967 c 857 s 1; 1974 c 184 s 5]

16.024 REVOLVING ACCOUNT. Subdivision 1. **Creation.** There is hereby created in the general services revolving fund an account for the purpose of carrying on repair, centralized operation, maintenance exclusive of janitorial service, and improvement activities in connection with state property including buildings and other structures. Upon the certification of the commissioner of administration, the commissioner of finance shall, effective June 30, 1969, make appropriate entries on his books to make the administration revolving fund created by Laws 1943, Chapter 440, an account in the general services revolving fund to be used for the purpose of financing the foregoing activities.

Subd. 2. **Appropriations.** Such account shall consist of the \$5,000 heretofore appropriated therefor, any appropriations now or hereafter made, and the moneys transferred to it as herein provided which are reappropriated to the commissioner of administration for the purposes of sections 16.024 and 16.025. There is hereby appropriated out of the general fund in the state treasury the sum of \$50,000 to be added to the general services revolving fund and used by the commissioner of administration for the purposes of sections 16.024 and 16.025.

Subd. 3. **Where kept.** Such fund shall be in the state treasury and shall be paid out in the manner prescribed by law for moneys therein.

Subd. 4. **Uses.** Such fund shall be used for the purchase of raw materials, payment of salaries, wages, and other expenses necessary and proper in the conduct of the activities provided for in sections 16.024 and 16.025.

[1943 c 440 s 1-4; 1969 c 399 s 1; 1969 c 976 s 1,2; 1973 c 492 s 14]

16.025 PERFORMANCE OF CERTAIN WORK FOR STATE AGENCIES. Subdivision 1. **Nature of work.** The commissioner of administration may repair, alter, or construct machinery, furniture, or other property for any officer, department, or agency of the state, or construct any partition or alter any arrangement of an office upon written requisition by such officer or the head of such department or agency. Any such requisitions involving the public or ceremonial areas of the state capitol building shall be executed in conformance with the policies and standards set for the capitol by the capitol area architectural and planning board and the commissioner of administration pursuant to section 15.50, subdivision 2, clause (h). Such requisition shall be subject to the allotment and encumbrance provisions of Laws 1939, Chapter 431. In addition to the foregoing, the commissioner may provide centralized operation and maintenance services, excluding janitorial cleaning, for such state owned buildings as are specified in section 16.02, subdivision 6. The commissioner shall charge and collect for such services in the manner prescribed in subdivision 3 for repairs, alteration, or construction.

Subd. 2. [Repealed, 1977 c 455 s 95]

Subd. 3. **Request for transfer from fund to appropriation item.** When the commissioner of administration shall have paid from his appropriation for salaries, supplies or expense for any materials or labor used for the purposes of sections 16.024 and 16.025, he shall request the commissioner of finance to transfer the amount thereof from the proper appropriation of the department or agency to the appropriation item from which it was paid and the commissioner of finance is hereby authorized to make such transfer.

[1943 c 440 s 5; 1969 c 976 s 3-5; 1973 c 492 s 14; 1974 c 580 s 12; 1975 c 271 s 6; 1977 c 455 s 70]

16.026 STATE AGENCY REPORTS. Subdivision 1. **Supervision by commissioner.** The commissioner of administration shall supervise and control the making and distribution of all reports required by Laws 1955, Chapter 847, and shall prescribe the manner and form of issuing the same.

Subd. 2. **Supervision of publications.** The commissioner of administration shall supervise and control the making and distribution of publications of all kinds issued by the State of Minnesota and the departments and agencies thereof when not otherwise prescribed by law.

Subd. 3. **Prescribe fees.** The commissioner of administration may prescribe a schedule of fees to be charged for services rendered by the state or any department or agency thereof in furnishing to applicants therefor certified copies of records or other documents, certifying as to the nonexistence of such records or documents, and for such other reports, publications, or related material as may be applied for. The fees so prescribed by the commissioner of administration, unless the same are otherwise prescribed by law, shall be in an amount as nearly as may be to the fees prescribed by chapter 357, for like or similar services; if there are no fees so prescribed by said chapter for a like or similar service, then the commissioner may establish a fee which shall be commensurate with the cost of furnishing such service. Nothing herein contained shall authorize the commissioner to furnish any service which is now prohibited or unauthorized by law.

Subd. 4. **Sale of publications.** The commissioner of administration may sell official reports and other publications of all kinds and may delegate the sale thereof to

state departments and agencies and to establish facilities therefor within the department of administration and elsewhere within the state service.

Subd. 5. [Repealed, 1977 c 410 s 19]

Subd. 6. **Exceptions.** Laws 1955, Chapter 847, shall not apply to the Regents of the University of Minnesota or to the State Agricultural Society.

Subd. 7. **Rules.** The powers conferred herein to the commissioner of administration are in addition to those powers and duties prescribed by section 16.02. The commissioner of administration shall promulgate rules and regulations for the purposes of carrying out the duties herein imposed upon him but no such rule or regulation shall in any way limit the subject matter of any report or publication of any department or agency required to be made or authorized by law.

[1955 c 847 s 30-36; 1965 c 51 s 2]

NOTE: See also section 16.80.

16.027 [Renumbered 16A.17]

16.028 ADDITIONAL POWERS. Subdivision 1. In addition to the other powers, duties and responsibilities of the commissioner of administration, he may appoint one deputy commissioner, and a confidential secretary, each of whom shall serve at the pleasure of the commissioner in the unclassified service.

Subd. 2. The governor, unless otherwise provided by law, may delegate to the commissioner of administration the administration of such programs and projects of the office of the governor directed by either state or federal law, or which may be made available to the state under a grant of funds either public or private. Unless specifically prohibited by law, the governor may delegate to the commissioner of administration general supervision of any program or activity of any state department or agency the head of which is either appointed by the governor or by a gubernatorially appointed board. The provisions of this subdivision shall not be construed as authority to transfer programs or activities, or part of them, from one department to another.

[1973 c 492 s 11; 1977 c 305 s 7]

16.03 DEFINITIONS. Subdivision 1. **Terms.** Unless the language or context clearly indicates that a different meaning is intended, the following terms shall, for the purposes of sections 16.01, 16.02, and 16.03 to 16.23, be given the meanings subjoined to them.

Subd. 2. **Supplies, materials, and equipment.** The terms "supplies," "materials," and "equipment" mean and include any and all articles and things used by or furnished to any department or agency of the state government, including printing, binding, and publication of books and records, repairs, and improvements.

Subd. 3. **Utility services.** The term "utility services" means and includes any and all telephone, telegraph, postal, electric light, and power service, and any and all other services required for the maintenance, operation, and upkeep of buildings and offices.

[1939 c 431 art 2 s 4] (53-18c)

16.04 ENUMERATION NOT EXCLUSIVE. The enumeration of the things specified in section 16.03 shall not be deemed exclusive.

[1939 c 431 art 2 s 4] (53-18c)

16.05 RULES. The commissioner shall have power, with the approval of the governor, to make and amend rules and regulations, not inconsistent with law, respecting any matter within the scope of the powers and duties conferred by sections 16.01 to 16.23, which rules and regulations shall have the force and effect of law; provided, that every such rule or regulation affecting any person or agency, other than a member of the department of administration, shall be filed with the secretary of state, and shall not take effect until so filed.

[1939 c 431 art 2 s 5] (53-18d)

16.06 SUPPLIES, MATERIALS; PURCHASE. Subdivision 1. **Agencies may buy direct.** Under rules and regulations prescribed by him, the commissioner may authorize any agency of the state government to purchase directly specified supplies, mate-

rials, equipment, and utility services; provided, that in making such purchases the authorized agency shall call for bids and proceed otherwise in like manner as herein required in case of purchases by the commissioner.

Subd. 2. Emergency purchases. In emergencies, under rules and regulations prescribed by him, the commissioner may contract directly for the repair, rehabilitation, and improvement of any state owned structure or may authorize any agency to do so, and he may purchase or may authorize any agency to purchase directly any supplies, materials, equipment, or utility services for immediate use without calling for bids. An emergency for the purposes of this subdivision is an unforeseen occurrence or combination of circumstances which calls for immediate action in the public interest.

Subd. 3. [Repealed, 1957 c 808 s 8]

Subd. 4. Purchases, accounting and reporting. All regulations made by the commissioner under this section shall prescribe the manner in which purchases shall be made, not inconsistent herewith, and the manner of accounting for and reporting the same to the commissioner and the commissioner of finance; provided, that every such purchase shall be so reported within three days.

[1939 c 431 art 2 s 6; 1945 c 155 s 1; 1955 c 675 s 1; 1955 c 754 s 1,2; 1969 c 279 s 1; 1973 c 492 s 14] (53-18e)

16.061 DEFINITIONS. Subdivision 1. For the purposes of this chapter, unless the context clearly indicates otherwise, the words, terms and phrases defined in this section shall have the meanings ascribed to them.

Subd. 2. The commissioner means the commissioner of administration who is the state agency designated herein to purchase, accept, and distribute surplus property made available by the federal government.

Subd. 3. Surplus property means commodities, equipment, materials, supplies, books, printed matter, and other property made available by the federal government to a governmental or non-profit organization.

Subd. 4. Governmental or non-profit organization means the State of Minnesota, its departments, agencies, political subdivisions, and other instrumentalities thereof, and any non-profit and tax-exempt medical institution, hospital, clinic, health center, school, school system, college, university, or other institution organized and existing for any purpose authorized by federal law to accept surplus property.

[1957 c 808 s 1]

16.062 COMMISSIONER OF ADMINISTRATION MAY HANDLE FEDERAL SURPLUS PROPERTY. Subdivision 1. The commissioner is designated as the state agency to purchase, accept, and distribute surplus property made available by the federal government or any department or agency thereof to a governmental or nonprofit organization for any purpose authorized by federal law and in accordance with any rules and regulations promulgated thereunder.

Subd. 2. The commissioner may purchase or accept surplus property for the State of Minnesota and may purchase or accept surplus property for the benefit of any other governmental or nonprofit organization. And any such governmental or nonprofit organization may designate the commissioner to purchase or accept surplus property for it upon such terms and conditions as may be mutually agreed upon.

[1957 c 808 s 2,3]

16.063 SURPLUS PROPERTY REVOLVING FUND; ADVANCES FOR CERTAIN EXPENSES. Subdivision 1. In order to enable the commissioner to pay for surplus property received from the federal government for any governmental or nonprofit organization, including the expenses of accepting and distributing such property, there is hereby created a surplus property revolving fund. Any moneys paid into said surplus property revolving fund are hereby appropriated to the commissioner for the purposes of sections 16.061 to 16.066.

Subd. 2. Not to exceed \$1,000 of the moneys credited to such fund may be advanced to the commissioner of administration or any state officer or employee engaged in performing duties under sections 16.061 to 16.066 for the purpose of defraying the expenses of travel, subsistence, toll charges, and other similar expenses, and in accordance with such requirements therefor as may be prescribed by the commis-

sioner of finance. Moneys so advanced when repaid shall be deposited in the state treasury to the credit of the surplus property revolving fund.

[1957 c 808 s 4; 1963 c 487 s 1; 1973 c 492 s 14]

16.064 SURPLUS PROPERTY, STORAGE TRANSFER, REIMBURSEMENT OF REVOLVING FUND. Subdivision 1. The commissioner may store surplus property until needed and any expenses incurred in connection therewith shall be paid from the surplus property revolving fund.

Subd. 2. Whenever the State of Minnesota or any of its departments or agencies operating pursuant to a legislative appropriation obtain surplus property from the commissioner the commissioner of finance upon request of the commissioner shall transfer the cost thereof, including any expenses of accepting and distributing such property, from the appropriation of the state department or agency receiving the surplus property to the surplus property revolving fund. The determination of the commissioner as to the cost of such surplus property to the state department or agency receiving the same shall be final.

Subd. 3. Whenever any governmental or non-profit organization other than a state department or agency receives surplus property from the commissioner, such governmental or non-profit organization shall reimburse the surplus property revolving fund for the cost thereof, including the expenses of accepting and distributing the same, in such amount as the commissioner may determine. The commissioner may, however, require such governmental or non-profit organization to deposit in advance in the surplus property revolving fund moneys covering the cost of such surplus property and upon such terms and conditions as may be mutually agreed upon.

[1957 c 808 s 5; 1973 c 492 s 14]

16.065 DELEGATION OF DUTIES BY COMMISSIONER. The commissioner may delegate duties imposed upon him by sections 16.061 to 16.066 to the head of any state department or agency and to any of his subordinates. Such duties, if delegated, are to be exercised in the name of the commissioner and under his supervision and control.

[1957 c 808 s 6]

16.066 POWERS ADDITIONAL. Sections 16.061 to 16.066 are in addition to the powers now imposed upon or vested in state officers or departments and relating to their transactions with the federal government or any of its agencies.

[1957 c 808 s 7]

16.068 FEDERAL AID ACCEPTANCE. The commissioner of administration is hereby designated the state agency empowered to accept any and all moneys provided for or made available to this state by the United States of America or any department or agency thereof for the construction and equipping of of any building for state purposes not otherwise provided for by law and other than University of Minnesota buildings in accordance with the provisions of federal law and any rules or regulations promulgated thereunder and is further authorized to do any and all things required of this state by such federal law and the rules and regulations promulgated thereunder in order to obtain such federal moneys.

[1965 c 882 s 12]

16.07 COMPETITIVE BIDS. Subdivision 1. **Application.** Except as otherwise provided by sections 16.01, 16.02, and 16.03 to 16.23, all contracts for construction or repairs and all purchases of and all contracts for supplies, materials, purchase or rental of equipment, and utility services shall be based on competitive bids, and all sales of property shall be to the highest responsible bidder after advertising for bids, as herein provided; provided, that competitive bids shall not be required for utility services where no competition exists or where rates are fixed by law or ordinance. Standard requirement price contracts established for supplies or services to be purchased by the state shall be established by competitive bids. Such standard requirement price contracts may contain escalation clauses and may provide for a negotiated price increase or decrease based upon a demonstrable industrywide or regional increase or decrease in the vendor's costs. The term of such contracts shall not exceed two years with an option on the part of the state to renew for an additional two years.

Subd. 2. Publication of notice; expenditures over \$5,000. If the amount of the expenditure or sale is estimated to exceed \$5,000, sealed bids shall be solicited by public notice inserted at least once in a newspaper or trade journal not less than seven days before the final date of submitting bids. The commissioner shall designate the newspaper or trade journal for such publication, and may designate different newspapers or journals according to the nature of the purchase or contract. The commissioner shall also solicit sealed bids by sending notices by mail to all prospective bidders known to him, and by posting notice on a public bulletin board in his office at least five days before the final date of submitting bids. All bids shall be sealed when received, shall be opened in public at the hour stated in the notice, and all original bids together with all documents pertaining to the award of a contract shall be retained and made a part of a permanent file or record, and shall be open to public inspection. This subdivision shall not apply to the purchase of fibre used in the manufacture of binder twine, ply twines, and rope at the state penal institutions, which shall be purchased in accordance with such regulations as the commissioner may prescribe, requiring competitive bids as far as practicable.

Subd. 3. [Repealed, 1971 c 836 s 9]

Subd. 4. Purchases, sales, or rentals; \$5,000 or less. All purchases or sales the amount of which is estimated to be \$5,000 or less may be made either upon competitive bids or in the open market, in the discretion of the commissioner; but, so far as practicable, shall be based on at least three competitive bids which shall be permanently recorded. All rentals of equipment and animals with operators or drivers furnished the amount of which is estimated to be less than \$1,000 in any 30-day period shall be made in accordance with rules prescribed by the commissioner.

Subd. 5. Standard specifications, security. Contracts and purchases shall in all cases be based on the standard specifications prescribed by the commissioner in accordance with Laws 1939, Chapter 431, as amended, unless otherwise expressly provided. Each bidder for a contract shall furnish such security as the commissioner approves to insure the making of the contract for which he bids.

Subd. 6. Advertisement of highway contracts. Notwithstanding anything herein to the contrary, all contracts for the repair, improvement, maintenance, or construction of highways or highway bridges shall be advertised and let as now or hereafter provided by law for highway construction contracts.

Subd. 7. [Expired]

Subd. 8. Bids not required. With the approval of the commissioner of administration and under such regulations as he may prescribe, merchandise for resale at state park refectories or facility operations may be purchased without advertising for bids. Farm and garden products may be sold at the prevailing market price on the date of the sale without advertising for bids. Competitive bidding shall not be necessary for purchases clearly and legitimately limited to a single source of supply in which instance the purchase price may be best established by direct negotiation.

Subd. 8a. Certain vehicles. Upon the written request of the commissioner of public safety, motor vehicles for the specific use by investigative and undercover agents of the department of public safety shall be purchased by the brand make and model. All other provisions of chapter 16 relating to competitive bidding shall apply to the above purchases.

Subd. 9. [Expired]

Subd. 10. Auction in lieu of bids. The commissioner of administration in lieu of advertising for bids may sell buildings and other personal property owned by the state and not needed for public purposes at public auction to the highest responsible bidder. Such sale shall be made after publication of notice thereof in a newspaper of general circulation in the area where the property is located and such other advertising as the commissioner of administration may direct. Any of the property may be withdrawn from the sale prior to the completion of such sale unless the auction has been announced to be without reserve. If the sale is made at public auction a duly licensed auctioneer shall be retained to conduct such sale, his fees for such service to be paid from the proceeds, and there is appropriated from such proceeds an amount sufficient to pay such fees.

The commissioner may consign automobiles and trucks for sale at auction either to the general public or to licensed car dealers under such terms and conditions as are in the judgment of the commissioner most advantageous to the state.

Subd. 11. **Negotiated contracts.** In lieu of any of the other requirements of this section the commissioner of administration may negotiate a contract for the doing of public work at a state owned institution or installation where the cost does not exceed \$5,000 and where the head of the affected state department or agency requests the commissioner so to do. The commissioner shall cause to be prepared such plans and specifications for the public work as he deems the protection of the public interest to require. Contractor's bonds or security, as provided for in chapter 574 shall not be required for contracts entered into pursuant to this subdivision.

Subd. 12. **Meat purchases.** The commissioner of administration may purchase meat for other state institutions from the vocational school maintained at Pipestone by Independent School District No. 583. The purchases shall be negotiated and made on terms agreeable to both parties. The provisions of chapter 16, relating to competitive bidding shall not apply to purchases made in accordance with this subdivision.

Subd. 13. **Federal general services administration price schedules.** Notwithstanding anything in this section to the contrary, the commissioner may, instead of soliciting bids, contract for purchases with suppliers who have published schedules of prices effective for sales to the general services administration of the United States. Such contracts for purchases may be entered into, regardless of the amount of the purchase price, if the commissioner of administration deems such contracts to be advantageous, and the purchase price of any and all commodities purchased thereunder shall not exceed the price specified by the schedule.

Subd. 14. **Rejection of bids and negotiation, edp.** The commissioner of administration may reject all bids for electronic data processing equipment, related equipment and software and may negotiate a contract for said equipment if he finds such bids to be unsatisfactory by reason of failure to fully comply with the specifications, terms and conditions of the call for bids. The contract shall be awarded to the vendor offering the lowest price to the state taking into consideration the specifications, terms and conditions agreed upon pursuant to such negotiation.

Subd. 15. **Categories of supplies, materials, equipment or services which may be purchased on open market.** In recognition of the state's current energy crisis, the commissioner of administration, until July 1, 1977, and with the approval of the executive council, may annually establish by regulation categories of supplies, materials, equipment or services which may be purchased in the open market, provided that the commissioner shall first conduct investigations and certify to the executive council that he cannot obtain competitive bids therefor. Regulations promulgated pursuant to Laws 1974, Chapter 355 shall not be subject to the administrative procedure act. The executive council may withdraw its approval of any such category or commodity therein at any time and thereupon purchases thereof shall be made in the manner otherwise provided by law.

Subd. 16. **Electronic data processing equipment.** The commissioner may purchase, sell, repurchase or otherwise undertake the acquisition, rental or disposal of electronic data processing equipment as best serves the interests of the state, provided, however, the commissioner shall adhere to the competitive bidding requirements of chapter 16.

[1939 c 431 art 2 s 7; 1941 c 281 s 1; 1941 c 478 s 1; 1943 c 556 s 1,2; 1945 c 370 s 2; 1947 c 112 s 1; 1947 c 238 s 1; 1949 c 189 s 1; 1951 c 36 s 1; 1951 c 343 s 1; 1953 c 568 s 1,2; 1953 c 671 s 1; 1955 c 110 s 1; 1955 c 778 s 1-4; 1957 c 597 s 1; 1959 c 167 s 1; 1963 c 24 s 1; 1967 c 306 s 1; 1967 c 311 s 1; 1969 c 1007 s 1; 1969 c 1094 s 1; 1971 c 836 s 1-6; Ex1971 c 3 s 98; 1973 c 490 s 1; 1974 c 184 s 6; 1974 c 355 s 42; 1977 c 379 s 1; 1977 c 414 s 8] (53-18f)

16.071 [Expired]

16.073 **PREFERENCE FOR AMERICAN MADE MATERIALS.** Subdivision 1.

Definitions. As used in this section, the following terms shall have the meanings given them:

(a) "State" means the state of Minnesota or any agency thereof, a contractor acting pursuant to a contract with the state, and any person acting on behalf of the state or any agency thereof;

(b) "Materials" means any goods, supplies, equipment or any other tangible products or materials;

(c) "Manufactured" means mined, produced, manufactured, fabricated or assembled;

(d) "Manufactured in the United States" means manufactured in whole or in substantial part within the United States or that the majority of the component parts thereof were manufactured in whole or in substantial part in the United States;

(e) "Purchase" means acquire by purchase or lease.

Subd. 2. Purchase preference. Notwithstanding the provisions of any other law to the contrary, no materials shall be purchased by the state for use for governmental purposes which are not manufactured in the United States, except as may be provided in this section. When all other factors are substantially equal, preference shall be given to those products which are manufactured to the greatest extent in the United States. To the extent possible, specifications shall be written so as to permit the state to purchase materials manufactured in the United States.

Subd. 3. Exemptions. Subdivision 2 shall not apply if the person having contracting authority in respect to the purchase determines that (1) the materials are not manufactured in the United States in sufficient or reasonably available quantities, (2) the price or bid of the materials unreasonably exceeds the price or bid of available and comparable materials manufactured outside of the United States, (3) the quality of the materials is substantially less than the quality of comparably priced available materials manufactured outside of the United States, or (4) the purchase of the materials manufactured in the United States is otherwise not in the public interest. Subdivision 2 also shall not apply if the materials are purchased with a view to commercial resale or with a view to use in the production of goods for commercial sale.

[1978 c 583 s 1]

16.075 FURNITURE PURCHASED FROM STATE REFORMATORY. Notwithstanding any other law to the contrary, state departments may purchase furniture from the state reformatory for men.

[Ex1971 c 3 s 58]

16.08 CONTRACTS AND PURCHASES, AWARD. All contracts and purchases made by or under the supervision of the commissioner or any state department or agency for which competitive bids are required shall be awarded to the lowest responsible bidder, taking into consideration conformity with the specifications, terms of delivery, and other conditions imposed in the call for bids. The commissioner shall have power to decide as to the lowest responsible bidder for all purchases. As to contracts other than for purchases, the head of the interested department or agency shall make the decision, subject to the approval of the commissioner. Any or all bids may be rejected. A bid containing an alteration or erasure of any price contained in the bid which is used in determining the lowest responsible bid shall be rejected unless the alteration or erasure is corrected as herein provided. An alteration or erasure may be crossed out and the correction thereof printed in ink or typewritten adjacent thereto and initialed in ink by the person signing the bid. The commissioner may reject the bid of any bidder who has failed to perform a previous contract with the state. In the case of identical low bids from two or more bidders, the commissioner may, at his discretion, utilize negotiated procurement methods with the tied low bidders for that particular transaction, so long as the price paid does not exceed the low tied bid price. A record shall be kept of all bids, with names of bidders and amounts of bids, and with the successful bid indicated thereon. Such record shall be open to public inspection. In any case where competitive bids are required and where all bids are rejected, new bids shall be called for as in the first instance, unless otherwise expressly provided by law.

[1939 c 431 art 2 s 8; 1963 c 400 s 1; 1967 c 312 s 1; 1971 c 836 s 7] (53-18g)

16.081 CITATION. Sections 16.081 to 16.086 may be cited as the "Minnesota small business procurement act."

[1975 c 383 s 1]

16.082 DEFINITIONS. Subdivision 1. For the purposes of sections 16.081 to 16.086 the following words and phrases shall have the meanings set forth in this section, except where the context clearly indicates that a different meaning is intended.

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Subd. 2. "Small business" means a business entity organized for profit, including an individual, partnership, corporation, joint venture, association or cooperative which has its principal place of business in Minnesota and which is not (a) dominant in its field of operation or (b) an affiliate or subsidiary of a business dominant in its field of operation.

Subd. 3. "Dominant in its field of operation" means exercising a controlling or major influence in a business activity in which a number of businesses are engaged. In determining if a business is dominant, the following criteria, among others, shall be considered: number of employees; volume of business; financial resources; competitive status or position; ownership or control of materials, processes, patents, license agreements and facilities; sales territory; and nature of business activity. The following businesses shall be deemed dominant in their field of operation:

(a) Manufacturing businesses which employ more than 100 persons and have in the preceding three fiscal years exceeded a total of \$15,000,000 in gross receipts.

(b) General construction businesses which in the preceding three fiscal years exceeded a total of \$6,000,000 in gross receipts.

(c) Specialty construction businesses which in the preceding three fiscal years exceeded a total of \$3,000,000 in gross receipts.

(d) Nonmanufacturing businesses which employ more than 25 persons and have in the preceding three fiscal years exceeded a total of \$3,000,000 in gross receipts.

Subd. 4. "Affiliate or subsidiary of a business dominant in its field of operation" means a business which is at least 20 percent owned by a business dominant in that field of operation, or by partners, officers, directors, majority shareholders, or their equivalent of a business dominant in that field of operation.

Subd. 5. "Socially or economically disadvantaged person" means a person who has been deprived of the opportunity to develop and maintain a competitive position in the economy because of social or economic disadvantage. This disadvantage may arise from cultural, social or economic circumstances or background, physical location if the person resides or is employed in an area declared as a labor surplus area by the United States department of commerce, or other similar cause.

Subd. 6. "Second party bond" means a bond which designates as principal, guarantor, or both, a person or persons in addition to the person to whom the contract is proposed for award.

[1975 c 383 s 2; 1977 c 44 s 1]

16.083 PROCUREMENT FROM SMALL BUSINESSES. Subdivision 1. **Small business set-asides.** The commissioner of administration shall for each fiscal year designate and set aside for awarding to small businesses approximately ten percent of the value of anticipated total state procurement of goods and services including construction. The commissioner shall divide the procurements so designated into contract award units of economically feasible production runs in order to facilitate offers or bids from small businesses. In making his annual designation of set-aside procurements the commissioner shall attempt to vary the included procurements so that a variety of goods and services produced by different small businesses shall be set aside each year. The failure of the commissioner to set aside particular procurements shall not be deemed to prohibit or discourage small businesses from seeking the procurement award through the normal solicitation and bidding processes.

Subd. 2. **Negotiated price or bid contract.** The commissioner may elect to use either a negotiated price or bid contract procedure in the awarding of a procurement contract under the set-aside program established in sections 16.081 to 16.086. The amount of an award shall not exceed by more than five percent the commissioner's estimated price for the goods or services, if they were to be purchased on the open market and not under this set-aside program. Surety bonds guaranteed by the federal small business administration and second party bonds shall be acceptable security for a construction award under this section.

Subd. 3. **Determination of ability to perform.** Before announcing a set-aside award, the commissioner shall evaluate whether the small business scheduled to receive the award is able to perform the set-aside contract. This determination shall include consideration of production and financial capacity and technical competence.

Subd. 4. **Preference to small businesses.** At least ten percent of the value of the procurements designated for set-aside awards shall be awarded, if possible, to businesses owned and operated by socially or economically disadvantaged persons. In the event small businesses owned and operated by socially or economically disadvantaged persons are unable to perform at least ten percent of the set-aside awards, then the commissioner shall award the balance of the set-aside contracts to other small businesses.

Subd. 5. **Recourse to other businesses.** In the event that subdivisions 1 to 4 do not operate to extend a contract award to a small business, the award shall be placed pursuant to the normal solicitation and award provisions set forth in this chapter. The commissioner shall thereupon designate and set aside for small businesses additional state procurements corresponding in approximate value to the contract unable to be awarded pursuant to subdivisions 1 to 4.

Subd. 6. **Procurement procedures.** All laws and rules pertaining to solicitations, bid evaluations, contract awards and other procurement matters shall apply as consistent to procurements set aside for small businesses. In the event of conflict with other rules, the provisions of sections 16.081 to 16.086 and rules promulgated pursuant thereto shall govern.

[1975 c 383 s 3; 1977 c 44 s 2]

16.084 ENCOURAGEMENT OF PARTICIPATION. The commissioners of administration and economic development shall publicize the provisions of the set-aside program, attempt to locate small businesses able to perform set-aside procurement awards, and encourage participation. When the commissioner of administration determines that a small business is unable to perform under a set-aside contract, he shall so inform the commissioner of economic development who shall assist the small business in attempting to remedy the causes of the inability to perform a set-aside award. In assisting the small business, the commissioner of economic development in cooperation with the commissioner of administration shall use any management or financial assistance programs as may be available by or through the department of economic development, other state or governmental agencies, or private sources.

[1975 c 383 s 4]

16.085 RULES. The commissioner of administration shall promulgate by rule standards and procedures for certifying that small businesses and small businesses owned and operated by socially or economically disadvantaged persons are eligible to participate under the requirements of sections 16.081 to 16.086. The procedure for determination of eligibility may include self-certification by a business, provided that the commissioner retains the ability to verify a self-certification. The commissioner shall promulgate other rules as may be necessary to carry out the duties set forth in sections 16.081 to 16.086.

[1975 c 383 s 5]

16.086 REPORTS. Subdivision 1. **Commissioner of administration.** The commissioner of administration shall submit an annual report pursuant to section 3.195 to the governor and the legislature with a copy to the commissioner of economic development indicating the progress being made toward the objectives and goals of sections 16.081 to 16.086 during the preceding fiscal year. This report shall include the following information:

(a) The total dollar value and number of potential set-aside awards identified during this period and the percentage of total state procurement this figure reflects;

(b) The number of small businesses identified by and responding to the set-aside program, the total dollar value and number of set-aside contracts actually awarded to small businesses with appropriate designation as to the total number and value of set-aside contracts awarded to each small business, and the total number of small businesses that were awarded set-aside contracts;

(c) The total dollar value and number of set-aside contracts awarded to small businesses owned and operated by economically or socially disadvantaged persons with appropriate designation as to the total number and value of set-aside contracts awarded to each small business, and the percentages of the total state procurements the figures of total dollar value and the number of set-asides reflect;

(d) The number of contracts which were designated and set-aside pursuant to section 16.083 but which were not awarded to a small business, the estimated total dollar value of these awards, the lowest offer or bid on each of these awards made by the small business and the price at which these contracts were awarded pursuant to the normal procurement procedures.

Subd. 2. **Commissioner of economic development.** The commissioner of economic development shall submit an annual report to the governor and the legislature pursuant to section 3.195 with a copy to the commissioner of administration. This report shall include the following information:

(a) The efforts undertaken to publicize the provisions of the set-aside program during the preceding fiscal year;

(b) The efforts undertaken to identify small businesses including those owned and operated by socially or economically disadvantaged persons, and the efforts undertaken to encourage participation in the set-aside program;

(c) The efforts undertaken by the commissioner to remedy the inability of small businesses to perform on potential set-aside awards; and

(d) The commissioner's recommendations for strengthening the set-aside program and delivery of services to small businesses.

[1975 c 383 s 6]

16.09 CONTRACTS AND LEASES; APPROVAL; FILING; FORMS. All contracts and leases shall be approved as to form and execution by the attorney general. A copy of every such contract or lease extending for a term longer than one year shall be filed with the commissioner of finance. All purchase orders shall be made on a form prescribed by the attorney general.

[1939 c 431 art 2 s 9; 1973 c 492 s 14] (53-18h)

16.096 ADVANCE DEPOSITS ON LIBRARY OF CONGRESS ITEMS. Notwithstanding any other law to the contrary, the commissioner of administration may allow advance deposits by any department with the Library of Congress and federal Supervisor of Documents for items to be purchased from those federal agencies.

[Ex1967 c 48 s 88; 1974 c 260 s 2]

16.098 CONTRACT MANAGEMENT AND REVIEW. Subdivision 1. **Definitions.** For the purposes of this section:

(1) "Commissioner" means the commissioner of administration.

(2) "State contract" means any written instrument containing the elements of offer, acceptance and consideration to which a state agency is a party.

(3) "Agency" means any state officer, employee, board, commission, authority, department or other agency of the executive branch of state government.

(4) "Consultant services" means services which are intellectual in character; which do not involve the provision of supplies or materials; which include analysis, evaluation, prediction, planning or recommendation; and which result in the production of a report.

(5) "Professional and technical services" means services which are predominantly intellectual in character; which do not involve the provision of supplies or materials; and in which the final result is the completion of a task rather than analysis, evaluation, prediction, planning or recommendation.

Subd. 2. **Duties of commissioner.** The commissioner shall perform all contract management and review functions for state contracts, excepting those functions presently performed by the contracting agency, the attorney general and the commissioner of finance. In so doing, the commissioner shall establish the manner and form in which all state contracts shall be prepared and processed and shall examine and approve or disapprove all state contracts as to content, purpose, propriety and budget ramifications. No agency shall execute a state contract without receiving the prior approval of the commissioner pursuant to this subdivision. All agencies shall afford full cooperation to the commissioner in the management and review of state contracts.

Subd. 3. **Duties of contracting agency.** Before an agency may seek approval of a consultant or professional and technical services contract valued in excess of \$2,000, it shall certify to the commissioner that:

(1) no state employee is competent to perform the services called for by the contract;

(2) the normal competitive bidding mechanisms will not provide for adequate performance of the services;

(3) the services are not available as a product of a prior consultant or professional and technical services contract, and the contractor has certified that the product of his services will be original in character;

(4) reasonable efforts were made to publicize the availability of the contract;

(5) the agency has received, reviewed and accepted a detailed work plan from the contractor for performance under the contract; and

(6) the agency has developed, and fully intends to implement, a written plan providing for (a) the assignment of specific agency personnel to a monitoring and liaison function, (b) the periodic review of interim reports or other indicia of part performance and (c) the ultimate utilization of the final product of the services.

Subd. 4. Procedure for consultant and professional and technical services contracts. Before approving a proposed state contract for consultant services or professional and technical services the commissioner shall have at least determined that:

(1) all provisions of subdivisions 2 and 3 have been verified or complied with;

(2) the work to be performed under the contract is necessary to the agency's achievement of its statutory responsibilities, and that there is statutory authority to enter into the contract;

(3) the contract will not establish an employer/employee relationship between the state or the agency and any persons performing under the contract;

(4) no current state employees will engage in the performance of the contract;

(5) no state agency has previously performed or contracted for the performance of tasks which would be substantially duplicated under the proposed contract;

(6) the contracting agency has specified a satisfactory method of evaluating and utilizing the results of the work to be performed.

Subd. 5. Contract terms. A consultant or technical and professional services contract shall by its terms permit the agency to unilaterally terminate the contract prior to completion, upon payment of just compensation, if the agency determines that further performance under the contract would not serve agency purposes. If the final product of the contract is to be a report, no more than three copies of the report, one in camera ready form, shall be submitted to the agency. One of the copies shall be filed with the legislative reference library. The form of the report shall be as the commissioner may by rule or order provide.

Subd. 6. Contract administration. Upon entering into a state contract, an agency shall bear full responsibility for the diligent administration and monitoring of the contract. The commissioner may require an agency to report to him at any time on the status of any outstanding state contract to which the agency is a party. After completion of performance under a consultant or professional and technical services contract, the agency shall evaluate the performance under the contract and the utility of the final product. This evaluation shall be delivered to the commissioner who shall retain all such evaluations for future reference.

Subd. 7. Delegation. The commissioner may delegate a part or all of his contract management and review functions to the head of another agency including the contracting agency when he deems it appropriate. Delegations shall be filed with the secretary of state and shall not, except with respect to delegations within the department of administration, exceed two years in duration.

Subd. 8. Rulemaking authority. The commissioner may adopt and enforce rules as he deems necessary regarding the management and review of state contracts.

Subd. 9. Validity of state contracts. No state contracts shall be valid, nor shall the state be bound by the contract until it has first been executed by the head of the agency which is a party to the contract and has been approved in writing by the commissioner or his delegate pursuant to this section, by the attorney general or his delegate as to form and execution and by the commissioner of finance or his delegate that the appropriation and allotment have been encumbered for the full amount of the contract liability. The head of the agency may delegate the execution of specific contracts or specific types of contracts to a deputy or assistant head within his agency if the

delegation has been approved by the commissioner of administration and filed with the secretary of state.

Subd. 10. Authority of attorney general. The attorney general may sue to avoid the obligation of an agency to pay under a contract or to recover payments made, if services performed under the contract are so unsatisfactory, or incomplete, or so inconsistent with the price that payment would involve unjust enrichment. The contrary opinion of the contracting agency does not affect the power of the attorney general under this section.

Subd. 11. Reports. The commissioner shall monthly submit to the governor and the legislature a listing of all contracts for consultant services and for professional and technical services executed or disapproved in the preceding month. The report shall identify the parties and the contract amount, duration and tasks to be performed. The commissioner shall also issue quarterly reports summarizing the contract review activities of his department over the preceding quarter.

[1978 c 480 s 2]

16.10 [Repealed, 1978 c 480 s 3]

16.11 [Repealed, 1973 c 400 s 2]

16.12 STANDARDS FOR SUPPLIES, MATERIALS, EQUIPMENT. The commissioner is authorized to establish, from time to time, and to enforce standards for all supplies, materials, and equipment in common use by officers and department of the state; to make, or cause to be made, any test, examination, or analysis necessary therefor; to require the assistance of any and all officers and departments therefor; to prepare, or cause to be prepared, proper and uniform specifications therefor; and to classify the requirements of the various agencies of the state government for the purpose of the use and application of such standard specifications.

[1939 c 431 art 2 s 12] (53-18k)

16.125 TRANSFER OF PERSONNEL, POWERS, DUTIES. Subdivision 1. The commissioner of administration, in order to improve efficiency or avoid duplication, may transfer personnel, powers, or duties, or any combination of them, from a department or agency to another department or agency that has been in existence for at least one year prior to the date of transfer. A transfer must have received the prior approval of the governor. The commissioner of administration shall no later than January 15 of each year submit to the legislature a bill making all statutory changes required by reorganization orders issued by the commissioner during the preceding calendar year.

Subd. 2. A transfer made pursuant to subdivision 1 shall be in the form of a reorganization order. A reorganization order shall be filed with the secretary of state, shall be uniform in format and shall be numbered consecutively. An order shall be effective upon filing with the secretary of state and shall remain in effect until amended or superseded. Copies of the filed order shall be delivered promptly by the commissioner to the secretary of the senate and the chief clerk of the house. A reorganization order which transfers all or substantially all of the powers or duties or personnel of a department, the energy agency, the housing finance agency or the pollution control agency shall not be effective until ratified by concurrent resolution or enacted into law.

Subd. 3. The commissioner of finance shall determine the fractional part of the appropriation to the department or agency from which the personnel, power, or duty is transferred represented by that transferred personnel, power, or duty, and that part of the appropriation is hereby reappropriated to the transferee department or agency.

[1969 c 1129 art 9 s 1; 1977 c 305 s 10; 1978 c 793 s 42,43]

16.13 [Repealed, 1977 c 305 s 46]

16.135 WORK OF DEPARTMENT FOR ANOTHER. In order to avoid duplication and to improve efficiency, the commissioner of administration may direct a department or agency of the state to do work for another department or agency of the state or may direct a division or section of a department or agency of the state to do work for another division or section within the same department or agency and shall require reimbursement therefor. Moneys received by a department, agency, division or section as reimbursements shall be reappropriated to the account making the original expenditure in accordance with the transfer warrant procedure established by the

commissioner of finance.

[1965 c 901 s 66; 1973 c 492 s 14]

16.138 [Renumbered 16A.09]

16.139 REIMBURSEMENT FOR LOSS OR DAMAGE TO STATE PROPERTY, USE OF PROCEEDS. Notwithstanding the provision of any other law, any state department or agency that receives a reimbursement for the loss or damage to state property may deposit the reimbursement in the current year's account. Such reimbursement is hereby reappropriated for the purpose of replacing or repairing the state property.

[Ex1971 c 3 s 87]

16.14 [Renumbered 16A.10]

16.141 Subdivision 1. [Repealed, 1976 c 231 s 34]

Subd. 2. [Repealed, 1976 c 231 s 34]

Subd. 3. [Repealed, 1973 c 720 s 64 subd 2]

Subd. 3a. [Repealed, 1976 c 231 s 34]

16.15 [Renumbered 16A.11]

16.155 [Renumbered 16A.12]

16.16 Subdivision 1. [Repealed, 1976 c 231 s 34]

Subd. 2. [Repealed, 1976 c 231 s 34]

Subd. 3. [Repealed, 1976 c 231 s 34]

Subd. 4. [Repealed, 1976 c 231 s 34]

Subd. 5. [Repealed, 1976 c 231 s 34]

Subd. 6. [Renumbered 16A.15, subdivision 1]

Subd. 7. [Renumbered 16A.15, subd 2]

Subd. 8. [Renumbered 16A.15, subd 3]

Subd. 8a. [Renumbered 16A.15, subd 4]

NOTE: Section 16.16, Subdivision 2 was also amended by Laws 1976, Chapter 348, Section 15, to read:

"Subd. 2. FUNDS TO WHICH SYSTEM APPLIES. Except as otherwise expressly provided therein, the provisions of Laws 1939, Chapter 431, relating to the allotment system and to the encumbering of funds shall apply to appropriations and funds of all kinds, including standing or annual appropriations and dedicated funds from which expenditures are to be made, from time to time, by or under the authority of any agency, but shall not apply to appropriations for the courts or the legislature, nor to payment of unemployment compensation benefits nor to the funds deposited in the state treasury for disbursement by the commissioner of highways when acting as the agent of a political subdivision pursuant to law. In the case of construction or other permanent improvements of a capital nature and transactions for the acquisition of real estate for public purposes, where periodical allotments are impracticable, the commissioner may dispense therewith and prescribe such regulations as will insure proper application and encumbering of funds. Contingent funds appropriated for the governor or the attorney general shall not be subject to the provisions thereof relating to allotment, but shall be subject to the other provisions thereof relating to expenditure and encumbering of funds."

16.161 [Repealed, 1976 c 231 s 34]

16.162 [Repealed, 1969 c 159 s 2]

16.164 [Repealed, 1976 c 231 s 34]

16.165 [Repealed, 1973 c 720 s 63 subd 3]

16.17 [Renumbered 16A.28]

16.171 [Repealed, 1978 c 793 s 98]

16.172 PROVISIONS INAPPLICABLE. The office of revisor of statutes not being in the executive branch of the state government, the provisions of this chapter, relating to departments and agencies in the executive branch are inapplicable to that office, including but not limited to contract signing and approval requirements prescribed by sections 16.09 and 16.10, and rules and regulations of the department of administration prescribed pursuant to section 16.02, or any other law. Allotment and encumbrance procedures prescribed by section 16A.14 or any other law are likewise

inapplicable to the office of revisor of statutes.

[1969 c 957 s 9; 1977 c 410 s 3]

16.173 [Repealed, 1977 c 455 s 95]

16.18 [Repealed, 1976 c 231 s 34]

16.19 [Repealed, 1976 c 231 s 34]

16.20 [Renumbered 16A.125]

16.201 [Repealed, 1955 c 714 s 3]

16.21 OFFICER OR EMPLOYEE; ASSIGNMENT TO OTHER DEPARTMENT OR AGENCY. With the approval of the governor and by agreement of the heads of the departments or agencies concerned, any appointive subordinate officer or employee of a department or agency may be employed by or assigned to perform duties under another department or agency.

[1939 c 431 art 2 s 21; 1941 c 497 s 1; 1971 c 25 s 11] (53-18t)

16.22 RIGHTS AND POWERS TRANSFERRED TO COMMISSIONER; EXCEPTIONS. All the rights, powers, and duties now by law imposed upon and vested in the commission of administration and finance, the constituent members thereof, the state printing commission, and the state expert printer, except those transferred by Laws 1939, Chapter 431, to the state auditor and the public examiner, are hereby transferred to and imposed upon the commissioner of administration. The commissioner of administration shall appoint a qualified printer, who shall be known as the state printer, and may delegate to him the exercise of the existing rights, powers, and duties heretofore appertaining to the state printing commissioner and the state expert printer, subject to the control of the commissioner. The commission of administration and finance is hereby abolished. The state printing commission is hereby abolished. The offices of comptroller, commissioner of the budget, commissioner of purchases, and state expert printer are hereby abolished. All the rights, powers and duties of the governor relating to the control, care, operation, and maintenance of the state capitol and grounds and to the appointment of employees therefor are hereby transferred to, vested in, and imposed upon the commissioner of administration; provided that these rights, powers, and duties relating to the state capitol and grounds shall be exercised by the commissioner of administration according to the standards and policies for the appearance and cleanliness thereof set by the capitol area architectural and planning board and the commissioner of administration pursuant to section 15.50, subdivision 2, clause (h).

[1939 c 431 art 2 s 22; 1974 c 580 s 13; 1975 c 271 s 6] (53-18u)

16.23 OFFICE SPACE ASSIGNED. The commissioner shall assign and reassign the office space in the capitol and other state buildings so far as necessary to carry out the purposes of Laws 1939, Chapter 431, and to make an equitable division of available space among the several departments and agencies. The commissioner's assignments in the capitol shall be in keeping with the ceremonial character of the building and shall follow guidelines for the public and ceremonial areas of the capitol set by the capitol area architectural and planning board.

[1939 c 431 art 8 s 11; 1974 c 580 s 14; 1975 c 271 s 6] (53-1L)

16.231 [Repealed, 1955 c 303 s 7]

16.24 POWERS OF COMMISSIONER OF ADMINISTRATION. The commissioner shall have the power to supervise and control the accounts and expenditures of the several officials, departments, and agencies of the state government and of the institutions under their control; the making of all contracts and the creation or incurrence of all financial or contractual obligations; the purchase, rental, or furnishing of all property, equipment, supplies, or materials, and all telegraph, telephone, or lighting service; the construction and erection of all buildings and structures by or for the state or any such department, agency, or institution; the sale, disposition, use, or storage of all property belonging to the state; and at any time to examine the accuracy and legality of all accounts, receipts, and expenditures of state moneys and the use or disposition of state property; and he shall have the power, subject to the approval of the governor, to provide for his offices and necessary furniture, fixtures, and supplies, and to appoint and employ such officers, agents, assistants, clerks, and other employees as he may deem necessary for the performance of his duties, and to fix their sala-

ries and define their duties. The commissioner, with the approval of the governor, shall have authority to appoint an assistant or deputy, with full authority to perform any of the duties imposed upon him; provided, that the governor may, without cause, remove such assistant or deputy, and shall have the power to examine, investigate, or make a survey of the organization, administration, and management of the various departments and agencies of the state government and the institutions under their control, to the end that greater efficiency and economy may be secured, better organization, reorganization, or consolidation of departments or functions effected, and all duplication of function, effort, or activity, so far as possible, eliminated; and, for this purpose, to hold hearings and prescribe rules and regulations for the conduct thereof, issue subpoenas for and compel the attendance of witnesses and giving of testimony and the production of books, records, accounts, documents, and papers; and the commissioner may administer oaths to witnesses or take their affirmations. 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 heard or to be heard by the commissioner, after having been lawfully required by order or subpoena, any judge of the district court in any county of the state, on application of the commissioner, shall compel obedience by attachment proceedings as for contempt, as in the case of disobedience of a similar order or subpoena issued by such court. The commissioner shall recommend to the legislature such changes in the laws of the state as he may deem necessary, if any, as a result of any such survey or investigation, or otherwise, in order to secure a better organization of the state government or greater efficiency or economy in administration.

[1925 c 426 art 3 s 3] (53-6)

16.243 COMMISSIONER; ADDITIONAL POWERS. The commissioner of administration shall have the following powers: to procure by lease, with the approval of the governor, office space and buildings for the use of the state government or any department, office, or institution thereof; to purchase, except as otherwise provided in this chapter, all supplies and equipment for all state officials, departments, and agencies of the state government, including tools, machinery, and materials to be used by the state in the construction and maintenance of state highways; but the commissioner, in his discretion, may designate an officer or employee of any such department to make, under the general supervision and direction of the commissioner, such purchases for the department in which such designation is so made as he may specify.

[1976 c 231 s 9]

16.245 [Renumbered 16A.128]

16.25 [Renumbered 16A.129]

16.251 PUBLIC BUILDINGS; FEDERAL FUNDS. Where an amount is payable to a creditor of the state from a project account which is financed partly with federal funds and such project is one included in appropriations now or hereafter made to the commissioner of administration for public buildings and equipment therefor and such amount cannot be timely paid because of a deficiency of money in such project account caused by a delay in the receipt of federal funds, the commissioner may provide such money as is needed to pay the amount by temporarily transferring such sum from any other appropriation made to him in the same act as contains the project account wherein the deficiency has occurred. Such moneys as are required therefor are hereby appropriated for such purpose. When the delayed federal funds are received the commissioner shall cause the amount of money transferred to be returned to the account from whence it came.

[1969 c 1159 s 18]

16.26 [Repealed, 1961 c 561 s 17]

16.27 [Repealed, 1961 c 561 s 17]

16.28 PURCHASES. The commissioner of administration, subject to the approval of the governor, may make rules, regulations, and orders regulating and governing the manner and method of purchasing, delivering, and handling of, and the contracting for supplies, equipment, and other property for the various officials, departments, and agencies of the state government and institutions under their control. Such rules, regulations, and orders shall be uniform, so far as practicable, shall be of general or limited application, and shall include provisions for the following:

(1) The advertisement for and the receipt of bids for supplies and other property and the stimulation of competition with regard thereto;

(2) The purchase of supplies and other property without advertisement or the receipt of bids, where the amount involved will not exceed \$500, when in the judgment of the commissioner it is expedient;

(3) The purchase of supplies and other property without competition in cases of emergency requiring immediate action;

(4) The purchase of certain supplies, equipment, and other property by long or short term contracts, or by purchases of contracts made at certain seasons of the year, or by blanket contracts or orders covering the requirements of one or more departments, offices, and commissions;

(5) The time for submitting estimates for various supplies, equipment, and other property;

(6) Regulation to secure the prompt delivery of commissary or other necessary supplies;

(7) Standardization of forms for estimates, orders, and contracts;

(8) Standardization of specifications for purchasing supplies, equipment, and other property;

(9) Standardization of quality, grades, and brands to eliminate unnecessary number of commodities or of grades or brands of the same commodity;

(10) The purchase of supplies and other property locally upon permission, specific or otherwise, of the commissioner;

(11) The use and disposal of the products of state institutions;

(12) The disposal of obsolete, excess, and unsuitable supplies, salvage, waste materials, and other property, and the transfer of same to other departments, offices, and commissions;

(13) The storage of surplus supplies, equipment, and other property not needed for immediate use;

(14) The testing of commodities or supplies or samples thereof;

(15) Hearings on complaints in respect to the quality, grade, or brand of commodities or supplies;

(16) The waiver of rules in special cases.

The commissioner shall have immediate supervision of all purchases and contracts made, and shall carry out and enforce such rules, regulations, and orders relative thereto as he may adopt.

[1925 c 426 art 3 s 7] (53-10)

16.281 SHELTERED WORKSHOPS; PROCUREMENT OF PRODUCTS AND SERVICES; WORK ACTIVITY PROGRAMS. Subdivision 1. The commissioner of administration in consultation with the commissioner of economic security shall prepare a list containing products and services of state certified sheltered workshops and work activity programs for procurement use by departments, agencies and institutions of state government. The commissioner of administration shall determine the fair market price for listed products and services. In determining the fair market price the commissioner shall consider (a) open market bid prices in previous years for similar products and services, and (b) cost increases for both labor and materials. The price paid shall not exceed by more than five percent the fair market price. Departments, agencies and institutions of the state shall, after promulgation of the product and service list by the commissioner, except as hereinafter provided, procure listed products and services from sheltered workshops and work activity programs in preference to procurement from other suppliers or sources. The provisions of this chapter relating to competitive bidding shall not apply to purchases made in accordance with this section.

Subd. 2. When any listed products or services are available for procurement from any department, agency or institution of the state and procurement therefrom is required by law, procurement shall be made in accordance with such law.

Subd. 3. The commissioner of administration shall promulgate rules necessary to carry out the purposes of this section, including but not limited to rules providing for

a procedure by which the commissioner shall determine product specifications, quality standards and timing of delivery to be complied with by the sheltered workshop and work activity program boards on purchases made under this section. The list to be prepared pursuant to subdivision 1 shall not be promulgated as a rule.

Subd. 4. The commissioner may select a nonprofit corporation organized under chapter 317 to facilitate distribution of orders among sheltered workshops and work activity programs. The corporation shall distribute orders so as to afford each sheltered workshop and work activity program an equal opportunity to obtain orders.

[1975 c 171 s 1; 1977 c 94 s 1,2; 1977 c 430 s 25 subd 2]

16.29 [Repealed, 1961 c 561 s 17]

16.30 [Repealed, 1961 c 561 s 17]

16.31 [Repealed, 1961 c 561 s 17]

16.32 PLANS AND SPECIFICATIONS; LIMITATIONS. Subdivision 1. When an appropriation is made to the commissioner of administration for an improvement or building costing more than \$50,000, he shall prepare the plans for it. These plans shall be paid for out of money appropriated for the purpose of improving or constructing the building. No part of the balance shall be expended until the commissioner has secured suitable plans and specifications, prepared by a competent architect or engineer, and accompanied by a detailed statement of the amount, quality, and description of all material and labor required for the completion of the work. No plan shall be adopted, and no improvement made or building constructed, that contemplates the expenditure for its completion of more money than the appropriation therefor, unless otherwise provided in the act making the appropriation. In no event shall the commissioner direct or permit any expenditure beyond that appropriated, and any agent of the commissioner violating this provision shall be guilty of a gross misdemeanor.

Subd. 2. Notwithstanding any provision in this section to the contrary, the commissioner may after consultation with the legislative building commission, adopt a plan, provide for an improvement, or construct a building that contemplates expenditure for its completion of more money than the appropriation therefor, if the excess money is provided by the United States government and granted to the state of Minnesota under federal law or any rule or regulation promulgated thereunder. Such federal money, for the purpose of this section, shall be deemed a part of the appropriation for the project.

Subd. 3. Notwithstanding any provision of this section to the contrary, plans for proposed new buildings and for features of existing public buildings in the capitol area which the capitol area architectural and planning board shall deem to possess architectural significance shall be subject to the provisions of section 15.50, subdivision 2, clauses (c) and (e).

[*RL s 1884*; 1909 c 38 s 1; 1965 c 354 s 1; 1974 c 580 s 15; 1975 c 271 s 6; 1978 c 793 s 44] (4428)

16.33 [Repealed, 1961 c 561 s 17]

16.34 INSTITUTIONS, PURCHASE OF SUPPLIES. The commissioner of administration shall make specific rules as to the manner in which supplies shall be purchased and contracts made for the several institutions, so as to insure competition and publicity. Any person desiring to sell supplies to an institution, who shall file with the chief executive officer thereof, and with the commissioner, a memorandum showing his address and business, shall be afforded an opportunity to compete for the furnishing of supplies, under such rules and limitations as he may prescribe. In purchasing supplies, preference shall be given to Minnesota dealers when it can be done without loss to the state. Samples furnished shall be properly marked and preserved for six months after purchase of such supplies.

[*RL s 1886*] (4430)

16.35 [Repealed, 1961 c 561 s 17]

16.36 [Repealed, 1961 c 561 s 17]

16.365 PUBLIC CONTRACTS GENERALLY; PREFERENCE. Subdivision 1. When a public contract is to be awarded to the lowest responsible bidder a resident bidder shall be allowed a preference as against a non-resident bidder from a state which gives or requires a preference to bidders from that state. The preference shall

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be equal to the preference given or required by the state of the non-resident bidder.

Subd. 2. Resident bidder as used in this section means a person, firm or corporation authorized to engage in business in the state of Minnesota and having a bona fide establishment for the doing of business within the state of Minnesota on the date when any bid for a public contract is first advertised or announced, and includes a foreign corporation duly authorized to engage in business in Minnesota and having a bona fide establishment for the doing of business within the state.

Subd. 3. The provisions of subdivisions 1 and 2 shall not apply to any contract for any project upon which federal funds are available for expenditure.

[1959 c 47 s 1; 1959 c 139 s 1]

16.37 [Repealed, 1965 c 45 s 73]

16.38 [Repealed, 1961 c 561 s 17]

16.381 INMATE OR PROJECT LABOR. At any state institution or any state park or in the maintenance of any state armory, appropriations for construction, improvements, or maintenance may be expended through the use of inmate or project labor when authorized by the commissioner of administration with the concurrence of the head of the interested state department for the fiscal year 1958 and thereafter.

[Ex1957 c 2 s 16]

16.51 DEPARTMENT OF AGRICULTURE SLOGAN. On all printed matter used, and distributed by the department of agriculture, there shall be printed thereon, wherever practicable, in as conspicuous a place and as prominent a type as may be consonant with good taste, the following words or slogan:

“FOR YOUR HEALTH AND PROSPERITY

SUPPORT MINNESOTA’S

FOOD INDUSTRY”

[1939 c 29 s 1; 1943 c 483 s 1; 1969 c 154 s 1] (5680-3)

16.52 PRINTED MATTER. The term, “printed matter,” as used in sections 16.51 to 16.53, includes all letterheads, vouchers, circulars, pamphlets, booklets, reports, literature, and other like printed material used by the department of agriculture.

[1939 c 29 s 2; 1943 c 483 s 2; 1969 c 154 s 2] (5680-4)

16.53 ON WHAT MATTER PRINTED. It shall be within the direction of the state printer, after consultation with the commissioner of agriculture, to determine upon what printed matter it is reasonably and practicably possible to print the slogan, and he shall carry out the provisions of sections 16.51 to 16.53.

[1939 c 29 s 3; 1943 c 483 s 3; 1969 c 154 s 3] (5680-5)

16.531 [Expired]

16.54 MAIL TO BE DELIVERED UNSTAMPED. All official mail of any state department or other state agency occupying quarters either in the capitol or in adjoining state buildings shall be delivered unstamped to the central mailing station. Account shall be kept of the postage required on such mail, which shall be a proper charge against the department or agency delivering such mail.

[1929 c 350 s 2; 1939 c 431 art 2 s 3 (15)] (23-2)

16.55 USE LABOR-SAVING DEVICES. In the handling of mail at the central mailing station the commissioner of administration shall make use of labor-saving devices and machines when it is found economical to do so.

[1929 c 350 s 3; 1939 c 431 art 2 s 3 (15); 1969 c 110 s 1] (23-3)

16.56 DEPARTMENT TO ADVANCE MONEY FOR EXPENSES. To provide funds for the payment of postage, each department or agency shall make advance payments, from time to time, to the commissioner of administration sufficient to cover

its postage obligations for at least 60 days.

[1929 c 350 s 4; 1969 c 110 s 2] (23-4)

NOTE: See also section 16.80.

16.57 [Repealed, 1969 c 1150 s 7]

16.61 PAMPHLET OF LEGAL NOTICES; PREPARATION. The state printer shall biennially issue a pamphlet containing a description and facsimile copy, and style of composition, as near as may be, of all notices required by law to be published by public officials in a newspaper in this state, for distribution; such forms of official notices to be prepared by the attorney general before being issued for distribution by the state printer, and such forms when so prepared and so issued shall become a guide for public officials in the publication of such official and legal notices in newspapers.

[1921 c 484 s 7; 1937 c 78 s 1; 1969 c 151 s 1] (10940)

16.62 [Renumbered 16A.13]

16.63 [Renumbered 16A.131]

16.64 [Renumbered 16A.132]

16.66 PRESERVATION OF DOCUMENTS. Subdivision 1. **Lamination process.** The commissioner of administration shall acquire necessary machinery and equipment to provide for the effective preservation of documents by a process of lamination and shall provide an operator therefor who shall be in the classified service of the state under the state archivist.

Subd. 2. **Documents treated for preservation.** Upon request made by any department head of a state agency, or by the governing body of any governmental subdivision of the state, the commissioner of administration shall treat any document for preservation by lamination.

Subd. 3. **Fee schedule.** The commissioner of administration shall determine and publish a fee schedule to be charged the department or agency or governmental subdivision for the service of documentary preservation authorized by this section. The schedule shall be reasonably calculated to provide the service at cost to public agencies.

Subd. 4. **Privately-owned documents preserved.** Any privately-owned document may be laminated by the commissioner of administration upon payment of the fees specified therefor in regulations at the same rate as public documents, if the commissioner determines that such privately-owned documents are affected with a public interest in their preservation.

[1955 c 724 s 1-4]

16.71 STATE EMPLOYEES SUGGESTION BOARD. Subdivision 1. **Membership.** Within the office of the commissioner of administration is created and established the state employees suggestion board, herein called the board, composed of seven members, appointed by the governor, each of whom is a state officer or employee. The board shall annually elect a member to be chairman.

Subd. 1a. **Terms, expenses, removal, vacancies.** The membership terms, expenses, removal of members, and filling of vacancies on the board shall be as provided in section 15.0575. Members shall not receive the daily compensation provided by section 15.0575.

Subd. 2. **Duties.** The board shall

(1) formulate, establish and maintain plans to encourage and reward unusual and meritorious suggestions and accomplishments by state employees promoting efficiency and economy in state government;

(2) appoint committees to consider suggestions and accomplishments of state employees, make recommendations thereon to the board;

(3) render merit awards to state employees in accordance with such plans.

Subd. 3. **Assistance.** The commissioner of administration shall assign for the use of the board such personnel, facilities, and equipment required for the proper performance of its work. The commissioner of administration, on behalf of the board, may require assistance from any state department of any of its personnel and facilities.

Subd. 4. **Awards.** The board may determine the nature and extent of the merit awards to be made under this section which may include, but shall not be limited to, the following:

- (1) Certificates, medals and other appropriate insignia;
- (2) Cash awards.

Subd. 5. **Rules.** The board shall have power to adopt and promulgate rules and regulations governing the operation of plans established under this section, the eligibility and qualifications of state employees participating therein, the character and quality of suggestions and accomplishments submitted for consideration, the method of their submission and the procedure for their review nominations for merit awards, and the kind and value of such awards, and such other rules and regulations as may be deemed necessary or appropriate for the proper administration of this section and for the accomplishment of the purposes thereof.

[1955 c 753 s 1-5; 1976 c 134 s 9,10; 1976 c 149 s 7; 1977 c 444 s 4,5]

16.72 STATE PARKING FACILITIES. Subdivision 1. **Powers and duties of commissioner of administration.** No motor vehicle, either privately or publicly owned, may be parked upon any parking lot or facility owned or operated by the state of Minnesota except as authorized by this section. The operation and supervision of all such parking lots and facilities are vested in the commissioner of administration. He may fix and collect rents, charges, or fees in connection with and for the use of any parking lot or facility so owned and operated by the state within the cities of St. Paul and Minneapolis; provided, that this shall not apply to any such lot or facility the control of which is vested by law in a state agency other than the department of administration.

The commissioner may purchase and furnish suitable uniforms for employees of the department who are engaged in activities related to section 16.72, for which a uniform is desirable and necessary in the opinion of the commissioner. There is annually appropriated to the commissioner, from moneys collected as parking lot rents, charges, and fees, sufficient money to purchase and furnish such uniforms.

Subd. 2. **Rules.** The commissioner of administration may adopt and enforce rules governing the parking of motor vehicles upon any such parking lot or facility so owned and operated by the state. Such rules shall be enacted in conformity with law and copies thereof shall be provided to all persons who first become contract parkers after July 1, 1977, and shall also be provided upon request to any other contract parker. Each parking lot or facility shall be posted with notice of who is entitled to park there.

Subd. 3. **Removal and impounding of vehicles.** Any motor vehicle parked upon any parking lot or facility owned and operated by the state not in conformity with the rules and regulations of the commissioner of administration governing the operation and use thereof shall be deemed a public nuisance and the commissioner of administration shall provide for the abatement of such nuisance by rules and regulations, including provision for the removal and impounding of such motor vehicle. The cost of such removal and impounding shall be a lien against the motor vehicle until paid.

Subd. 4. **Violations.** Any person, state official, elective or appointed, firm, association, or corporation which violates any of the provisions of this section or any rule or regulation made by the commissioner of administration hereunder is guilty of a misdemeanor and upon conviction thereof shall be punished in the manner provided by law.

Subd. 5. **Moneys collected.** All moneys collected by the commissioner of administration as rents, charges, or fees in connection with and for the use of any parking lot or facility are appropriated to the commissioner of administration for the purpose of operating, maintaining, and improving parking lots or facilities owned or operated by the state of Minnesota and to carry out the purposes of this section, except as provided in subdivision 7.

Subd. 6. **Legislative parking resolutions.** The provisions of this section shall not affect rules of parking adopted by resolution of the legislature during legislative sessions.

Subd. 7. **Surcharge for vehicles occupied by one person.** The commissioner of administration shall impose a surcharge of 25 percent for vehicles occupied by only one person parking in a state parking facility in the capitol area, as described by section 15.50, subdivision 2. The revenue from this additional charge shall be placed by the commissioner in a special account. For the benefit of employees employed in the capitol area, the money in the account is appropriated to the commissioner and shall be used by the commissioner to acquire or lease commuter vans pursuant to section 16.756 and, within such limits and upon such conditions as the commissioner determines to be necessary, to reimburse state departments or agencies for costs resulting from agreements with the metropolitan transit commission or other operators pursuant to section 473.409. The commissioner may adopt rules necessary to administer the provisions of this subdivision, subdivision 5, and section 473.409. The rules may exempt from the surcharge vehicles operated by persons who the commissioner determines have job requirements that make car pooling impractical.

[1957 c 575 s 1-3; 1959 c 192 s 1; 1965 c 823 s 1; 1969 c 152 s 1,2; 1977 c 414 s 9; 1977 c 454 s 11,12; 1978 c 793 s 45]

16.723 LEASED PARKING FACILITIES, CHARGED TO STATE EMPLOYEES.

Notwithstanding any other law to the contrary, the commissioner of administration shall, effective July 1, 1974 or as soon thereafter as practicable, charge state employees for any parking facilities which are used by them and furnished for their use pursuant to any lease entered into between the state of Minnesota and the lessor of any privately owned property situated in the seven county metropolitan area.

[1974 c 355 s 47]

16.73 SALE OF UNUSED EQUIPMENT, PROCEEDS. Whenever the commissioner of administration sells supplies, materials and equipment of any state department or agency which are surplus, obsolete or unused, the proceeds of such sale are hereby appropriated to the department or state agency for whose account such sale was made to be used and expended by such department or agency for the purchase of similar needed supplies, materials and equipment at any time during the biennium in which the sale occurred.

[1957 c 142 s 1]

16.75 CENTRAL MOTOR POOL, ESTABLISHMENT. Subdivision 1. The commissioner of administration as soon as practicable shall establish a central motor pool of passenger motor vehicles, and pick up and panel trucks of not more than one ton carrying capacity each, hereinafter referred to in this section as trucks, used by departments and agencies of the state government having the principal offices in the city of St. Paul and may provide for branch central motor pools at other places within the state.

Subd. 2. The commissioner of administration may direct any state department or agency to transfer to him any passenger motor vehicle or truck presently assigned to it for the central motor pool or any branch thereof. To the extent that funds are available therefor the commissioner may purchase or otherwise acquire additional passenger motor vehicles and trucks as he may deem necessary for the central motor pool or any branch thereof. The title to all motor vehicles assigned to or purchased or acquired for the central motor pool or any branch thereof shall be in the name of the department of administration.

The commissioner of administration upon request of any department or agency may transfer to the central motor pool any passenger motor vehicle or truck for the purpose of disposing of it. The department or agency transferring such vehicle or truck shall be paid therefor from the motor pool revolving account established by section 16.77 in an amount equal to two-thirds of the average wholesale price of such vehicle or truck as determined from the midwest edition of the National Automobile Dealers Association official used car guide.

Subd. 3. The commissioner of administration shall be responsible for the control, regulation, acquisition, operation, maintenance, repair, and disposal of all motor vehicles of the central motor pool or any branch thereof. The commissioner of administration may employ a director and such other personnel as may be necessary for the operation of the central motor pool or any branch thereof. All personnel so employed are in the classified service.

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Subd. 4. The commissioner of administration may contract with the head of any state department or agency operating facilities available for the maintenance, repair, and storage of state-owned motor vehicles so as to provide for maintenance, repair, and storage of motor vehicles of the central motor pool or any branch thereof. He may also maintain or contract with any person in the manner provided by law for such storage and repair facilities as he may deem necessary for the motor vehicles of the central motor pool and any branch thereof, and may provide for or contract with any person in the manner provided for by law providing reasonable maintenance, repair, or storage facilities in connection therewith.

All moneys received by the head of any department or agency pursuant to a contract with the commissioner of administration are annually appropriated to said head of the department or agency for the same purposes as funds expended by him for the operation of state-owned facilities for the maintenance, repair, and storage of vehicles.

Subd. 5. The motor vehicles in the central motor pool or any branch thereof shall be available for official state business only. Each state department and agency requiring the services of a motor vehicle shall requisition it from the central motor pool or any branch thereof on either a temporary or permanent basis. No privately owned motor vehicle shall be used for official state business except when authorized by the commissioner of administration.

Subd. 6. Each state department or agency using the facilities of the central motor pool or any branch thereof shall reimburse the commissioner of administration for the services provided in accordance with the schedule of charges which the commissioner of administration shall establish. Such schedule of charges shall include reasonable overhead costs including vehicle depreciation and other costs, including public liability or property damage insurance, incurred in the operation of the central motor pool, or any branch thereof.

Subd. 7. The commissioner of administration shall establish all rules necessary for the efficient and economical operation, maintenance, repair, and replacement of state-owned motor vehicles in the central motor pool or any branch thereof. The rules shall include the requirements for keeping records and reports and all schedules used as a basis for charging departments and agencies for the services furnished. They shall also provide for periodic reimbursements by the department or agency using the motor pool services. The commissioner of administration by rule shall provide for the uniform marking of all such motor vehicles. The coloring for the motor vehicles shall be selected from the regular color chart provided by the manufacturer each year. The commissioner may further provide by rule for the use of motor vehicles without uniform coloring or marking by the division of criminal apprehension in the department of public safety and the office of the attorney general. The provisions of the administrative procedure act shall not apply to rules promulgated pursuant to this subdivision.

Subd. 8. The provisions of this section shall not apply to motor vehicles of the highway patrol, the university of Minnesota, or to motor vehicles of any other department or agency which are specially equipped for the needs of such department or agency.

[1961 c 575 s 1; 1963 c 398 s 1; 1965 c 824 s 1; 1969 c 111 s 1-5; 1975 c 81 s 3; 1977 c 414 s 10]

16.753 USE OF STATE-OWNED VEHICLES. Subdivision 1. By October 1, 1975, the commissioner of administration shall develop, implement, and, as needed, amend rules, reimbursement rates and necessary operating policies regarding state-owned vehicles assigned to individual employees for extended use in the performance of their assigned duties. Reimbursement to the state by employees shall be made for the full cost to the state for travel by the employee to and from his place of residence. Such rules, rates and operating policies shall not be subject to the provisions of the administrative procedures act. All moneys received under this provision shall be deposited as nondedicated receipts to the credit of the fund from which the costs of operating the individual vehicles are paid.

Subd. 2. The provisions of subdivision 1 shall not apply to any member of the state highway patrol, crime bureau investigators, nor to the commissioner and deputy commissioner of public safety.

[1975 c 204 s 69; 1976 c 281 s 4; 1977 c 146 s 1]

16.755 [Repealed, 1976 c 233 s 13]

16.756 COMMUTER VANS; STATE EMPLOYEES AND BLIND VENDING OPERATORS. Subdivision 1. In order to conserve energy and to alleviate traffic congestion in and about the location of state offices, the commissioner of administration shall, in cooperation with the director of the Minnesota energy agency, the commissioner of transportation and interested nonprofit agencies, establish and operate an employee transportation program utilizing commuter vans with a capacity of not less than seven nor more than 16 passengers. The commissioner shall acquire or lease commuter vans, or otherwise contract for the provision of commuter vans, and shall make the vans available for the use of state employees and blind vending operators in a manner consistent with standards and procedures adopted by the commissioner. Standards and procedures adopted pursuant to this subdivision shall not be subject to chapter 15. Commuter vans may be used by state employees and blind vending operators to travel between their homes and their work locations, and for personal purposes after working hours, not including partisan political activity. The commissioner shall provide in his standards and procedures for the recovery by the state of vehicle acquisition, lease, operation and insurance costs through efficient and convenient assignment of vans, and for the billing of costs and collection of fees. A state employee using a van for personal use shall pay, pursuant to the standards and procedures adopted by the commissioner, for operating and routine maintenance costs incurred as a result of the personal use. The commissioner shall promote the maximum practicable participation of state employees and blind vending operators in the use of the vans. Fees collected pursuant to this subdivision shall be deposited in the accounts from which the costs of operating, maintaining and leasing or amortizing acquisition costs for the specific vehicle are paid.

Subd. 2. Use of the vans shall be limited to areas not having adequate public transportation between the residences of state employees and blind vending operators and their places of employment. During the first year, the van program shall be implemented both in the seven-county metropolitan area and in one other region of the state.

Subd. 3. The program shall be evaluated after its first year of operation, and the commissioner of administration shall at that time recommend to the legislature whether the program should be expanded or discontinued. The commissioner shall at least semi-annually inform the metropolitan council and the capitol area architectural and planning board on the operation of the program.

Subd. 4. Notwithstanding section 15.31 or any other law to the contrary, the commissioner of administration may purchase, pursuant to this chapter, collision insurance coverage for the commuter vans. Notwithstanding sections 16.75, subdivision 7, and 168.012, the vans shall not be marked. The vans shall not be equipped with tax-exempt motor vehicle number plates.

Subd. 5. "Blind vending operator" means a blind person licensed to operate a vending stand or machine pursuant to section 248.07.

[1976 c 166 s 7; 1976 c 233 s 1-4; 1977 c 107 s 1]

NOTE: This section expires June 30, 1979. See Laws 1976, Chapter 233, Section 14.

16.76 REIMBURSEMENTS TO DEPARTMENTS OR AGENCIES. The commissioner of administration shall reimburse any department or agency whose motor vehicles have been paid for with funds dedicated by the constitution for a special purpose and which are assigned to the central motor pool or any branch thereof. The amount of reimbursement for any such motor vehicle shall be the average wholesale price therefor as determined from the midwest edition of the national automobile dealers association official used car guide. The sum of \$400,000 or so much thereof as may be necessary is appropriated to the commissioner of administration from the general fund in the state treasury for the purpose of this section.

[1961 c 575 s 2; 1969 c 399 s 1]

16.77 APPROPRIATIONS. A motor pool revolving account is established in the state treasury. All moneys or reimbursements received by the commissioner of administration from the operation of the central motor pool or any branch thereof shall be deposited in the state treasury and credited to this account. The sum of \$438,000 is hereby appropriated from any moneys in the state treasury, not otherwise appropriated, to the central motor pool account in the state treasury. All moneys in the state

treasury credited to the central motor pool account are annually appropriated to the commissioner of administration for the purpose of carrying out the terms and provisions of section 16.75. Whenever the unobligated amount of money in the state treasury credited to the motor pool revolving account exceeds the sum of \$438,000 at the end of any fiscal year, the unobligated amount in excess thereof shall be transferred to the general fund in the state treasury.

[1961 c 575 s 3; 1969 c 399 s 1]

16.78 GASOLINE AND PETROLEUM PRODUCTS, SOURCE OF SUPPLY FOR STATE AGENCIES AND DEPARTMENTS. Subdivision 1. The commissioner of administration may require a department or agency having facilities for the storage and distribution of gasoline and other petroleum products to furnish gasoline and other petroleum products to any other department or agency and shall require payment to compensate for the cost of such products. The commissioner shall prescribe all procedures for the guidance of state departments and agencies in carrying out the requirements of section 16.78.

Subd. 2. Moneys paid by one department or agency to another department or agency to compensate for the cost of products furnished under subdivision 1 are hereby annually appropriated to the department which furnishes such products.

[1961 c 600 s 1]

16.80 GENERAL SERVICES AND COMPUTER SERVICES REVOLVING FUNDS. Subdivision 1. All fees prescribed pursuant to section 16.026, subdivision 3, for the rendering of the services therein provided shall be deposited in the state treasury by the collecting department or agency and credited to the general services revolving fund.

All moneys in the state treasury credited to the general services revolving fund and any moneys which may hereafter be deposited therein are appropriated annually to the commissioner of administration for the following purposes:

- (a) The operation of a central store and equipment service;
- (b) The operation of a central duplication and reproduction service;
- (c) The purchase of postage and related items, and the refund of postage deposits, necessary to the operation of a central mailing service;
- (d) The operation of a documents service as prescribed by section 16.026;
- (e) The performing of services for any other state department or agency. Money shall be expended for this purpose only when directed by the governor. The department or agency receiving the services shall reimburse the fund for their cost, and the commissioner shall make the appropriate transfers when requested. The term "services" as used in this clause means compensation paid officers and employees of the state government; supplies, materials, equipment and other articles and things used by or furnished to any department or agency of the state government; and utility services, including telephone, telegraph, postal, electric light and power, and other services for the maintenance, operation and upkeep of buildings and offices of the state government. All moneys in the computer services revolving fund are appropriated annually to the commissioner of administration for the operation of the division of computer services.

Except as specifically provided for by other statutory provisions, each department or agency shall reimburse the computer services and general services revolving funds for the cost of all services, supplies, materials, labor and depreciation of equipment including reasonable overhead costs which the commissioner of administration is authorized and directed to furnish a department or agency. The cost of all publications or any other materials which may be produced by the commissioner of administration and financed from the general services revolving fund shall include reasonable overhead costs. The commissioner of finance shall make appropriate transfers to the revolving funds described in this section when requested by the commissioner of administration. The commissioner of administration may make allotments, encumbrances, and, with the approval of the commissioner of finance, disbursements in anticipation of such transfers. In addition, the commissioner of administration may require a department or agency to make advance payments to any of the aforesaid revolving funds sufficient to cover the department's or agency's estimated obligation for a period of at least 60 days. All such reimbursements and any other moneys received

by the commissioner of administration under this section shall be deposited in the appropriate revolving fund.

Subd. 2. In the event the computer services or general services revolving fund is abolished or liquidated, the total net profit from the operations of each fund shall be distributed to the various funds from which purchases were made. The amount to be distributed to each fund shall bear to such net profit the same ratio as the total purchases from each fund bears to the total purchases from all the funds during such period of time as shall fairly reflect the amount of net profit each fund is entitled to receive under the distribution required herein.

[*Ex1961 c 88 s 64; 1967 c 293 s 1; 1969 c 553 s 1,2; 1973 c 492 s 14; 1975 c 81 s 4; 1975 c 380 s 17; 1976 c 2 s 4; 1977 c 410 s 4*]

16.81 MISUSE OF STATE PUBLICATIONS BY STATE OFFICERS. Subdivision 1. No elected, administrative, or executive officer of the state, shall cause to be printed, nor shall the commissioner of administration authorize the printing of, official reports and other publications intended for general public circulation except those authorized by law or included in the intent of the appropriation out of which the cost will be defrayed; and executive officers shall, before presenting their annual reports and other publications to the commissioner of administration, examine the same and exclude therefrom pictures of elected and administrative officials, and any other pictorial device calculated to or tending to attribute the publication to an individual instead of the department of state government from which it emanates. All other engravings, maps, drawings and illustrations shall be excluded from such reports and publications, except as the executive officers shall certify when presenting such reports for printing, are necessary and relate entirely to the transaction of the state's business, or are reasonably required to present for clear understanding the substance of the report.

Subd. 2. A report for publication authorized by law and paid for from public funds shall carry the imprimatur of the department or the office under whose authority it is issued, but it shall not carry the name of an official in any way that might infer attributing the publication to any person, except where certification of the officer is required for authenticity of the document.

Subd. 3. No report or publication distributed by or from an administrative or executive officer shall contain any notice that the same is sent with "the compliments" and shall not carry letters of personal greeting from an official.

Subd. 4. This section does not apply to the legislative manuals as provided in chapter 5.

[*1963 c 100 s 1*]

16.811 PUBLICATIONS BY DEPARTMENT OF ADMINISTRATION. Notwithstanding the provisions of section 16.81, or any other law relating to the subject matter of this section, the department of administration may continue to publish reports, documents, and related materials of the same manner described in its catalogs of Minnesota state publications.

[*1963 c 873 s 65; 1965 c 901 s 64; Ex1971 c 3 s 59*]

16.82 STATE BUILDINGS, DISPOSAL OF OLD BUILDINGS. Subdivision 1. The commissioner of administration, upon request of the head of a state agency or department having control of a state owned building which is no longer used and which is a fire or safety hazard, shall, after obtaining approval of the legislative building commission, sell, wreck, or otherwise dispose of such building.

Subd. 2. In the event a sale is made the proceeds shall be deposited in the proper account, or in the general fund.

[*1963 c 463 s 1; 1969 c 227 s 1; 1969 c 399 s 1*]

16.821 STATE DESIGNER SELECTION BOARD ACT; CITATION. Sections 16.821 to 16.827 may be cited as the "state designer selection board act".

[*1974 c 533 s 1*]

16.822 DEFINITIONS. Subdivision 1. As used in sections 16.821 to 16.827, the following terms shall have the meanings given them.

Subd. 2. "Agency" means any official, department or agency of the state government, and the university of Minnesota, over which the commissioner of administration has the power of supervision and control.

Subd. 3. "Architect" means an architect registered to practice under sections 326.02 to 326.16.

Subd. 4. "Board" means the state designer selection board.

Subd. 5. "Designer" means an architect or engineer, or a partnership, association or corporation comprised primarily of architects or engineers or of both architects and engineers.

Subd. 6. "Engineer" means an engineer registered to practice under sections 326.02 to 326.16.

Subd. 7. "Person" includes an individual, corporation, partnership, association or any other legal entity.

Subd. 8. "Primary designer" means the designer who is to have primary design responsibility for a project, and does not include designers who are merely consulted by user agency and do not have substantial design responsibility, or designers who will or may be employed or consulted by the primary designer.

Subd. 9. "Project" means any undertaking to construct and erect any building or remodel any building by or for the state or any agency.

Subd. 10. "User agency" means the agency undertaking a specific project.
[1974 c 533 s 2]

16.823 STATE DESIGNER SELECTION BOARD. Subdivision 1. There is hereby created a state designer selection board, whose duty it shall be to carry out the purposes and assume the responsibilities set forth in sections 16.826 and 16.827.

Subd. 2. The board shall consist of five individuals, the majority of whom shall be residents of the state of Minnesota. Each of the following three organizations shall nominate one individual whose name and qualifications shall be submitted to the governor for consideration: Consulting engineers council of Minnesota after consultation with other professional engineering societies in the state; Minnesota society of architects; and the Minnesota board of the arts. The governor may appoint the three named individuals to the board with the advice and consent of the senate, but the governor may reject any individual so nominated and request a second nomination. The remaining two members shall also be appointed by the governor with the advice and consent of the senate.

Subd. 3. The membership terms, compensation, removal of members, and filling of vacancies on the board shall be as provided in section 15.0575. No individual shall serve for more than two consecutive terms.

Subd. 4. In addition to the foregoing five members of the board, there shall be two ex officio members who shall participate, without vote, in the interviewing and selection of designers as hereinafter provided. One such member shall be a representative of the commissioner of administration and shall participate in the interviewing and selection of designers for all projects. The other such member shall be a representative of the user agency, who shall participate in the interviewing and selection of the designer or designers for the project being undertaken by such user agency. The representative of the user agency shall be appointed by the commissioner of administration in consultation with the user agency.

Subd. 5. [Repealed, 1976 c 134 s 79]

[1974 c 533 s 3; 1975 c 271 s 6; 1975 c 297 s 5; 1976 c 134 s 11,12]

16.824 ORGANIZATION OF BOARD; CHAIRMAN; OFFICERS; RULES OF PROCEDURE. At the first meeting of the board, the board shall elect a chairman who shall be a voting member of the board. The board shall also elect such other officers as it deems necessary for the conduct of its affairs. The board shall adopt rules governing its operations and the conduct of its meetings. The rules shall provide for the terms of the chairman and such other officers as it may elect.

[1974 c 533 s 4]

16.825 REQUEST FOR DESIGNER. Subdivision 1. Upon undertaking a project with an estimated cost greater than \$250,000, or a planning project with estimated fees greater than \$20,000 every user agency, except the capitol area architectural and planning board, shall submit a written request for a primary designer or designers for its project to the commissioner of administration who shall forward such request to the board.

Subd. 2. Such written request shall include a description of the project, the estimated cost of completing the project, a description of any special requirements or unique features of the proposed project and any other information which will assist the board in carrying out its duties and responsibilities set forth in section 16.826.

[1974 c 533 s 5; 1975 c 271 s 6]

16.826 DUTIES AND POWERS OF BOARD. Subdivision 1. The board shall meet as often as is necessary, not less than twice annually, in order to act expeditiously upon requests submitted to it for selection of primary designers.

Subd. 2. Upon receipt of a request from a user agency for a primary designer, the board shall publicize the proposed project in order to determine the identity of designers interested in the design work on the project. The board shall establish criteria for the selection process and shall make this information public, and shall, in addition, compile data on and conduct interviews of designers. Upon completing the foregoing, the board shall select the primary designer. Notification to the commissioner of administration of such selection shall be made not more than 60 days after receipt from a user agency of a request for a primary designer. The commissioner of administration shall promptly notify the designer and the user agency. The department of administration shall negotiate the designer's fee and prepare the contract to be entered into between the designer and the user agency.

Subd. 3. No designer or their firms shall be selected in which a member of the design selection board has a current financial interest.

Subd. 4. In the event the board receives a request for a primary designer on a project, the estimated cost of which is less than \$250,000, or a planning project with estimated fees of less than \$20,000, the board may submit such request to the commissioner of administration, with or without recommendations, and the commissioner shall thereupon select the primary designer for the project.

Subd. 5. In the event the designer selected for a project declines the appointment or is unable to reach agreement with the department of administration on the fee or the terms of the contract, the commissioner of administration shall, not less than 60 days after the first appointment, request of the board that another selection be made.

Subd. 6. If the board fails to make a selection and notify the commissioner of administration thereof within 60 days of the user agency's request for a designer, the commissioner of administration may appoint a designer to the project without the recommendation of the board.

[1974 c 533 s 6]

16.827 OFFICE, STAFF AND RECORDS. The board shall be provided with suitable quarters by the department of administration for the maintenance of an office, the holding of meetings and the keeping of records. The commissioner of the department of administration shall designate an employee of the department of administration to serve as executive secretary to the board, and shall furnish a secretarial staff to the board as is necessary for the expeditious conduct of the board's duties and responsibilities.

[1974 c 533 s 7]

16.83 STATE BUILDING CODE; POLICY AND PURPOSE. Laws 1971, Chapter 561 is enacted to enable the commissioner of administration to promulgate and administer a state building code in accordance with the provisions hereof, which code shall govern the construction, reconstruction, alteration, and repair of state-owned buildings and other structures to which the code is applicable. It is necessary that building codes be adopted and enforced to protect the health, safety, welfare, comfort, and security of the residents of this state. However, the construction of buildings should be permitted at the least possible cost consistent with recognized standards of health and safety.

Many citizens of the state are unable to secure adequate housing at prices or rentals which they can afford. Such a situation is contrary to the public interest and threatens the health, safety, welfare, comfort, and security of the people of the state. Other persons in commerce and industry are also affected by the high cost of construction. Construction costs for buildings of all types have risen and are continuing to rise at unprecedented rates.

A multitude of laws, ordinances, rules, regulations, and codes regulating the construction of buildings and the use of materials therein is a factor contributing to the high cost of construction. Many such requirements are obsolete, complex, and unnecessary. They serve to increase costs without providing correlative benefits of safety to owners, builders, tenants, and users of buildings.

It is the purpose of Laws 1971, Chapter 561 to prescribe and provide for the administration and amendment of a state code of building construction which will provide basic and uniform performance standards, establish reasonable safeguards for health, safety, welfare, comfort, and security of the residents of this state who are occupants and users of buildings, and provide for the use of modern methods, devices, materials, and techniques which will in part tend to lower construction costs.

[1965 c 623 s 1; 1971 c 561 s 1]

16.84 DEFINITIONS, STATE BUILDING CODE. Subdivision 1. For the purposes of sections 16.83 to 16.867, the terms defined in this section have the meanings given them.

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

Subd. 2a. "City" means a home rule charter or statutory city.

Subd. 3. "Municipality" means any city, county, or town meeting the requirements of section 368.01, subdivision 1, or the University of Minnesota.

Subd. 4. "Code" means the state building code or any amendment thereof promulgated by the commissioner in accordance with the terms of sections 16.83 to 16.867.

Subd. 5. "Committee" means the state building code standards committee established pursuant to sections 16.83 to 16.867.

Subd. 6. "Agricultural building" means a structure on agricultural land as defined in section 273.13, subdivision 6, designed, constructed and used to house farm implements, livestock or agricultural produce or products used by the owner, lessee and sublessee of the building and members of their immediate families, their employees, and persons engaged in the pickup or delivery of agricultural produce or products.

Subd. 7. "Public building" means any building and the grounds appurtenant thereto, the cost of which is paid for by the state of Minnesota or any governmental subdivision thereof, or any agency of the state or of any governmental subdivision, or school district.

Subd. 8. "Physically handicapped" means sight disabilities, hearing disabilities, disabilities of incoordination, disabilities of aging, and any other disability that significantly reduces mobility, flexibility, coordination, or perceptiveness.

Subd. 9. "Remodeling" means deliberate reconstruction of an existing public building in whole or in part in order to bring it up to date in conformity with present uses of the structure and to which other rules on the upgrading of health and safety provisions are applicable.

[1965 c 623 s 2; 1969 c 850 s 1; 1971 c 561 s 2; 1973 c 123 art 5 s 7; 1977 c 381 s 1; 1978 c 751 s 1]

16.85 GENERAL POWERS OF COMMISSIONER, STATE BUILDING CODE.

Subdivision 1. Subject to the provisions of sections 16.83 to 16.867, the commissioner shall by rule establish a code of standards for the construction, reconstruction, alteration, and repair of state-owned buildings, governing matters of structural materials, design and construction, fire protection, health, sanitation, and safety. The code shall also provide for making public buildings constructed or remodeled after July 1, 1963, accessible to and usable by physically handicapped persons; provided that this shall not require the remodeling of public buildings solely to provide accessibility and usability to the physically handicapped when remodeling would not otherwise be undertaken. The commissioner may amend the code from time to time as provided in sections 16.83 to 16.867. The code and any amendment thereof shall conform insofar as practicable to model building codes generally accepted and in use throughout the United States. In the preparation of the code consideration shall be given to the existing state-wide specialty codes presently in use in the state of Minnesota. Such model codes with modifications as may be deemed necessary and state-wide specialty codes may be adopted by reference. The code so promulgated and any amendments thereof

shall be based on the application of scientific principles, approved tests, and professional judgment; and to the extent that it is practical so to do the code shall be promulgated in terms of desired results instead of the means of achieving such results, avoiding wherever possible the incorporation of specifications of particular methods or materials. To that end the code shall encourage the use of new methods and new materials. Except as otherwise provided in sections 16.83 to 16.867, the commissioner shall administer and enforce the provisions of those sections.

The code shall require that any parking ramp or other parking facility constructed in accordance with the code include an appropriate number of spaces suitable for the parking of motor vehicles having a capacity of seven to 16 persons and which are principally used to provide prearranged commuter transportation of employees to or from their place of employment or to or from a transit stop authorized by a local transit authority.

The code shall require that all dwellings, lodging houses, apartment houses, and hotels as defined in section 299F.362 comply with the provisions of section 299F.362.

Subd. 1a. Construction or remodeling shall not be commenced on any public building owned by the state of Minnesota until the plans and specifications of the public building have been approved by the commissioner. In the case of any other public building the plans and specifications thereof shall be submitted to the commissioner for review, and within 30 days after his receipt thereof he shall notify the submitting authority of his recommendations if any.

Subd. 1b. No agency of the state may lease space for agency operations in a non-state owned building, unless the building satisfies the requirements of the state building code for accessibility by the physically handicapped, or is eligible to display the state symbol of accessibility. This limitation shall apply in respect to leases of thirty days or more for space of at least 1,000 square feet commencing on or after July 1, 1980.

Subd. 1c. After July 1, 1979, meetings or conferences attended by the public and sponsored by a state agency in non-publicly owned buildings shall be held in buildings that either meet the state building code requirements relating to accessibility for the physically handicapped or are eligible to display the state symbol for accessibility.

Subd. 1d. The commissioner of administration may grant an exemption from the requirements of subdivisions 1b and 1c if reasonable efforts were made to secure facilities which complied with the requirements of subdivision 1b and if the selected facilities are the best available for access for handicapped persons.

Subd. 2. [Repealed, 1971 c 561 s 17]

Subd. 3. [Repealed, 1971 c 561 s 17]

Subd. 4. [Repealed, 1971 c 561 s 17]

[1965 c 623 s 3; 1969 c 850 s 2; 1971 c 561 s 3; 1976 c 233 s 5; 1977 c 333 s 1; 1978 c 751 s 2]

16.851 STATE BUILDING CODE; APPLICATION. Subdivision 1. The state building code shall apply state-wide and supersede the building code of any municipality. The state building code shall not apply to agricultural buildings except with respect to state inspections required or rulemaking authorized by sections 104.05, 326.244 and 116H.12, subdivision 4. Effective July 1, 1977, or as soon thereafter as possible, but in no event later than July 1, 1978, all municipalities shall adopt and enforce the state building code with respect to new construction within their respective jurisdictions. If a city has adopted or is enforcing the state building code on the effective date of Laws 1977, Chapter 381, or determines by ordinance thereafter to undertake enforcement, it shall be charged with enforcement of the code within the city. A city may by ordinance extend the enforcement of the code to contiguous unincorporated territory not more than two miles distant from its corporate limits in any direction; provided that where two or more non-contiguous cities which have elected to enforce the code have boundaries less than four miles apart, each is authorized to enforce the code on its side of a line equidistant between them. Once enforcement authority is extended extraterritorially by ordinance, the authority may continue to be exercised in the designated territory even though another city less than four miles distant later elects to enforce the code. Any city may thereafter enforce the code in the designated area to the same extent as if such property were situated within its corporate limits. A city which, on the effective date of Laws 1977, Chapter 381, has not

adopted the code may not commence enforcement of the code within or outside of its jurisdiction until it has provided written notice to the commissioner, the county auditor, and the town clerk of each town in which it intends to enforce the code. A public hearing on the proposed enforcement must be held not less than 30 days after the notice has been provided. Enforcement of the code by the city will commence on the first day of January in the year following the notice and hearing. Municipalities may provide for the issuance of permits, inspection and enforcement within their jurisdictions by such means as may be convenient, and lawful, including by means of contracts with other municipalities pursuant to section 471.59, and with qualified individuals. In areas outside of the enforcement authority of a city, the fee charged for the issuance of permits and inspections for single family dwellings may not exceed the greater of \$100 or .005 times the value of the structure, addition or alteration. The other municipalities or qualified individuals may be reimbursed by retention or remission of some or all of the building permit fee collected or by other means. In areas of the state where inspection and enforcement is unavailable from qualified employees of municipalities, it shall be the responsibility of the commissioner to train and designate individuals available to carry out inspection and enforcement on a fee basis.

Subd. 2. If the commissioner determines that a municipality is not properly administering and enforcing the state building code as provided in section 16.867, the commissioner may cause administration and enforcement in the involved municipality to be undertaken by the state building inspector. The commissioner shall notify the affected municipality in writing immediately upon making the determination, and the municipality may challenge the determination as a contested case before the commissioner pursuant to the administrative procedure act. In municipalities not properly administering and enforcing the state building code, and municipalities who determine not to administer and enforce the state building code, the commissioner shall cause administration and enforcement in the involved municipality to be undertaken by the state building inspector or other inspector certified by the state. The commissioner shall determine appropriate fees to be charged for the administration and enforcement service rendered. Any cost to the state arising from the state administration and enforcement of the state building code shall be borne by the subject municipality.

[1971 c 561 s 4; Ex1971 c 48 s 14 subd 1; 1974 c 568 s 1; 1977 c 381 s 2]

NOTE: Laws 1978, Chapter 786, Section 22 reads as follows:

"Sec. 22. Notwithstanding the provisions of section 16.851, the date by which the state building code must be enforced within all municipalities in the state is January 1, 1979, except that those portions of the state building code relating to the grading of lumber shall not be effective until January 1, 1980."

16.852 PREFABRICATED STRUCTURES, CODE RULES. Subdivision 1. On the effective date on which rules promulgated by the commissioner regarding prefabricated structures are given the force and effect of law, this section shall expire and have no force and effect. Until such time as the commissioner adopts rules regarding prefabricated structures the following rules shall be a part of the code and govern the regulations of prefabricated structures:

SBC5001 general

(a) Purpose. The purpose of this chapter is to regulate materials and establish methods of safe construction where any structure or portion thereof is wholly or partially prefabricated.

(b) Scope. Unless otherwise specifically stated in this chapter, all prefabricated construction and all materials used therein shall conform to all requirements of this code, unless otherwise noted.

(c) Definitions.

(1) "Prefabricated structure" means a residential building or structural unit which has been in whole or substantial part manufactured at an off-site location to be wholly or partially assembled on site, and shall not include mobile homes.

(2) "Installation" means the assembly of a prefabricated structure on site, and the process of affixing the structure to land, a foundation, footings or an existing building.

SBC5002 tests and materials

Every approval of a material not specifically mentioned in this code may incorporate as a proviso the kind and number of tests to be made during prefabrication.

SBC5003 tests of assemblies

The state building inspector may require special tests to be made on prefabricated structures to determine their durability and weather resistance.

SBC5004 connections

Every device designed to connect prefabricated assemblies shall be capable of developing the strength of the members connected, except in the case of members forming part of structural frame designed as specified in chapter 26. The connection device shall be designed as required by the other chapters in the code. Connections between roofs and the supporting walls shall be capable of withstanding an uplifting equal to five pounds per square foot unless otherwise noted.

SBC5005 pipes and conduits

In structural design, due allowances shall be made for any material to be removed for the installation of pipes, conduits, or other equipment (or on site inspection).

SBC5006 certificate and inspection of materials and manufacture

The manufacturer shall submit complete details, drawings and specifications of the assembly before any material is delivered to the site for the approval of the state building inspector. No prefabricated structure shall be sold, offered for sale, or installed in the state and no permit shall be issued with respect to a building consisting in whole or part of a prefabricated structure unless the materials therein and manufacture thereof have been certified by the state building inspector to be in compliance with the code. The state building inspector shall make such inspections as necessary to insure compliance and may send inspectors into other states to inspect the manufacture of prefabricated structures to be sold, offered for sale, or installed in the state of Minnesota. All costs incurred by the state building inspector by virtue of the inspection of materials and manufacture shall be paid by the involved manufacturer. Following inspection and payment by the manufacturer of the costs arising therefrom the state building inspector shall issue a certification with respect to each prefabricated structure deemed to be in compliance with the code and a copy of such certificate shall be affixed to the structure or part thereof.

Subd. 2. The state building inspector's certification that a prefabricated structure complies with the code shall be conclusive on all agencies and instrumentalities of the state and its political subdivisions. The state building inspector shall require a certificate from the manufacturer which shall:

- (1) Identify the manufacturer of the prefabricated structure or component of the prefabricated structure.
- (2) Identify, by serial number or otherwise, the particular prefabricated structure or component of the prefabricated structure being certified as in compliance with the provisions of the code.
- (3) Certify that the materials used in the manufacture of prefabricated structures or component of the prefabricated structures are in compliance with the provisions of the code.

After certification no changes in or modifications to the prefabricated structure or part thereof may be made by the manufacturer without the approval of the state building inspector.

SBC5007 on-site assembly and installation

The installation of prefabricated structures shall comply with the provisions of the code and shall be subject to the inspection of the building official of the jurisdiction in which the site is situated.

SBC5008 continuous inspection

If continuous inspection is required for certain materials where construction takes place on site, it shall be required where the same materials are used in prefabricated construction.

Subd. 3. For the purposes of the state-wide building code, unless the context clearly indicates otherwise, the following substitutions shall be made in the state building code:

- (a) "Building official" for "administrative authority";
 - (b) "Governing body" for "mayor" and "city council";
 - (c) "Municipality" for the "city".
- [1971 c 561 s 5]

16.853 BUILDING CODE STANDARDS COMMITTEE. Subdivision 1. **Creation.** The commissioner of administration shall appoint a building code standards committee which shall serve in an advisory capacity to the commissioner in promulgating the code and making such amendments thereto as the commissioner shall from time to time deem necessary.

Subd. 2. **Composition.** The committee shall consist of nine members who are residents of the state. The state building inspector shall serve as secretary of the committee but shall not be a member thereof. The membership shall be broadly representative of the industries and professions involved in the development and construction of buildings including representation from building code enforcement agencies, architectural and engineering associations, building construction trades, the contracting and manufacturing industries, governing bodies of local government and the general public. Appointments to the committee made on and after July 1, 1973 shall be made in such manner as to insure that by July 1, 1977 and thereafter, the membership shall consist of at least one member residing in each congressional district.

Subd. 3. **Internal authority and compensation.** The committee shall elect its own chairman, adopt rules and regulations for its procedure and meet when so directed by the commissioner. The committee is further empowered, subject to the approval of the commissioner and the limits of appropriations provided therefor, to employ such assistance as it deems necessary. The committee shall expire and the terms, compensation and removal of members shall be as provided in section 15.059.

[1971 c 561 s 6; 1973 c 46 s 1; 1975 c 315 s 2]

16.854 STATE BUILDING INSPECTOR. Subdivision 1. **Appointment.** As soon after July 1, 1971, as is possible the commissioner shall appoint a state building inspector who under the direction and supervision of the commissioner shall administer the code. The state building inspector shall serve at the pleasure of the commissioner within the department of administration and shall be in the unclassified service of the state.

Subd. 2. **Qualifications.** To be eligible for appointment as state building inspector an individual must be competent in the field of administration and shall have had such previous experience in building design, construction and supervision as the commissioner deems necessary.

Subd. 3. **Powers and duties.** The state building inspector may, with the approval of the commissioner, employ such personnel as are necessary to carry out his function under Laws 1971, Chapter 561. By January 1, 1972, the state building inspector shall distribute without charge one copy of the code to each municipality within the state. Additional copies shall be made available to municipalities and interested parties for such fee as the commissioner shall prescribe. In addition to the duties imposed upon the state building inspector by Laws 1971, Chapter 561, he shall perform such other duties in administering the code as the commissioner may assign.

[1971 c 561 s 7]

16.86 APPLICATION OF ADMINISTRATIVE PROCEDURE ACT; ENFORCEMENT. Subdivision 1. Except as herein provided the commissioner shall be subject to the provisions of the administrative procedure act and review and the code or any amendment thereof shall go into effect in accordance with the provisions of such act.

Subd. 2. The commissioner shall not be required to publish or distribute those parts of the code which are adopted by reference, and publication within the meaning of the administrative procedures act shall nevertheless be deemed complete. The commissioner shall publish with the code and annually thereafter a list of places where copies of those parts of the code adopted by reference may be obtained together with the approximate cost thereof.

Subd. 3. The commissioner shall file one copy of the complete code with the secretary of state, provided that all standards referred to in any model or state-wide specialty code or any of the modifications thereto need not be so filed. All standards re-

ferred to therein shall be kept on file and available for inspection in the office of the commissioner.

Subd. 4. The commissioner, notwithstanding any law to the contrary, shall hold all state hearings and make all determinations regarding any subject matter dealt with in the code including those in which another department or agency proposes to adopt or amend rules and regulations which are incorporated by reference into the code or whenever the commissioner proposes to incorporate such regulations into the state building code. In no event shall a state agency or department subsequently authorized to adopt rules and regulations involving state building code subject matter proceed to adopt the rules and regulations without prior consultation with the commissioner.

Subd. 5. Under the direction and supervision of the commissioner, the provisions of the code relating to electrical installations shall be enforced by the state board of electricity, pursuant to the Minnesota electrical act, the provisions relating to plumbing shall be enforced by the state commissioner of health, the provisions relating to fire protection shall be enforced by the state fire marshal, the provisions relating to high pressure steam piping and appurtenances and elevators shall be enforced by the department of labor and industry, and the code as applied to public school buildings shall be enforced by the state board of education. Fees for inspections conducted by the state board of electricity shall be paid in accordance with the rules and regulations of the state board of electricity.

Subd. 6. **Proposed amendments; hearings.** Any interested person may propose amendments to the code, which proposed amendments may be either applicable to all municipalities or, where it is alleged and established that conditions exist within a municipality which are not generally found within other municipalities, amendments may be restricted in application to such municipality. Notice of public hearings on proposed amendments shall be given to the governing bodies of all municipalities in addition to those persons entitled to notice pursuant to the administrative procedure act.

Subd. 6a. Notwithstanding any law including other subdivisions of this section to the contrary, the commissioner, after consultation with the committee and following public hearings held pursuant to the administrative procedure act, shall promulgate amendments to the state building code to establish permissible lighting standards on all new construction or remodeling involving lighting or lighting changes and maximum standards for permissible heat loss on all new construction or remodeling involving heating or heating changes, specifically including minimum insulation requirements for heating units on exterior walls. Notice of public hearings on the proposed amendments shall be given to the governing bodies of all municipalities in addition to those persons entitled to notice pursuant to the administrative procedure act.

Subd. 7. **Adoption.** The commissioner shall approve any proposed amendments which he deems to be reasonable, in conformity with the policy and purpose of the code and justified under the particular circumstances involved. Upon adoption, a copy of each amendment shall be distributed to the governing bodies of all municipalities affected thereby.

Subd. 8. **Investigation and research.** With the approval of the commissioner the state building inspector and the committee shall from time to time make or cause to be made investigations, or may accept authenticated reports from authoritative sources, concerning new materials or modes of construction intended for use in the construction of buildings or structures, and shall propose amendments to the code setting forth the conditions under which the materials or modes may be used, in accordance with the standards and procedures of Laws 1971, Chapter 561.

[1965 c 623 s 4; 1969 c 850 s 3; 1971 c 561 s 8,9; Ex1971 c 48 s 14 subd 2; 1974 c 12 s 1; 1977 c 305 s 45; 1977 c 381 s 3]

16.861 BUILDING OFFICIALS. Subdivision 1. **Appointments.** Not later than 90 days prior to July 1, 1972, the governing body of each municipality shall, unless other means are already provided, appoint a person to administer the code who shall be known as building official. Two or more municipalities may combine in the appointment of a single building official for the purpose of administering the provisions of the code within their communities. In those municipalities for which no building officials have been appointed by the designated date, the state building inspector, with the approval of the commissioner, may appoint building officials to serve said municipalities until such time as the municipalities have made an appointment. If the state building inspector is unable to make such appointment he may use such state employees or state agencies as are necessary to perform the duties of the building official. All

costs incurred by virtue of an appointment by the state building inspector or services rendered by state employees shall be borne by the involved municipality. Receipts arising therefrom shall be paid into the state treasury and credited to the general fund.

Subd. 2. Qualifications. The building official, to be eligible for appointment, shall have had such experience in design, construction and supervision as the commissioner deems necessary and shall further be generally informed on the quality and strength of building materials, accepted building construction requirements and the nature of equipment and needs conducive to the safety, comfort and convenience of building occupants. Said building official shall be certified under the provisions of this section, except that the qualifications outlined in this section are not mandatory regarding any building official in any municipality engaged in the administration of a building code on May 27, 1971 and continuing said function through July 1, 1972.

Subd. 3. Certification. The personnel department of the state of Minnesota, with the approval of the commissioner, shall either:

(a) Prepare and conduct oral, written and practical examinations to determine if a person is qualified pursuant to subdivision 2 to be a building official or

(b) Accept documentation of successful completion of programs of training developed by public agencies, as proof of qualification pursuant to subdivision 2. Upon a determination of qualification under either clause (a) or (b) of this section the commissioner shall issue or cause to be issued a certificate to the building official stating that he is so certified. Each person applying for examination and certification pursuant to this section shall pay a fee of \$20. The personnel department and the commissioner or his designee may establish classes of certification that will recognize the varying complexities of code enforcement in the municipalities within the state. Except as provided by subdivision 2, no person shall act as a building official for any municipality unless the personnel department and the commissioner determine that he is so qualified. The personnel department may, with approval of the commissioner, prepare and conduct educational programs designed to train and assist building officials in carrying out their responsibilities and may institute any such program after July 1, 1972. The commissioner shall reimburse the personnel department for costs of any services performed by them pursuant to Laws 1971, Chapter 561.

Subd. 4. Duties. Building officials shall, in the municipality for which they are appointed, attend to all aspects of code administration, including the issuance of all building permits and the inspection of all mobile home installations. The commissioner may direct a municipality having a building official to perform services for another municipality, and in such event the municipality being served shall pay the municipality rendering such services the reasonable costs thereof. Such costs may be subject to approval by the commissioner.

Subd. 5. Removal from office. Except as otherwise provided for by law the commissioner may, upon notice and hearing, direct the dismissal of any building official when it appears to him by competent evidence that said building official has consistently failed to act in the public interest in the performance of his duties. Such notice shall be provided and the hearing conducted in accordance with the provisions of chapter 15, governing contested case proceedings. Nothing in this subdivision shall be construed to limit or otherwise affect the authority of a municipality to dismiss or suspend a building official at its discretion; except as otherwise provided for by law.

Subd. 6. Vacancies. In the event that a certified building official vacates his position within a municipality, said municipality shall appoint a certified building official to fill said vacancy as soon as possible. If the municipality fails to appoint a certified building official within 90 days of the occurrence of the vacancy, the state building inspector may make such appointment or provide state employees to serve said function as provided in subdivision 1.

[1971 c 561 s 10; 1973 c 507 s 45; 1974 c 568 s 2; 1977 c 381 s 4]

16.862 CERTAIN INSPECTIONS. The state building inspector may, upon an application setting forth a set of plans and specifications that will be utilized in more than one municipality to acquire building permits, review and approve the application for the construction or erection of any building or structure designed to provide dwelling space for not more than two families if such set of plans meet the requirements of the state building code. All costs incurred by the state building inspector by virtue of the examination of such a set of plans and specifications shall be paid by the appli-

cant. Said plans and specifications or any plans and specifications required to be submitted to a state agency shall be submitted to the state building inspector who shall examine said instruments and if necessary distribute them to the appropriate state agencies for scrutiny regarding adequacy as to electrical, fire safety and all other appropriate features. Such state agencies shall examine and promptly return said plans and specifications together with their certified statement as to the adequacy of the instruments regarding that agency's area of concern. Any building official shall issue a building permit upon application and presentation to him of such a set of plans and specifications bearing the approval of the state building inspector if the requirements of all other local ordinances are satisfied.

[1971 c 561 s 11]

16.863 APPEALS. Any person aggrieved by the final decision of any municipality as to the application of the code, including any rules promulgated pursuant to sections 471.465 to 471.469, may, within 30 days of said decision, appeal to the commissioner. Appellant shall submit a fee of \$20, payable to the commissioner, with his request for appeal. The final decision of the involved municipality shall be subject to review de novo by the commissioner or his designee, and the commissioner shall submit his written findings to the involved parties. Any person aggrieved by any ruling of the commissioner may appeal to the district court in the county in which the dispute arose. For the purpose of this section "any person aggrieved" shall include the state council for the handicapped. No fee shall be required when the council for the handicapped is the appellant.

[1971 c 561 s 12; 1978 c 520 s 1]

16.8632 SYMBOL INDICATING ACCESS. Subdivision 1. **Statement of policy and purpose.** The legislature finds that there is an urgent need to adopt an internationally accepted symbol to indicate buildings, facilities and grounds which are accessible to and usable by handicapped persons, that a wheelchair symbol has been adopted by Rehabilitation International's Eleventh World Congress, and that this symbol is universally recognized by handicapped persons.

Subd. 2. **Adoption and display of symbol.** The symbol adopted by Rehabilitation International's Eleventh World Congress shall be the state symbol indicating buildings, facilities and grounds which are accessible to and usable by handicapped persons. In the interests of uniformity, this symbol in its white on blue format shall be the sole symbol for display in or on all public or private buildings, facilities and grounds which qualify for its use. The secretary of state shall obtain and keep on file the symbol. No building, facility or grounds shall display the symbol unless it is in compliance with the rules promulgated by the commissioner of administration as provided for by subdivision 3.

Subd. 3. **Rules governing display of symbol.** The commissioner of administration shall promulgate rules to govern display of the state symbol of accessibility. Before the rules are proposed for adoption the commissioner shall consult with the state council for the handicapped.

The rules shall be enforced in the same manner as other accessibility rules of the state building code.

The commissioner shall implement this subdivision so that the rules required by this subdivision are effective no later than March 1, 1979.

[1978 c 520 s 2]

16.864 CERTAIN PERMITS. Building permits or certificates of occupancy validly issued before July 1, 1972, regarding buildings or structures being constructed or altered pursuant thereto, shall be valid thereafter and the construction may be completed pursuant to the building permit, unless the building official determines that life or property is in jeopardy.

[1971 c 561 s 13]

16.865 VIOLATION, PENALTY. Any violation of provisions of the code is a misdemeanor.

[1971 c 561 s 14]

16.866 SURCHARGE. Subdivision 1. **Computation.** For the purpose of defraying the costs of administering the provisions of sections 16.83 to 16.867, there is

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hereby imposed a surcharge on all permits issued by municipalities in connection with the construction of or addition or alteration to, buildings and equipment or appurtenances, on and after July 1, 1971, as follows:

Where the fee for the permit issued is fixed in amount the surcharge shall be equivalent to 1/2 mill (.0005) of such fee or 50 cents, whichever amount is greater. For all other permits, the surcharge shall be equivalent to 1/2 mill (.0005) of the valuation of the structure, addition or alteration. Provided however, that where the valuation of the structure, addition, or alteration is equal to or greater than \$1,000,000 but less than \$10,000,000, the surcharge shall be \$1,000, where said valuation is equal to or greater than \$10,000,000 but less than \$20,000,000 the surcharge shall be \$1,500 and where said valuation is equal to or greater than \$20,000,000 the surcharge shall be \$2,000.

By September 1 of each odd numbered year beginning in 1979, the commissioner shall rebate to municipalities any money received pursuant to this section and section 16.851 in the previous biennium in excess of the cost to the building code division in that biennium of carrying out their duties under sections 16.83 to 16.867. The rebate to each municipality shall be in proportion to the amount of the surcharges collected by that municipality and remitted to the state.

Subd. 2. **Collection and reports.** All permit surcharges shall be collected by each municipality and a portion thereof remitted to the state. Each municipality having a population greater than 20,000 people shall, on a monthly basis, prepare and submit to the commissioner a report of fees and surcharges thereon collected during the previous month, but shall retain two percent of the surcharges collected to apply against the administrative expenses each such municipality incurs in collecting said surcharges. All other municipalities shall submit said report and surcharges thereon on a quarterly basis, but shall retain four percent of the surcharges collected to apply against the administrative expenses such municipalities incur in collecting said surcharges. The report, which shall be in a form prescribed by the commissioner, shall be submitted together with a remittance covering the surcharges collected by no later than the 15th day following the month or quarter in which said surcharges are collected. All surcharges and other fees prescribed by Laws 1971, Chapter 561, as amended, which are payable to the state, shall be paid to the commissioner who shall deposit same in the state treasury for credit to the general fund.

[1971 c 561 s 15; 1974 c 568 s 3; 1977 c 381 s 5]

16.867 PERMIT FEES, TO WHOM APPLICABLE. Effective July 1, 1973, municipal building officials shall administer and enforce the state building code with respect to all subject structures constructed within their jurisdiction, including all buildings constructed by the state of Minnesota, its agencies, departments and instrumentalities, school districts, municipalities as defined by Laws 1971, Chapter 561, and the University of Minnesota, and said governmental bodies shall pay such building permit fees and surcharges as the inspecting municipality customarily imposes for its administration and enforcement of the code.

[1974 c 568 s 4]

16.87 [Repealed, 1971 c 561 s 17]

16.871 STATE CEREMONIAL BUILDING; STATEMENT OF PURPOSE AND LEGISLATIVE INTENT. Whereas it is in the public interest that a proper building be provided for official public use and other ceremonial state functions, it is the intent of the legislature that the state own such a ceremonial building, and that living quarters may be incidentally provided in such building for the governor.

[1965 c 684 s 1; 1973 c 35 s 6]

16.872 ACCEPTANCE OF STATE CEREMONIAL BUILDING; USE; MAINTENANCE. Subdivision 1. The commissioner of administration may accept, on behalf of the state, on such terms and conditions as the donor may prescribe, a building to be used as a state ceremonial building. Such building shall be used for official ceremonial functions of the state, and space shall be provided for suitable living quarters for the governor of the state.

Subd. 2. The commissioner of administration shall maintain such building in the same manner as other state buildings are maintained and shall rehabilitate, decorate,

and furnish such ceremonial building, and in carrying out such decoration and furnishing shall consult with the board of the arts, but their opinion shall be advisory only.

[1965 c 684 s 2; 1976 c 239 s 131]

16.873 [Expired]

16.874 FORT SNELLING CHAPEL; RENTAL. After July 30, 1974, the Fort Snelling Chapel, located within the boundaries of Fort Snelling State Park, shall not be available for use except upon the payment of a rental fee. The commissioner of administration shall establish rental fees for both public and private use. The rental fee for private use by any organizations or individual shall reflect the reasonable value of equivalent rental space. Rental fees collected pursuant to this section shall be deposited in the general fund.

[1974 c 355 s 44]

16.88 UTILITY COMPANIES, PERMITS TO CROSS STATE OWNED LANDS.

Subdivision 1. Except where the authority conferred by this section has been imposed on some other state or county office, the commissioner of administration may grant an easement or permit over, under, or across any land owned by the state, other than land under the jurisdiction of the commissioner of natural resources and other than land obtained for trunk highway purposes, for the purpose of constructing roads, streets, telephone, telegraph, and electric power lines, cables or conduits, underground or otherwise, or mains or pipe lines for gas, liquids, or solids in suspension. Such an easement or permit shall be revocable by written notice given by the commissioner if at any time its continuance will conflict with a public use of the land over, under, or upon which it is granted; or for any other reason. Such notice shall be in writing and shall be effective 90 days after the mailing thereof addressed to the record holder of the easement at his last known address by certified mail. If the address of the holder of such easement or permit is not known it shall expire 90 days after said notice is recorded in the office of the county recorder of the county in which the land is located. Upon revocation the commissioner may allow a reasonable time to vacate the premises affected. State lands subject to an easement or permit granted by the commissioner shall remain subject to sale or lease, and such sale or lease shall not serve to revoke the permit or easement granted.

Subd. 2. In the event the easement or permit involves any land under the jurisdiction of a department, agency, or board other than the department of administration, it shall be subject to the approval of the head of such department, agency, or board, and shall be subject to cancellation by the commissioner of administration as herein provided, upon request of the head of such department, agency, or board.

Subd. 3. The application for easement or permit shall be in quadruplicate, and there shall be included with each application, a legal description of the lands affected, accompanied by a map showing the area affected by such easement or permit, and a detailed design of any structures to be placed therein; or in lieu thereof shall be in such other form, and include such other descriptions, maps or designs, as the commissioner in his discretion may require. The commissioner may at any time order such changes or modifications respecting construction or maintenance of structures or other conditions of the easement as he deems necessary to protect the public health and safety.

Subd. 4. Such easement or permit shall be in a form prescribed by the attorney general, shall describe the location of the easement thereby granted and shall continue until canceled by the commissioner, subject to change or modification as herein provided.

Subd. 5. The granting of such easement or permit shall be for such consideration and upon such terms and conditions as the commissioner may prescribe. All moneys received by the state under this section shall be credited to the fund to which income or proceeds of sale from such land would be credited, if provision therefor be made by law, otherwise they shall be credited to the general fund.

[1967 c 536 s 1; 1969 c 399 s 1; 1969 c 1129 art 3 s 1; 1976 c 181 s 2]

16.89 FACSIMILE SIGNATURES. When authorized by the commissioner of administration facsimile signatures may be used by personnel of the department of administration in accordance with his delegated authority and his instructions, copies of which shall be filed with the commissioner of finance, state treasurer, and the secretary of state. Such facsimile signature when used in accordance with his delegated au-

thority and his instructions are as effective as an original signature.

[*Ex1967 c 48 s 95; 1973 c 492 s 14*]

16.90 ADMINISTRATION OF STATE COMPUTER FACILITIES. Subdivision 1. The commissioner of administration is charged with the integration and operation of the state's computer facilities serving the needs of the state government. Except as otherwise provided by law, all plans and programs for systems and procedures analysis, information systems, and related computer efforts of all state agencies shall be submitted to the commissioner prior to implementation for review and approval, modification or rejection.

Subd. 2. In consultation with the attorney general and appropriate heads of state agencies, the commissioner shall develop, install, and administer state data security systems consistent with state law to assure the integrity of computer based and all other data and to assure confidentiality of such data, consistent with the public's right to know.

Subd. 3. The commissioner may, within available funding, join with the federal government, other states, local governments and organizations representing such groups either jointly or severally in the development and implementation of systems analysis, information services, and computerization projects.

Subd. 4. The commissioner, after consultation with the state information systems advisory council and the intergovernmental information systems advisory council, shall design and maintain a master plan for information systems in the state and its political subdivisions and shall report thereon to the governor and legislature at the beginning of each regular session; establish standards for information systems; maintain a library of systems and programs developed by the state and its political subdivisions for use by agencies of government; and administer the communications for the state information system.

[*1971 c 918 s 1; 1975 c 271 s 6*]

16.91 STATE INFORMATION SYSTEMS ADVISORY COUNCIL. To effectuate and facilitate the purposes and provisions of sections 16.90 to 16.96, the governor shall appoint a state information systems advisory council, which shall assist the department in the development and coordination of a state information services master plan and make recommendations from time to time to the commissioner concerning the progress, direction and needs of the state's computerization effort. The council shall expire and the terms, compensation and removal of members shall be as provided in section 15.059.

[*1971 c 918 s 2; 1974 c 494 s 1; 1975 c 271 s 6; 1975 c 315 s 3*]

16.911 INTERGOVERNMENTAL INFORMATION SYSTEMS ADVISORY COUNCIL. Subdivision 1. The governor shall appoint an intergovernmental information systems advisory council, to serve at his pleasure, consisting of 25 members. Such council shall be composed of two members from each of the following groups: Counties outside of the seven county metropolitan area, counties within the metropolitan area, cities of the first class, municipalities of the second and third class outside the metropolitan area and municipalities of the second and third class within the metropolitan area, one member from each of the following groups: The metropolitan council, an outstate regional body, Minnesota higher education coordinating board, school districts located in cities of the first class, school districts in the metropolitan area, and school districts outside the metropolitan area; one member from each of the state departments of administration, education, legislative auditor and revenue; one member from the office of the state auditor and four members from the state community at large. To the extent permitted by available resources the commissioner shall furnish staff and other assistance as requested by the council. The council shall expire and the terms, compensation and removal of members shall be as provided in section 15.059.

Subd. 2. The council shall assist the commissioner in the development and updating of an intergovernmental information systems master plan, including data standards and program budgeting systems and standards; recommending to the commissioner policies and procedures governing the collection, security and confidentiality of data; review and comment on all applications for federal or foundation funding for information systems and on all computer systems involving intergovernmental funding; keep local governments abreast of the state of the art in information systems and pre-

pare guidelines for intergovernmental systems.

Subd. 3. The intergovernmental informations systems advisory council shall develop recommendations to the commissioner of revenue for the expeditious gathering and reporting of the information and data specified herein.

Subd. 4. The state and each unit of local government including school districts shall report the following data, to the extent feasible, and such data shall be compiled and reported by the commissioner:

(a) the incidence, rates, distribution, exemption from and total revenue raised of state and local sales, property, income taxes, special assessments and other revenue sources of the state and each unit of local government;

(b) the bonded indebtedness of local units of government and the relationship of such debt to statutory debt limits;

(c) the distribution of the state funds, by category, to each local unit of government;

(d) the amounts of state and federal grant-in-aid assistance to each local unit of government and state agencies by category;

(e) and such other information as the commissioner may require.

Subd. 5. The commissioner shall promulgate rules regulating the reporting and gathering of such data and the rules shall provide, to the maximum degree possible, that data is reported in a form readily processed by or convertible to EDP techniques utilized by the commissioner or state auditor.

Subd. 6. Data collected and compiled pursuant to the rules shall be available to any state or local official and employee and any private person under such reasonable conditions and fees as the commissioner shall prescribe. Compilations of such data by the commissioner shall be in a reasonable form and available not later than April 1 of each year. Reporting periods for the state and each local unit of government shall be from January 1 to June 30 and from July 1 to December 31.

[*Ex*1971 c 31 art 27 s 1; 1973 c 492 s 14; 1973 c 582 s 3; 1974 c 494 s 2; 1975 c 271 s 6; 1975 c 315 s 4]

16.92 [Repealed, 1974 c 494 s 4]

16.93 SCHOOL DISTRICTS' PLANS AND BUDGETS. A school district may expend funds for computerization of administrative, instructional, or other activities only after filing annually with the state department of education a plan and budget covering such activities and only upon approval thereof by the state department. Criteria to be used by the department in making its determinations must include, but are not limited to, the state plan as prepared by the commissioner of administration; policies and programs of the intergovernmental information systems advisory council; and cost effectiveness considerations of the department. All resulting decisions of the department are to be reported promptly to the commissioner of administration and the intergovernmental council. To the extent permitted by available resources, the commissioner of administration may furnish staff and other assistance to the department of education in conjunction with its performance of the duties imposed by this section.

[1971 c 918 s 4; 1974 c 494 s 3; 1975 c 271 s 6]

16.94 MODIFICATION OF OPERATING AND MANAGEMENT PROCEDURES. Where improved program effectiveness, better utilization of services, and greater efficiency and economy in state government can be demonstrated, the commissioner with the approval of the governor may require a department or agency of the state to adjust its operating and management procedures to take advantage of improved systems, procedures, and methods resulting from systems analysis and information science technology.

[1971 c 918 s 5]

16.95 FUNCTION OF LEGISLATIVE AUDITOR. The legislative auditor may conduct performance evaluation of all systems analysis, information services, and computerization efforts of all state agencies, and the university of Minnesota, and upon request of the governing body or request of the state information systems advisory council he shall conduct the same services for political subdivisions of the state and report his findings to the governor and to the legislature. The cost of such evalua-

tions shall be paid by the agencies being evaluated.

[1971 c 918 s 6; 1973 c 492 s 14; 1975 c 271 s 6]

16.96 RULES AND REGULATIONS. The commissioner may promulgate such rules and regulations as may be necessary to carry out the terms and provisions of sections 16.90 to 16.96.

[1971 c 918 s 7]

16.97 CRIMINAL AND JUVENILE DEFENSE GRANTS. Subdivision 1. Money appropriated for the provision of criminal and juvenile defense to indigent individuals shall be distributed by the commissioner of administration in consultation with the attorney general to the non-profit criminal and juvenile defense corporations designated by law. Money may not be disbursed to a corporation in the Leech Lake reservation area or the White Earth reservation area without prior approval by the respective reservation business committee. Within its geographic area of responsibility each corporation shall accept cases involving felony, gross misdemeanor, and misdemeanor charges, and juvenile cases, where financial eligibility standards are met, unless there is a legal reason for rejecting a case. A corporation may accept cases arising outside of its geographic area of responsibility, as it deems appropriate. The commissioner of administration shall give notice 30 days in advance and conduct a hearing if he has reasonable grounds to believe money appropriated for this purpose is being improperly used, or if, in consultation with the attorney general, he has reasonable cause to believe criminal and juvenile defense of proper quality is not being supplied. Payment shall cease from the date of notice until either the commissioner determines that the money appropriated will be properly handled, or the commissioner, in consultation with the attorney general, determines that criminal and juvenile defense of proper quality will be provided. A participating corporation may give notice at any time of its withdrawal from this program of financial assistance.

Subd. 2. An employee, administrator, or officer of a recipient of the money provided by this section who discriminates on the basis of sex, race, color, national origin, religion, or creed is guilty of a gross misdemeanor.

[1976 c 260 s 3; 1977 c 455 s 92]