

CHAPTER 174

DEPARTMENT OF TRANSPORTATION

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174.01 CREATION; POLICY. In order to provide a balanced transportation system, which system includes aeronautics, highways, motor carriers, ports, public transit, railroads and pipelines, a department of transportation is created. The department shall be the principal agency of the state for development, implementation, administration, consolidation, and coordination of state transportation policies, plans and programs.

[1976 c 166 s 1]

174.02 COMMISSIONER; POWERS; DUTIES. Subdivision 1. **Appointment.** The department shall be supervised and controlled by the commissioner of transportation, who shall be appointed by the governor and serve under the provisions of section 15.06.

Subd. 2. **Unclassified positions.** The commissioner may establish four positions in the unclassified service at the deputy and assistant commissioner, assistant to commissioner or personal secretary levels. No more than two of these positions shall be at the deputy commissioner level.

Subd. 3. **Departmental organization.** The commissioner shall organize the department in a manner recognizing the administrative and staffing needs of all modes of transportation within his jurisdiction, and shall employ personnel as he deems necessary to discharge the functions of the department. The commissioner shall adopt an affirmative action plan for the department in order to insure that department hiring encourages the selection of members of groups of persons who because of unfair or unlawful discriminatory practices have in the past been denied equal employment opportunity. This plan need not be promulgated as a rule, but it shall be approved by the commissioner of personnel. The plan shall provide that the affected groups of persons shall constitute at least the same proportional number of employees in the department as they constitute in the total employment in state government; provided that this limitation shall expire in respect to an affected group when the commissioner of personnel certifies that members of that affected group are employed in the department in the same proportion as they constitute in the total employment in state government.

Subd. 4. **Appearances on public transportation matters.** The commissioner may appear as a party on behalf of the public in any proceeding or matter before the interstate commerce commission, the civil aeronautics board or any other agency or instrumentality of government which regulates public services or rates relating to transportation or other matters related to the powers and responsibilities of the commissioner as prescribed by law. The commissioner shall appear as a party on behalf of the public in proceedings before the public service commission as provided in chapters 218, 219, 221, and 222 on matters which directly relate to the powers and duties of the commissioner or which substantially affect the statewide transportation plan. On all other transportation matters the commissioner may appear before the public service commission.

Subd. 5. **Cooperation.** To facilitate the development of a unified and coordinated intrastate and interstate transportation system:

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(a) The commissioner shall maintain close liaison, coordination and cooperation with the private sectors of transportation, the upper great lakes seaway development commission corporation, and any multi-state organization involved in transportation issues affecting the state;

(b) The commissioner shall participate in the planning, regulation and development of the port authorities of the state; and

(c) The commissioner or his designee shall be a nonvoting, ex officio member of the metropolitan airports commission, as organized and established under sections 473.601 to 473.679.

[1976 c 166 s 2; 1977 c 305 s 23]

174.03 DUTIES OF COMMISSIONER. Subdivision 1. **Statewide transportation plan; priorities; schedule of expenditures.** In order to best meet the present and future transportation needs of the public, to insure a strong state economy, to make most efficient use of public and private funds, and to promote the more efficient use of energy and other resources for transportation purposes, the commissioner shall:

(a) Three months after notification that the department is ready to commence operations and prior to the drafting of the statewide transportation plan the commissioner shall hold public hearings as may be appropriate solely for the purpose of receiving suggestions for future transportation alternatives and priorities for the state. The metropolitan council, regional development commissions and port authorities shall appear at the hearings and submit information concerning transportation related planning undertaken and accomplished by these agencies. Other political subdivisions may appear and submit such information at the hearings. These hearings shall be completed no later than six months from the date of the commissioner's notification;

(b) Develop, adopt, revise and monitor a statewide transportation plan, taking into account the suggestions and information submitted at the public hearings held pursuant to clause (a). The plan shall incorporate all modes of transportation and provide for the interconnection and coordination of different modes of transportation. The commissioner shall evaluate alternative transportation programs and facilities proposed for inclusion in the plan in terms of economic costs and benefits, safety aspects, impact on present and planned land uses, environmental effects, energy efficiency, national transportation policies and priorities and availability of federal and other financial assistance;

(c) Based upon the statewide transportation plan, develop statewide transportation priorities and schedule authorized public capital improvements and other authorized public transportation expenditures pursuant to the priorities;

(d) Complete the plan and priorities required by this subdivision no later than July 1, 1978. Upon completion, the commissioner shall promulgate the plan and priorities as a rule in accordance with chapter 15. Upon promulgation of the plan and priorities, the commissioner shall prepare and periodically revise, as necessary, the schedule of authorized public transportation expenditures. The schedule, and revisions thereto, need not be promulgated as a rule but shall not be prepared or revised without public hearings.

Subd. 2. Implementation of plan. After the adoption of the statewide transportation plan, the commissioner and the public service commission shall take no action inconsistent with that plan. Notwithstanding the foregoing, the commissioner and the commission shall have authority to promulgate emergency rules pursuant to section 15.0412, subdivision 5, if necessary to respond to transportation emergencies which may require an immediate temporary response inconsistent with the statewide plan.

Subd. 3. Relationship with national and local plans. The statewide plan shall recognize established national transportation policies. The plan shall include matters of local or regional concern if this inclusion is needed to insure a comprehensive, statewide perspective on transportation policies and priorities. The commissioner shall recognize and attempt to accommodate the local or regional transportation plans. However, the statewide plan shall supersede a local or regional plan to the extent inconsistent on a matter which the commissioner demonstrates is of statewide concern. A political subdivision may challenge the commissioner's determination that a portion of a local or regional plan is superseded by the statewide plan. The subdivision shall institute the challenge by filing a petition with the commissioner within 30 days after being notified by the commissioner that the local or regional plan is superseded. The challenge shall be resolved by the commissioner as a contested case pursuant to chapter 15.

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Subd. 4. **Other duties.** The commissioner shall:

(a) Construct and maintain transportation facilities as authorized by law;

(b) Cooperate with, and may provide technical and financial assistance to, the metropolitan council and regional development commissions in the regional transportation planning process, in accordance with mutually acceptable terms and conditions;

(c) Cooperate with and may provide planning and technical assistance upon the request of any political subdivision or other governmental agency in accordance with mutually accepted terms and conditions, except as otherwise restricted by law; and

(d) Develop, revise and monitor a statewide rail transportation plan as part of the statewide transportation planning process, including a study and evaluation of alternative methods for insuring adequate and economical transportation of agricultural commodities, supplies and other goods to and from rural areas of the state. The commissioner shall include in the study consideration of rail line improvement programs including those adopted or proposed in other states. Based on the study and evaluation, the commissioner shall recommend an appropriate state assistance program to the governor and the legislature no later than July 1, 1978. Upon completion of each stage of any rail improvement study conducted by a state department or agency, the information developed by the study shall be made available to the commissioner.

Subd. 5. **Regional transportation planning.** The metropolitan council, pursuant to section 473.146, and the regional development commissions shall develop regional long-range transportation policy plans in cooperation with the commissioner and local units of government. Upon promulgation of the statewide transportation plan, and periodically as necessary thereafter, each regional policy plan shall be reviewed and amended, if necessary, by the appropriate regional agency to insure that the regional policy plan is not in conflict with the statewide transportation plan.

Subd. 6. **Social, economic and environmental effects.** The commissioner shall consider the social, economic and environmental effects resulting from existing and proposed transportation facilities and shall make continuing efforts to mitigate any adverse effects. The commissioner shall utilize a systematic, interdisciplinary approach which shall insure the integrated use of the natural, social and physical sciences and the environmental design arts in plans and decisions which may affect the environment.

Subd. 7. **Energy conservation.** The commissioner, in cooperation with the Minnesota energy agency, shall evaluate all modes of transportation in terms of their levels of energy consumption. The director of the energy agency shall provide the commissioner with projections of the future availability of energy resources for transportation. The commissioner shall use the results of this evaluation and the projections to evaluate alternative programs and facilities to be included in the statewide plan and to otherwise promote the more efficient use of energy resources for transportation purposes.

Subd. 8. **Salaries and expenses.** Salaries and expenses of the department relating to highway purposes shall be paid from moneys available in the trunk highway fund. The funds provided in sections 360.011 to 360.076 and 360.301 to 360.91 shall be expended by the commissioner of transportation in accordance with the purposes prescribed by those sections. Funds appropriated pursuant to the authority conferred by any constitutional article shall be expended in conformity with the purposes and uses authorized thereby.

[1976 c 166 s 3]

174.04 FINANCIAL ASSISTANCE; APPLICATIONS; DISBURSEMENT. Subdivision 1. **Review of application.** Any state agency which receives an application from a regional development commission, metropolitan council, public transit commission, airport commission, port authority or other political subdivision of the state for financial assistance for transportation planning, capital expenditures or operations to any state or federal agency, shall first submit the application to the commissioner of transportation. The commissioner shall review the application to determine whether it contains matters that substantially affect the statewide transportation plan and priorities. If the application does not contain such matters, the commissioner shall within 15 days after receipt return the application to the applicant political subdivision for forwarding to the appropriate agency. If the application contains such matters, the com-

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missioner shall review and comment on the application as being consistent with the plan and priorities. The commissioner shall return the application together with his comments within 45 days after receipt to the applicant political subdivision for forwarding with the commissioner's comments to the appropriate agency.

Subd. 2. **Designated agent.** A regional development commission, metropolitan council, public transit commission, airport commission, port authority, or any other political subdivision of the state may designate the commissioner as its agent to receive and disburse funds by entering into an agreement with the commissioner prescribing the terms and conditions of the receipt and expenditure of the funds in accordance with federal and state laws and regulations.

Subd. 3. **Exceptions.** The provisions of this section shall not be construed as altering or amending in any way the funding procedures specified in sections 161.36, 360.016 or 360.0161.

[1976 c 166 s 4]

174.05 POLLUTION CONTROL AGENCY; REGULATIONS AND STANDARDS. Subdivision 1. **Notification by pollution control agency.** The director of the pollution control agency shall inform the commissioner of transportation of all activities of the pollution control agency which relate to the adoption, revision or repeal of any standard or rule concerning transportation established pursuant to section 116.07. Upon notification the commissioner shall participate in those activities. Participation may include, but is not limited to, access to all pertinent information collected or compiled by the pollution control agency and transmittal to the director of the pollution control agency of information and expert opinions concerning the ability of affected modes of transportation to accomplish the desired objectives and the impact that alternative methods of attaining those objectives would have on present or planned transportation systems in the state.

Subd. 2. **Commissioner to submit review of proposed rules.** Prior to public hearings on any rule concerning transportation proposed by the pollution control agency, the commissioner shall submit a written review of those rules, including an analysis of their impact upon the state's transportation system, and may propose alternative regulations or standards. This report shall be made part of the record of the hearing and shall be made available to any person prior to the hearing.

Subd. 3. **Report by pollution control agency.** Upon the adoption, revision or repeal of a rule concerning transportation, the director of the pollution control agency shall publish a written report of the manner in which the adopted rule reflects consideration of the factors specified in section 116.07, subdivision 6, and the specific issues raised in the commissioner's report.

[1976 c 166 s 5]

174.06 TRANSFER OF POWERS. Subdivision 1. **Department of highways.** All powers, duties and functions heretofore vested in or imposed on the commissioner of highways or the department of highways by chapters 160, 161, 162, 163, 164, 165, 167, 169, 173, or sections 473.401 to 473.451 or any other law relating to the duties and powers of the commissioner of highways are transferred to, vested in, and imposed on the commissioner of transportation. The position of the commissioner of highways and the department of highways as heretofore constituted are abolished.

Subd. 2. **Department of aeronautics.** All powers, duties, and functions heretofore vested in or imposed on the commissioner of aeronautics or the department of aeronautics by sections 360.011 to 360.076, 360.301 to 360.73, 360.81 to 360.91 or any other law relating to the duties and powers of the commissioner of aeronautics are transferred to, vested in, and imposed on the commissioner of transportation. The position of the commissioner of aeronautics and the department of aeronautics as heretofore constituted are abolished.

Subd. 3. **Department of public service.** All powers, duties and functions heretofore vested in or imposed on the department of public service, the public service commission or the director of the department of public service by sections 216A.10 to 216A.13 are transferred to, vested in, and imposed on the commissioner of transportation.

Subd. 4. [Repealed, 1977 c 454 s 49]

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Subd. 5. **Transfer approval of commissioner of administration.** Any and all transfers of department of public service personnel, records and funds to the department of transportation, made pursuant to the provisions of this section, shall be subject to the approval of the commissioner of administration.

Subd. 6. **Effect of transfers to the department of transportation.** (a) The department of transportation shall be deemed a continuation of the former department or agency as to those matters within the jurisdiction of the former department or agency which are assigned or transferred to the department by Laws 1976, Chapter 166, with the same force and effect as though the functions, powers or duties of the agency or department had not been assigned or transferred, and shall not be held to constitute a new authority for the purpose of succession to all rights, powers, duties and obligations of the former department or agency, as constituted at the time of the assignment or transfer. All rules heretofore promulgated under authority of a power, duty or responsibility transferred by Laws 1976, Chapter 166 to the commissioner of transportation or to the department of transportation shall remain in full force and effect until modified or repealed.

(b) Any proceeding, court action, prosecution, or other business or matter which is pending on the effective date of this section and which was undertaken or commenced by a department or agency whose functions, powers or duties are transferred to the department of transportation by Laws 1976, Chapter 166, may be conducted and completed by the department of transportation in the same manner, under the same terms and conditions, and with the same effect as though it were undertaken or commenced and conducted or completed by the former department or agency prior to the transfer.

(c) Except as otherwise provided in Laws 1976, Chapter 166, the head of a department or agency whose functions, powers and duties are transferred to the department of transportation by Laws 1976, Chapter 166 shall transfer all contracts, books, maps, plans, papers, records, and property of every description within his jurisdiction or control to the commissioner of transportation. The commissioner shall receive from the public service department all documents, records and papers necessary to perform his duties.

(d) All unexpended funds appropriated to any department or agency for the purposes of any of its functions, powers, or duties which are transferred by Laws 1976, Chapter 166 to the department of transportation are hereby transferred to the department of transportation. When the functions, powers and duties that are affected by Laws 1976, Chapter 166 are the responsibility of the department of transportation and another department or agency, the commissioner of administration shall allocate any unexpended appropriation to the department or agency between the department of transportation and the other departments or agencies affected, as may be appropriate.

(e) Except as otherwise provided in Laws 1976, Chapter 166, all persons employed in the classified service by a department or agency to perform any of the functions, powers or duties which are transferred by Laws 1976, Chapter 166 to the department of transportation, are transferred to the department. The positions of all persons who are employed in the unclassified service by a department or agency to perform any of the functions, powers or duties which are transferred by Laws 1976, Chapter 166 to the department, are abolished. Any person in the unclassified civil service whose position is abolished by Laws 1976, Chapter 166 and who is not appointed to an unclassified position authorized by Laws 1976, Chapter 166 may be otherwise continued in the unclassified service in the department of transportation, but for a period not to exceed 12 months from the date on which the department commences operation. Any unclassified position created for this purpose shall not be included in those authorized by section 174.02, subdivision 2, or section 174.10. Nothing herein shall be construed as abrogating or modifying any rights now enjoyed by affected employees under the terms of an agreement between an exclusive representative of public employees and the state or one of its appointing authorities.

Subd. 7. **Proposals for implementation.** It is the intent of the legislature that gas, oil, slur and other pipelines, long distance conveyor belt systems and other modes of transportation not now regulated by the state be constructed and operated in a manner that best serves the public good and complements other means of transportation. The commissioner of transportation shall submit to the governor and the legislature, no later than January 1, 1979, specific proposals, drafted in bill form if appropriate, to implement this policy within the areas of responsibility assigned to the department of transportation.

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Subd. 8. **Recommendations for statutory revisions.** The commissioner shall submit, together with the proposals required by subdivision 7, specific recommendations of language to update all statutory sections which relate to the operation of his department and are in need of revision. The commissioner's report shall give special consideration to sections affecting rule-making and public hearings, to language or provisions rendered obsolete by passage of time, and to overall clarity and brevity of the statutes.

[1976 c 166 s 6; 1977 c 124 s 1]

174.10 PROCEEDINGS BEFORE DEPARTMENT. Subdivision 1. The department or the public service commission, as appropriate, in any contested case shall give reasonable notice to representatives of associations or other interested groups or persons who have registered their names with the department for that purpose, to all parties and to cities and municipalities which the department or commission deems to be interested in the proceeding. The commissioner or commission may prescribe an annual fee to be credited to the general fund, which fee shall be a charge to all registered groups or persons. This charge is to cover the out of pocket costs involved in giving such notice.

Subd. 2. In all matters over which the commissioner has regulatory, or enforcement authority, he may issue subpoenas and compel the attendance of witnesses and the production of all necessary papers, books, records, documents, and other evidentiary material. Any person failing or refusing to appear to testify regarding any matter about which he may be lawfully questioned or to produce any papers, books, records, documents, or other evidentiary materials in the matter to be heard, after having been required by a subpoena of the commissioner to do so may, upon application by the commissioner to the district court in any district, be ordered to comply therewith. A hearing examiner in a rule-making or contested case proceeding may, on behalf of the commissioner, issue subpoenas, administer oaths to witnesses, and take their affirmations. Depositions may be taken within or without the state by the commissioner or his designee in the manner provided by law for the taking of depositions in civil actions. A subpoena or other process or paper may be served upon any person named therein, anywhere within the state by any officer authorized to serve subpoenas or other process or paper in civil actions, with the same fees and mileage and in the same manner as prescribed by law for service of process issued out of the district court of this state.

Subd. 3. In proceedings under chapters 218, 219, 221, and 222 which involve a hearing before the public service commission, the matter shall be investigated and prosecuted before the commission by the commissioner of transportation representing the interests of the people of this state. Unless otherwise specified by statute, all hearings shall be conducted as a rule-making proceeding or as a contested case, as appropriate, in accordance with chapter 15. Any person aggrieved by a final decision of the commissioner in a contested case may appeal in the manner provided by section 15.0424. An appeal shall be governed by chapter 15.

Subd. 4. If, in any proceeding before the commission or the commissioner of transportation relating to or involving the reasonableness of rates, fares, charges, or classifications, the commission or the commissioner of transportation decide that they do not have jurisdiction because the traffic covered by the rates, fares, charges, or classifications is interstate commerce, the commission or the commissioner of transportation, as appropriate, shall issue an order dismissing the proceeding and stating the ground of the dismissal, which order may be appealed from in like manner as other appealable orders.

[1976 c 166 s 8]

174.14 VALUE ANALYSIS OF PROJECTS; POLICY. The legislature finds that the application of the principles and techniques of value analysis in reducing the cost of state construction projects is in the interest of the efficient operation of state government. It is therefore the policy of the legislature to support, encourage and, where necessary, to authorize the application of some or all of those principles by agencies and departments of the state.

[1977 c 251 s 1]

174.15 DEFINITIONS. Subdivision 1. For the purposes of sections 174.14 to 174.17, and unless a different meaning is indicated by the context, the terms defined in this section have the meanings given them.

Subd. 2. "Construction project" means any state construction project undertaken by the department of transportation.

Subd. 3. "Value analysis" means the systematic and creative functional analysis of construction projects, specifications, standards, practices and procedures for the purposes of identifying and eliminating unnecessary costs by developing modifications which satisfy required functions of a project for the lowest cost in a manner consistent with requirements for performance, reliability, quality and maintainability.

Subd. 4. "Value engineering proposal" means a formal written proposal with supporting documentation. A value engineering proposal shall be developed by application of value analysis principles, shall be documented by a contractor or subcontractor pursuant to the provisions of the construction contract, and shall suggest one or more changes in the construction project, specifications, standards, practices or procedures which would result in direct and immediate net savings in terms of reducing the costs of the construction contract.

[1977 c 251 s 2]

174.16 CONTRACTS TO INCLUDE VALUE ANALYSIS AUTHORIZATION. All contracts for construction projects may contain contract provisions which:

(a) Authorize the contractor, with regard to specified matters governed by the contract, and any subcontractor, with regard to matters governed by the subcontracting agreement with the contractor, to submit value engineering proposals as provided in sections 174.15 to 174.17;

(b) Specify such procedural and substantive requirements for the preparation, development and documentation for value engineering proposals as may be required for the particular construction project;

(c) Require that copies of all value engineering proposals and all supporting documents be submitted to the commissioner of transportation; and

(d) Provide that if a value engineering proposal is adopted for the construction project contract as provided in section 174.17, a supplemental agreement shall reduce contract payments to the contractor or subcontractor that submitted the value engineering proposal, by an amount equal to one-half of the amount of direct and immediate net savings under the contract resulting from the adoption of the value engineering proposal.

[1977 c 251 s 3]

174.17 EVALUATION OF VALUE ENGINEERING PROPOSALS. Subdivision 1. After receipt of a value engineering proposal and supporting documents, the commissioner of transportation shall investigate and analyze the value engineering proposal, estimate the amount of the direct and immediate net savings in terms of construction project contract costs which would result upon adoption of the value engineering proposal.

Subd. 2. Subject to the provisions of sections 174.15 to 174.17 and the provisions of any other applicable law, if the commissioner of transportation determines, based upon the reports and recommendations of his department, that adoption of a value engineering proposal will result in direct and immediate savings in the construction project contract costs, the commissioner shall approve and authorize the adoption of the implementing supplemental agreement and the supplemental agreement shall be processed and adopted as otherwise provided by law.

[1977 c 251 s 4]

174.21 PUBLIC TRANSIT ASSISTANCE AND TRANSPORTATION MANAGEMENT; PURPOSE. It is the purpose of sections 174.21 to 174.27:

(a) to increase vehicle occupancy, to reduce the use of vehicles occupied by only one person and the congestion, pollution, energy consumption, highway damage, and other costs associated with such use;

(b) to assure that those citizens of this state who are unable by reason of age or incapacity to use regular means of private or public transportation shall have reasonable access to transportation service necessary to permit them to be active, produc-

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tive, self-supporting and healthy citizens; and

(c) to increase the efficiency and productivity of and benefit from public investments in road space and transportation and transit facilities and systems in the state.

[1977 c 454 s 18; 1978 c 793 s 66]

174.22 DEFINITIONS. Subdivision 1. For the purposes of sections 174.21 to 174.27 the following terms have the meaning given them.

Subd. 2. "Commuter van" has the meaning given it in section 221.011, subdivision 22, clause (l).

Subd. 3. "Metropolitan council" means the council established by section 473.123.

Subd. 4. "Metropolitan transit commission" means the commission established by section 473.404.

Subd. 5. "Operating deficit" means the amount by which the total prudent operating expenses incurred in the operation of the public transit system exceeds the amount of operating revenue derived therefrom and the amount of any social fare reimbursement pursuant to section 174.21, subdivision 4.

Subd. 6. "Paratransit" means the transportation of passengers by motor vehicle or other means of conveyance by persons operating on a regular and continuing basis and the transportation or delivery of packages in conjunction with an operation having the transportation of passengers as its primary and predominant purpose and activity, but excluding regular route transit. "Paratransit" includes transportation by car pool and commuter van, point deviation and route deviation services, shared-ride taxi service, dial-a-ride service, and other similar services.

Subd. 7. "Public transit" or "transit" means general or specific transportation service provided to the public on a regular and continuing basis. "Public transit" or "transit" includes paratransit and regular route transit.

Subd. 8. "Regular route transit" means transportation of passengers for hire by a motor vehicle or other means of conveyance by any person operating on a regular and continuing basis as a common carrier on fixed routes and schedules. "Regular route transit" does not include transportation of children to or from school or of passengers between a common carrier terminal station and a hotel or motel, transportation by common carrier railroad or common carrier railroads or by taxi, transportation furnished by a person solely for his or its employees or customers, or paratransit.

[1977 c 454 s 19]

174.23 GENERAL POWERS AND DUTIES. Subdivision 1. **General.** The commissioner shall have all powers necessary and convenient to carry out the provisions of sections 174.21 to 174.27 including the power to: (a) review applications for financial assistance, execute contracts, and obligate and expend program funds, upon conditions and limitations as the commissioner deems necessary for purposes of program and project implementation, operation, and evaluation, (b) accept and disburse federal funds available for the purposes of sections 174.21 to 174.27, and (c) act upon request as the designated agent of any eligible person for the receipt and disbursement of federal funds. The commissioner shall perform the duties and exercise the powers under sections 174.21 to 174.27 in coordination with and in furtherance of statewide, regional, and local transportation plans and transportation development programs.

Subd. 2. **Financial assistance.** The commissioner shall seek out and select eligible recipients of financial assistance under sections 174.21 to 174.27. The commissioner shall establish by rule the procedures and standards for review and approval of applications for financial assistance submitted to the commissioner pursuant to sections 174.21 to 174.27. Any applicant shall provide to the commissioner any financial or other information required by the commissioner to carry out his duties. The commissioner may require local contributions from applicants as a condition for receiving financial assistance. The commissioner shall not approve any grant unless: (1) the application for the grant has been reviewed and approved by the appropriate regional development commission or the metropolitan council only for consistency with regional transportation plans and development guides; and (2) in the case of a project to be operated in the metropolitan area, the application has been reviewed by the metropolitan transit commission for consistency with its transportation development program. Any regional development commission that has not adopted a transportation

plan may review but may not approve or disapprove of any application.

Subd. 3. Technical and professional assistance. The commissioner shall offer, use, and apply the information developed pursuant to sections 174.21 to 174.27 to assist and advise political subdivisions and recipients of financial assistance in the planning, promotion, development, operation, and evaluation of programs and projects to accomplish the purposes of sections 174.21 to 174.27. The commissioner shall seek out and select eligible recipients of such technical and professional assistance.

Subd. 4. Research; evaluation. The commissioner shall conduct research and shall study, analyze, and evaluate concepts, techniques, programs, and projects to accomplish the purposes of sections 174.21 to 174.27, including traffic operations improvements, preferential treatment and other encouragement of transit and paratransit services and high-occupancy vehicles, improvements in the management and operation of regular route transit services, special provision for pedestrians and bicycles, management and control of parking, changes in work schedules, and reduction of vehicle use in congested and residential areas. The commissioner shall examine and evaluate such concepts, techniques, programs, and projects now or previously employed or proposed in this state and elsewhere. The commissioner or an independent third party under contract to the commissioner shall monitor and evaluate the management and operation of public transit systems, services, and projects receiving financial or professional and technical assistance under sections 174.21 to 174.27 or other state programs to determine the manner in which and the extent to which such systems, services, and projects contribute or may contribute to the purposes of sections 174.21 to 174.27. The commissioner shall develop and promote proposals and projects to accomplish the purposes of sections 174.21 to 174.27 and shall actively solicit such proposals from municipalities, counties, legislatively established transit commissions and authorities, regional development commissions, the metropolitan council, and potential vendors. In conducting such activities the commissioner shall make the greatest possible use of already available research and information. The commissioner shall use the information developed under sections 174.21 to 174.27 in developing or revising the state transportation plan.

Subd. 5. Reports. By November 1, 1977, and thereafter in odd-numbered years the commissioner shall report to the appropriate committees of the legislature describing the intended activities under sections 174.21 to 174.27 for the biennium. By November 15, 1978, and thereafter in even-numbered years the commissioner shall report to the legislature on progress in achieving the purposes of sections 174.21 to 174.27. The report shall include a summary and evaluation of the results of the programs and the financial, technical, and professional assistance provided under sections 174.21 to 174.27; a description of the efforts of the commissioner to propose, advocate, and promote projects to accomplish the purposes of sections 174.21 to 174.27; an analysis of the role of private providers in the delivery of public transit services and recommendations for funding private and public providers and for coordinating the delivery of transit services by private and public providers; and the commissioner's findings, conclusions, and recommendations respecting the manner in which and the extent to which the programs, projects, and research under sections 174.21 to 174.27 contribute or may contribute to the purposes of sections 174.21 to 174.27.

[1977 c 454 s 20]

174.24 PUBLIC TRANSIT SUBSIDY PROGRAM. Subdivision 1. **Establishment; purpose.** A public transit subsidy program is established to provide financial assistance from the state to eligible recipients. The purpose of the public transit subsidy program shall be to supplement local effort in financing public transit systems in order to preserve and develop public transit and a balanced transportation system in the state.

Subd. 2. Eligibility; applications. Any legislatively established public transit commission or authority, any county or statutory or home rule charter city providing financial assistance to or operating public transit, any private operator of regular route transit, or any combination thereof is eligible to receive financial assistance through the public transit subsidy program.

Subd. 3. Financial assistance. Payment of financial assistance shall be by contract between the commissioner and an eligible recipient. The commissioner shall determine the operating deficit of any public transit system receiving or applying for assistance in accordance with generally accepted accounting principles, provided that any financial assistance received from any agency of the federal government for the

operation of a public transit system shall be treated as revenue for the purposes of determining the operating deficit. Where more than one county or municipality contributes assistance to the operation of a public transit system the commissioner shall identify one as lead agency for the purpose of receiving moneys under this section. Payments shall not exceed two-thirds of the operating deficit of a public transit system, except that payments to eligible recipients who are private operators in the transit taxing district defined in section 473.446, subdivision 2, may be up to 100 percent of the operating deficit. Payments to the metropolitan transit commission shall be based upon a performance funding system established by the commissioner or otherwise provided by law.

Subd. 4. Social fare reimbursement. The commissioner shall reimburse the metropolitan transit commission and any private operators in the transit taxing district defined in section 473.446, subdivision 2 for the difference between the full fare otherwise charged by the commission or private operator and the fare actually charged for any regular route transit service passenger pursuant to the social fare provisions of section 473.408, subdivision 3. Reimbursement shall be paid monthly upon a report by the commission or private operator of the number of reduced fare passengers carried for the preceding calendar month in each reduced fare category and the total amount that otherwise would have been charged for the service by the commission or private operator on a full fare basis.

[1977 c 454 s 21]

174.25 PARATRANSIT SERVICE DEMONSTRATION GRANT PROGRAM.

Subdivision 1. Purpose. A paratransit service demonstration grant program is established to plan, promote, demonstrate, and evaluate the effectiveness, cost, and efficiency of paratransit as a means of accomplishing the following objectives:

(a) to provide transportation services in those areas inefficiently or inadequately served by regular route transit;

(b) to provide transportation services which improve the accessibility and productivity of regular route transit;

(c) to provide transportation services for persons who because of age or incapacity are unable to drive a private automobile or use existing modes of public transit.

Subd. 2. Eligibility; applications. Any public or private agency, entity, or person is eligible to receive financial assistance through the paratransit service demonstration program. Applications for grants shall be approved or denied by the commissioner within 120 days of receipt.

[1977 c 454 s 22]

174.26 REGULAR ROUTE TRANSIT DEMONSTRATION GRANT PROGRAM.

Subdivision 1. Purpose. A regular route transit demonstration program is established to demonstrate new regular route transit services and to improve the patronage and productivity of existing regular route transit services.

Subd. 2. Eligibility. Any eligible applicant under section 174.24, subdivision 2, operating, intending to operate, or assisting in the operation of regular route transit service is eligible to receive financial assistance through the regular route transit demonstration program.

[1977 c 454 s 23]

174.27 PUBLIC EMPLOYER COMMUTER VAN PROGRAMS. Any statutory or home rule charter city, county, school district, independent board or agency may acquire or lease commuter vans, enter into contracts with another public or private employer to acquire or lease such vans, or purchase such a service for the use of its employees. The governing body of any such city, county, or school district may by resolution establish a commuter van revolving fund to be used to acquire or lease commuter vans for the use of its employees. Any payments out of the fund shall be repaid to the fund out of revenues derived from the use by the employees of the city, county, or school district, of the vans so purchased or leased. For the purpose of establishing the fund any city, county, or school district is authorized to make a one time levy not to exceed one tenth of a mill in excess of all taxing limitations, without affecting the amount or rate of taxes which may be levied by the city, county, or school district for other purposes or by any local governments in the area. Any city, county, or school district which establishes a commuter van acquisition program or

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contracts for this service is authorized to levy a tax not to exceed 1/100 mill for the purpose of paying the administrative and promotional costs of the program which levy shall be in excess of all taxing limitations, without affecting the amount or rate of taxes which may be levied by the city, county, or school district for other purposes or by a local government in the area. The governing body of any city, county, or school district may by resolution terminate the commuter van revolving fund and use the funds for other purposes authorized by law.

[1977 c 454 s 24]

174.28 PERFORMANCE FUNDING. Subdivision 1. **Definitions.** For the purpose of this section the following terms have the meanings given them in this subdivision.

- (a) "Commissioner" means the commissioner of transportation.
- (b) "Contract" means a contract made pursuant to section 174.24.
- (c) "Subsidy per passenger" means the amount calculated pursuant to subdivision 3, clause (b) plus the amount paid under any contract pursuant to subdivision 2, divided by the number of passengers carried on regular route bus service operated by the commission during that year, excluding passengers carried on demonstration routes for which assistance is received pursuant to section 174.26.
- (d) "Municipality" means any statutory or home rule charter city, county or town.
- (e) "Route" means any route on which the commission operates regular route bus service.
- (f) "Revenue attributable to the route" means the total of: (i) the fares actually paid on the route; (ii) amounts reimbursed pursuant to section 174.24, subdivision 4 attributable to service on the route; and (iii) all payments received by the commission from municipalities for retention of service on the route.
- (g) "Route deficit" means the difference between the actual operating cost of any route and the revenue attributable to the route divided by the number of passengers carried on that route including transfers.

Subd. 2. **Basis and form of contract.** Any contract entered into by the commissioner and the commission which provides financial assistance to the commission during any year subsequent to December 31, 1977, shall provide for payment to the commission of an amount which, when added to the amount calculated under subdivision 3, clause (b), and divided by the passengers carried during that period, will provide the commission with a 48 cent subsidy per passenger in calendar year 1978 and a 49 cent subsidy in the first half of 1979. In addition the commissioner shall provide assistance by contract with the commission for general administrative and planning expenses.

Subd. 3. **Subsidy per passenger.** (a) After the close of each month, the commission shall report to the commissioner the number of passengers carried during that month on regular route bus service operated by the commission. The commissioner shall use these figures reported by the commission in computing payments due under any contract entered into pursuant to this section. The commission shall make available to the commissioner any information required to permit the commissioner to carry out his duties under this section.

(b) The commissioner shall calculate the total amount of money received by the commission from all sources to pay the expenses of operating regular route bus service during the calendar year and shall include the following items in that amount:

- (i) grants from the federal government pursuant to 49 U.S.C. 1604;
- (ii) proceeds of any property tax levied by the commission under section 473.446, clause (a);
- (iii) financial assistance received from political subdivisions, public agencies other than the department of transportation, or private entities or persons whether received as a grant, payment of a contractual obligation or otherwise. The commissioner shall exclude from that amount any revenue received by the commission from fares paid for regular route bus service and money paid by the commissioner to reimburse the commission for providing reduced fare service pursuant to section 473.408 or to permit the commission to operate demonstration services pursuant to section 174.26. The commissioner shall periodically examine the commission's data concerning the

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number of passengers carried on regular route bus service and the procedures for collecting that data.

Subd. 4. **Procedure for monthly payment.** Sums owed under any contract made pursuant to this section shall be paid monthly in a manner determined by the commissioner consistent with subdivisions 1 to 3.

[1977 c 454 s 46]

174.50 MINNESOTA STATE TRANSPORTATION FUND. Subdivision 1. State assistance is needed to supplement local effort and the highway user tax distribution fund in financing capital improvements to preserve and develop a balanced transportation system throughout the state. Such a system is a proper function and concern of state government and necessary to protect the safety and personal and economic welfare of all citizens. Immediate needs are reconstruction and replacement of key bridges and approaches to remove obstructions to the flow of traffic on state and county highways, municipal streets and township roads.

Subd. 2. A Minnesota state transportation fund is created as a separate book-keeping account in the general books of account of the state, to record receipts and disbursements of money appropriated from the fund to agencies and subdivisions of the state for the acquisition and betterment of public land, buildings, and capital improvements needed for the development of the state transportation system.

Subd. 3. The state treasurer shall deposit in the fund as received all proceeds of Minnesota state transportation bonds, except accrued interest and premiums; all other money appropriated by law for the purposes of the fund; and all money granted to the state for these purposes by the federal government or any agency thereof. All such receipts are annually appropriated for the permanent construction and improvement purposes of the fund and shall be and remain available for expenditure in accordance with this section and applicable federal laws until the purposes for which the appropriations were made have been accomplished or abandoned. Upon certification to the commissioner of finance by the agency or subdivision to which any appropriation of bond proceeds has been made that the purpose thereof has been accomplished or abandoned, any unexpended balance of the appropriation, unless reappropriated by law, shall be transferred to the state bond fund and is appropriated to reduce the amount of tax otherwise required by the constitution to be levied for that fund. No money shall be transferred to the state transportation fund from the highway user tax distribution fund or any other fund created by article XIV of the constitution.

Subd. 4. Before disbursement of an appropriation made from the fund to the commissioner of transportation or any other officer or agency of the state the commissioner shall certify to the commissioner of finance that the project for which the funds are appropriated has been reviewed by the proper regional development commission or the metropolitan council as the case may be, for consistency with the long term comprehensive development plans and guides for which that agency is responsible.

Subd. 5. Before disbursement of an appropriation made from the fund to the commissioner of transportation for grants to subdivisions of the state, the commissioner shall certify to the commissioner of finance:

(1) That the project for which the grant is made has been reviewed as provided in subdivision 4;

(2) That the project conforms to the program authorized by the appropriation law and rules adopted by the department of transportation consistent therewith; and

(3) That the financing of any estimated cost of the project in excess of the amount of the grant is assured by the appropriation of the proceeds of bonds or other funds of the subdivision, or by a grant from an agency of the federal government, within the amount of funds then appropriated to that agency and allocated by it to projects within the state, and by an irrevocable undertaking, in a resolution of the governing body of the subdivision, to use all funds so made available exclusively for the project, and to pay any additional amount by which the cost exceeds the estimate through appropriation to the construction fund of additional funds or the proceeds of additional bonds to be issued by the subdivision.

Subd. 6. Procedures for application for grants from the fund, conditions for their administration, and criteria for priority, unless established in the laws authorizing the grants, shall be established by rules of the department of transportation consistent

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with those laws. Criteria for determining priorities and amounts of grants shall be based on consideration of:

- (1) Effectiveness of the project in eliminating a deficiency in the transportation system;
- (2) Number of persons affected by the deficiency;
- (3) Economic feasibility;
- (4) Effect on optimum land use and other concerns of state and regional planning;
- (5) Availability of other financing capability; and
- (6) Adequacy of provision for proper operation and maintenance after construction.

Subd. 7. The commissioner of transportation shall develop rules, standards and criteria, including bridge specifications, in cooperation with road authorities of political subdivisions, for use in the administration of funds appropriated to the commissioner and for the administration of grants to subdivisions. The maximum use of standardized bridges is encouraged. Funds appropriated to the commissioner from the Minnesota state transportation fund shall be segregated from the highway tax user distribution fund and other funds created by article XIV of the constitution.

[1976 c 339 s 1; 1977 c 454 s 26]

174.51 MINNESOTA STATE TRANSPORTATION BONDS. Subdivision 1. For the purpose of providing money appropriated to agencies or subdivisions of the state from the Minnesota state transportation fund for the acquisition and betterment of public land, buildings, and capital improvements needed for the development of the state transportation system, when such appropriations or loans are authorized by Laws 1976, Chapter 339, Section 3 or another law and funds therefor are requested by the governor, the commissioner of finance shall sell and issue bonds of the state of Minnesota for the prompt and full payment of which, with interest thereon, the full faith and credit and taxing powers of the state are irrevocably pledged. Bonds shall be issued pursuant to this section only as authorized by a law specifying the purpose thereof and the maximum amount of the proceeds authorized to be expended for that purpose. Any such law, together with this section, constitutes complete authority for the issue, and such bonds shall not be subject to restrictions or limitations contained in any other law.

Subd. 2. The bonds shall be sold upon sealed bids and upon notice, at a price, in form and denominations, bearing interest at a rate or rates, maturing in amounts and on dates, subject to prepayment upon notice and at times and prices, payable at a bank or banks within or outside the state, with or without provisions for registration, conversion, exchange, and issuance of notes in anticipation of the sale or delivery of definitive bonds, and in accordance with further regulations, as the commissioner of finance shall determine subject to the approval of the attorney general, but not subject to the provisions of sections 15.0411 to 15.0422. The bonds shall be executed by the commissioner of finance and attested by the state treasurer under their official seals. The signatures on the bonds and on any interest coupons and the seals may be printed or otherwise reproduced, except that each bond shall be authenticated by the manual signature on its face of one of the officers or of a person authorized to sign on behalf of a bank designated by them as authenticating agent. The commissioner of finance shall ascertain and certify to the purchasers of the bonds the performance and existence of all acts, conditions, and things necessary to make them valid and binding general obligations of the state of Minnesota, subject to the approval of the attorney general.

Subd. 3. All expenses incidental to the sale, printing, execution, and delivery of bonds pursuant to this section, including but not limited to actual and necessary travel and subsistence expenses of state officers and employees for such purposes, shall be paid from the Minnesota state transportation fund and the amounts necessary therefor are appropriated from that fund; provided that if any amount is specifically appropriated for this purpose in an act authorizing the issuance of bonds pursuant to this section, such expenses shall be limited to the amount so appropriated.

Subd. 4. The commissioner of finance shall maintain in the state bond fund a separate bookkeeping account designated as the Minnesota state transportation bond account, to record receipts and disbursements of money transferred to the fund to pay

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Minnesota state transportation bonds and interest thereon, and of income from the investment of such money, which income shall be credited to the account in each fiscal year in an amount equal to the approximate average rate of return that year on all funds invested by the state treasurer, as determined by the treasurer, times the average balance in the account that year.

Subd. 5. The premium and accrued interest received on each issue of Minnesota state transportation bonds shall be credited to the bond account. There shall also be credited to the bond account from the general fund in the state treasury, on November 1 in each year, a sum of money equal to the amount of the tax which article 11 of the constitution would otherwise require to be levied for collection in the following year, to increase the balance in the account to an amount sufficient to pay principal and interest due and to become due with respect to Minnesota state transportation bonds. All money so credited and all income from the investment thereof is annually appropriated to the bond account for the payment of such bonds and interest thereon, and shall be available in the bond account prior to the levy of a tax for the state bond fund in any year as required by article 11 of the constitution. No money shall be transferred to the Minnesota state transportation bond account from the highway user tax distribution fund or any other fund created by article 14 of the constitution. The commissioner of finance and the state treasurer are directed to make the appropriate entries in the accounts of the respective funds.

Subd. 6. On or before December 1 in each year, if the full amount appropriated to the bond account in subdivision 5 has not been credited thereto, the tax required by article 11 of the constitution shall be levied upon all taxable property within the state. This tax shall be levied upon all real property used for the purposes of a homestead, as well as other taxable property, notwithstanding the provisions of section 273.13, subdivisions 6 and 7, and shall be subject to no limitation of rate or amount until all Minnesota state transportation bonds and interest thereon are fully paid. The proceeds of this tax are appropriated and shall be credited to the state bond fund, and the principal of and interest on the bonds are payable from such proceeds, and the whole thereof, or so much as may be necessary, is appropriated for such payments. If at any time there is not sufficient money from the proceeds of such taxes to pay the principal and interest when due on Minnesota state transportation bonds, such principal and interest shall be paid out of the general fund in the state treasury, and the amount necessary therefor is hereby appropriated.

[1976 c 339 s 2]