

## CHAPTER 16B

## DEPARTMENT OF ADMINISTRATION

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**16B.03 APPOINTMENTS.**

The commissioner is authorized to appoint staff, including two deputy commissioners, in accordance with chapter 43A.

**History:** 1999 c 250 art 1 s 53

**16B.055 LEAD AGENCY.**

Subdivision 1. **Governor's advisory council on technology for people with disabilities.** The department of administration shall serve as the lead agency to assist the Minnesota governor's advisory council on technology for people with disabilities in carrying out all responsibilities pursuant to United States Code, title 29, section 2211 et seq., and any other responsibilities related to that program.

Subd. 2. **Duties of council.** The council has the following duties related to technology for people with disabilities:

(1) to identify individuals with disabilities, including individuals from underserved groups, who reside in the state and conduct an ongoing evaluation of their needs for technology-related assistance;

(2) to identify and coordinate state policies, resources, and services relating to the provision of assistive technology devices and assistive technology services to individuals with disabilities, including entering into interagency agreements;

(3) to provide assistive technology devices and assistive technology services to individuals with disabilities and payment for the provision of assistive technology devices and assistive technology services;

(4) to disseminate information relating to technology-related assistance and sources of funding for assistive technology devices and assistive technology services to individuals with disabilities, the families or representatives of individuals with disabilities, individuals who work for public agencies, and private entities that have contact with individuals with disabilities, including insurers, employers, and other appropriate individuals;

(5) to provide training and technical assistance relating to assistive technology devices and assistive technology services to individuals with disabilities, the families or representatives of individuals with disabilities, individuals who work for public agencies, and private entities that have contact with individuals with disabilities, including insurers, employers, and other appropriate individuals;

(6) to conduct a public awareness program focusing on the efficacy and availability of assistive technology devices and assistive technology services for individuals with disabilities;

(7) to assist statewide and community-based organizations or systems that provide assistive technology services to individuals with disabilities;

(8) to support the establishment or continuation of partnerships and cooperative initiatives between the public sector and the private sector;

(9) to develop standards, or where appropriate, apply existing standards to ensure the availability of qualified personnel for assistive technology devices;

(10) to compile and evaluate appropriate data relating to the program; and

(11) to establish procedures providing for the active involvement of individuals with disabilities, the families or representatives of the individuals, and other appropriate individuals in the development and implementation of the program, and for individuals with disabilities who use assistive technology devices and assistive technology services, for their active involvement, to the maximum extent appropriate in decisions relating to the assistive technology devices and assistive technology services.

**History:** 1999 c 250 art 1 s 114

**16B.06** [Repealed, 1998 c 386 art 1 s 35]

### **16B.104 PROCUREMENT REQUIREMENTS.**

(a) The commissioner shall develop nonvisual technology access standards. The standards must be included in all contracts for the procurement of information technology by, or for the use of, agencies, political subdivisions, and the Minnesota state colleges and universities. The University of Minnesota is encouraged to consider similar standards.

(b) The nonvisual access standards must include the following minimum specifications:

(1) that effective, interactive control and use of the technology including the operating system, applications programs, prompts, and format of the data presented, are readily achievable by nonvisual means;

(2) that the nonvisual access technology must be compatible with information technology used by other individuals with whom the blind or visually impaired individual must interact;

(3) that nonvisual access technology must be integrated into networks used to share communications among employees, program participants, and the public; and

(4) that the nonvisual access technology must have the capability of providing equivalent access by nonvisual means to telecommunications or other interconnected network services used by persons who are not blind or visually impaired.

(c) Nothing in this section requires the installation of software or peripheral devices used for nonvisual access when the information technology is being used by individuals who are not blind or visually impaired.

**History:** 1999 c 250 art 1 s 54

**16B.165** [Repealed, 1999 c 135 s 10]

**16B.171** [Renumbered 16C.081]

### **16B.24 GENERAL AUTHORITY.**

*[For text of subs 1 to 4, see M.S.1998]*

Subd. 5. **Renting out state property.** (a) **Authority.** The commissioner may rent out state property, real or personal, that is not needed for public use, if the rental is not otherwise provided for or prohibited by law. The property may not be rented out for more than five years at a time without the approval of the state executive council and may never be rented out for more than 25 years. A rental agreement may provide that the state will reimburse a tenant for a portion of capital improvements that the tenant makes to state real property if the state does not permit the tenant to renew the lease at the end of the rental agreement.

(b) **Restrictions.** Paragraph (a) does not apply to state trust fund lands, other state lands under the jurisdiction of the department of natural resources, lands forfeited for delinquent taxes, lands acquired under section 298.22, or lands acquired under section 41.56 which are under the jurisdiction of the department of agriculture.

(c) **Fort Snelling Chapel; rental.** The Fort Snelling Chapel, located within the boundaries of Fort Snelling State Park, is available for use only on payment of a rental fee. The commissioner shall establish rental fees for both public and private use. The rental fee for private use by an organization or individual must reflect the reasonable value of equivalent rental space. Rental fees collected under this section must be deposited in the general fund.

(d) **Rental of living accommodations.** The commissioner shall establish rental rates for all living accommodations provided by the state for its employees. Money collected as rent by state agencies pursuant to this paragraph must be deposited in the state treasury and credited to the general fund.

(e) **Lease of space in certain state buildings to state agencies.** The commissioner may lease portions of the state-owned buildings in the capitol complex, the capitol square building, the health building, the Duluth government center, and the building at 1246 University Avenue, St. Paul, Minnesota, to state agencies and the court administrator on behalf of the judicial branch of state government and charge rent on the basis of space occupied. Notwithstanding any law to the contrary, all money collected as rent pursuant to the terms of this section shall be deposited in the state treasury. Money collected as rent to recover the bond interest costs of a building funded from the state bond proceeds fund shall be credited to the general fund. Money collected as rent to recover the depreciation costs of a building funded from the state bond proceeds fund and money collected as rent to recover capital expenditures from capital asset preservation and replacement appropriations and statewide building access appropriations shall be credited to a segregated account in a special revenue fund. Money in the account is appropriated to the commissioner to be expended for asset preservation projects as determined by the commissioner. Money collected as rent to recover the depreciation and interest costs of a building built with other state dedicated funds shall be credited to the dedicated fund which funded the original acquisition or construction. All other money received shall be credited to the general services revolving fund.

*[For text of subs 6 to 11, see M.S.1998]*

**History:** 1999 c 250 art 1 s 55

**NOTE:** The amendment to subdivision 5 by Laws 1999, chapter 250, article 1, section 55, is effective July 1, 2001. Laws 1999, chapter 250, article 1, section 116.

### 16B.30 GENERAL AUTHORITY.

(a) Subject to other provisions in this chapter, the commissioner shall supervise and control the making of all contracts for the construction of buildings and for other capital improvements to state buildings and structures, other than buildings and structures under the control of the board of trustees of the Minnesota state colleges and universities. Except as provided in paragraphs (b) and (c), a state agency may not undertake improvements of a capital nature without specific legislative authority.

(b) Specific legislative authority is not required for repairs or minor capital projects financed with operating appropriations or agency receipts that:

- (1) are undertaken for asset preservation or code compliance purposes; or
- (2) do not materially increase the net square footage of a facility; and in either case
- (3) do not materially increase the cost of agency programs.

(c) Unless the commissioner determines that an urgency exists, the commissioner of an agency undertaking a project with a cost in excess of \$50,000 pursuant to paragraph (b) shall notify the chairs of the senate finance committee, the house capital investment committee, the house ways and means committee, the appropriate house and senate finance divisions, and the director of the legislative coordinating commission prior to incurring any contractual obligation with regard to the project. Any agency undertaking any project pursuant to this paragraph during fiscal year 1999 must report all such projects to the legislature by January 1, 2000.

**History:** 1999 c 240 art 1 s 16

### 16B.31 COMMISSIONER MUST APPROVE PLANS.

*[For text of subd 1, see M.S.1998]*

Subd. 2. **Appropriations.** Plans must be paid for out of money appropriated for the purpose of improving or constructing the building. No part of the balance may 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 cost, quality, and description of all material and labor required for the completion of the work. No plan may be adopted, and no improvement made or building constructed by the commissioner or any other agency to whom an appropriation is made for a capital improvement, that contemplates the expenditure for its completion of more money than the appropriation for it, unless otherwise provided in this section or the act making the appropriation. The commissioner or other agency may not direct or permit any expenditure beyond that appropriated, and any agent of the commissioner violating this provision is guilty of a gross misdemeanor.

*[For text of subds 3 to 7, see M.S.1998]*

**History:** 1999 c 250 art 1 s 56

## 16B.32 ENERGY USE.

*[For text of subd 1, see M.S.1998]*

Subd. 2. **Energy conservation goals; efficiency program.** (a) The commissioner of administration in consultation with the department of public service, in cooperation with one or more public utilities or comprehensive energy services providers, may conduct a shared-savings program involving energy conservation expenditures on state-owned buildings. The public utility or energy services provider shall contract with appropriate state agencies to implement energy efficiency improvements in the selected buildings. A contract must require the public utility or energy services provider to include all energy efficiency improvements in selected buildings that are calculated to achieve a cost payback within ten years. The contract must require that the public utility or energy services provider be repaid solely from energy cost savings and only to the extent of energy cost savings. Repayments must be interest-free. The goal of the program in this paragraph is to demonstrate that through effective energy conservation the total energy consumption per square foot of state-owned and wholly state-leased buildings could be reduced by at least 25 percent from consumption in the base year of 1990. All agencies participating in the program must report to the commissioner of administration their monthly energy usage, building schedules, inventory of energy-consuming equipment, and other information as needed by the commissioner to manage and evaluate the program.

(b) The commissioner may exclude from the program of paragraph (a) a building in which energy conservation measures are carried out. "Energy conservation measures" means measures that are applied to a state building that improve energy efficiency and have a simple return of investment in ten years or within the remaining period of a lease, whichever time is shorter, and involves energy conservation, conservation facilities, renewable energy sources, improvements in operations and maintenance efficiencies, or retrofit activities.

(c) This subdivision expires January 1, 2001.

*[For text of subd 3, see M.S.1998]*

**History:** 1999 c 250 art 1 s 57

## 16B.335 REVIEW OF PLANS AND PROJECTS.

*[For text of subds 1 to 3, see M.S.1998]*

Subd. 4. **Energy conservation.** A recipient to whom a direct appropriation is made for a capital improvement project shall ensure that the project complies with the applicable energy conservation standards contained in law, including sections 216C.19 to 216C.20, and rules adopted thereunder. The recipient may use the energy planning and intervention and energy technologies units of the department of public service to obtain information and technical assistance on energy conservation and alternative energy development relating to the planning and construction of the capital improvement project.

[For text of subds 5 and 6, see M.S.1998]

**History:** 1999 c 86 art 1 s 9

### 16B.35 ART IN STATE BUILDINGS.

[For text of subd 1, see M.S.1998]

Subd. 1a. **Not in prisons.** Notwithstanding subdivision 1, no part of a state appropriation may be used to acquire or install works of art in a state correctional facility.

Subd. 1b. **Exception.** A prohibition on using state appropriations to pay for art in correctional facilities does not apply to art produced through programming in correctional facilities.

[For text of subds 2 to 5, see M.S.1998]

**History:** 1999 c 126 s 2; 1999 c 216 art 4 s 1

### 16B.39 PROGRAMS FOR STATE EMPLOYEES.

[For text of subd 1a, see M.S.1998]

Subd. 2. [Renumbered 43A.319]

**History:** 1999 c 250 art 1 s 114

### 16B.405 SOFTWARE SALES.

[For text of subd 1, see M.S.1998]

Subd. 2. **Software sale fund.** (a) Except as provided in paragraphs (b) and (c), proceeds of the sale or licensing of software products or services by the commissioner must be credited to the intertechnologies revolving fund. If a state agency other than the department of administration has contributed to the development of software sold or licensed under this section, the commissioner may reimburse the agency by discounting computer services provided to that agency.

(b) Proceeds of the sale or licensing of software products or services developed by the pollution control agency, or custom developed by a vendor for the agency, must be credited to the environmental fund.

(c) Proceeds of the sale or licensing of software products or services developed by the department of children, families, and learning, or custom developed by a vendor for the agency, to support the achieved savings assessment program, must be appropriated to the commissioner of children, families, and learning and credited to the weatherization program to support weatherization activities.

**History:** 1999 c 205 art 4 s 1

### 16B.415 OPERATION OF INFORMATION SYSTEMS.

The commissioner, through a division of technology management, is responsible for ongoing operations of state agency information technology activities. These include records management, activities relating to the Government Data Practices Act, arranging for operation of the state information infrastructure, and activities necessary to make state information systems year 2000 compliant.

**History:** 1999 c 250 art 1 s 58

### 16B.42 INTERGOVERNMENTAL INFORMATION SYSTEMS ADVISORY COUNCIL.

Subdivision 1. **Composition.** The intergovernmental information systems advisory council is composed of (1) two members from each of the following groups: counties outside of the seven-county metropolitan area, cities of the second and third class outside the metro-

politan area, cities of the second and third class within the metropolitan area, and cities of the fourth class; (2) one member from each of the following groups: the metropolitan council, an outstate regional body, counties within the metropolitan area, cities of the first class, school districts in the metropolitan area, school districts outside the metropolitan area, and public libraries; (3) one member each appointed by the state departments of children, families, and learning, human services, revenue, and economic security, the office of strategic and long-range planning, administration, and the legislative auditor; (4) one member from the office of the state auditor, appointed by the auditor; (5) one member appointed by each of the following organizations: League of Minnesota Cities, Association of Minnesota Counties, Minnesota Association of Township Officers, and Minnesota Association of School Administrators; and (6) one member of the house of representatives appointed by the speaker and one member of the senate appointed by the subcommittee on committees of the committee on rules and administration. The legislative members appointed under clause (6) are nonvoting members. The commissioner of administration shall appoint members under clauses (1) and (2). The terms, compensation, and removal of the appointed members of the advisory council are as provided in section 15.059, but the council does not expire until June 30, 2000.

*[For text of subsds 2 to 4, see M.S.1998]*

**History:** 1999 c 250 art 1 s 59

### **16B.46 TELECOMMUNICATION; POWERS.**

The commissioner shall supervise and control all state telecommunication facilities and services, including 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 section or section 16B.465 modifies, amends, or abridges 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.

**History:** 1999 c 250 art 1 s 60

### **16B.465 STATE INFORMATION INFRASTRUCTURE.**

Subdivision 1. **Policy.** (a) The state through its departments and agencies shall seek ways to meet its telecommunications needs in a manner that will help to promote investment and growth of the private sector information infrastructure throughout the state.

(b) The commissioner shall ensure that telecommunications services are acquired in a manner that:

(1) promotes the availability of technologies with statewide high-speed or advanced telecommunications capability for both public and private customers in a reasonable and timely fashion;

(2) enables the cost-effective provision of telecommunications services to the entities identified in this section;

(3) uses standards-based open, interoperable networks to the extent practicable;

(4) promotes fair and open competition in the delivery of telecommunications services;

(5) allows effective state information infrastructure network management, responsiveness, and fault protection;

(6) provides networkwide security and confidentiality as appropriate for promoting public safety, health, and welfare; and

(7) meets performance standards that are reasonable and necessary.

(c) The state may purchase, own, or lease customer premises equipment. Customer premises equipment consists of terminal and associated equipment and inside wire located at an end user's premises and connected with communication channels at the point established in a building or a complex to separate customer equipment from the network. Customer premises equipment also includes, but is not limited to, communications devices eligible for distribution to communications impaired persons under section 237.51, subdivision 1.

(d) This section does not prohibit the commissioner or other governmental entity from owning, leasing, operating, and staffing a network operation center that allows the commissioner to test, troubleshoot, and maintain network operations.

Subd. 1a. **Creation.** Except as provided in subdivision 4, the commissioner, through the state information infrastructure, shall arrange for the provision of voice, data, video, and other telecommunications transmission services to state agencies. The state information infrastructure may also serve educational institutions, including public schools as defined in section 120A.05, subdivisions 9, 11, 13, and 17, nonpublic, church or religious organization schools that provide instruction in compliance with sections 120A.22, 120A.24, and 120A.41, and private colleges; public corporations; and state political subdivisions. It is not a telephone company for purposes of chapter 237. The commissioner may purchase, own, or lease any telecommunications network facilities or equipment after first seeking bids or proposals and having determined that the private sector cannot, will not, or is unable to provide these services, facilities, or equipment as bid or proposed in a reasonable or timely fashion consistent with policy set forth in this section. The commissioner shall not resell or sublease any services or facilities to nonpublic entities except to serve private schools and colleges. The commissioner has the responsibility for planning, development, and operations of the state information infrastructure in order to provide cost-effective telecommunications transmission services to state information infrastructure users consistent with the policy set forth in this section.

Subd. 3. **Duties.** (a) The commissioner shall:

(1) arrange for voice, data, video, and other telecommunications transmission services to the state and to political subdivisions through an account in the intertechnologies revolving fund;

(2) manage vendor relationships, network function, and capacity planning in order to be responsive to the needs of the state information infrastructure users;

(3) set rates and fees for services;

(4) approve contracts for services, facilities, or equipment relating to the system;

(5) develop a system plan and the annual program and fiscal plans for the system; and

(6) in consultation with the commissioner of children, families, and learning in regard to schools, assist state agencies, political subdivisions of the state, and higher education institutions, including private colleges and public and private schools, to identify their telecommunication needs, and develop plans for interoperability of the network consistent with the policies in subdivision 1, paragraphs (a) and (b). When requested, the commissioner may also assist in identifying, purchasing, or leasing their customer premises equipment.

(b) The commissioner may purchase, own, or lease any telecommunications network facilities or equipment after first seeking bids or proposals and having determined that the private sector cannot, will not, or is unable to provide these services, facilities, or equipment as bid or proposed in a reasonable and timely fashion consistent with the policy set forth in this section.

Subd. 4. **Program participation.** The commissioner may require the participation of state agencies and the commissioner of children, families, and learning, and may request the participation of the board of regents of the University of Minnesota and the board of trustees of the Minnesota state colleges and universities, in the planning and implementation of the network to provide interconnective technologies. The board of trustees of the Minnesota state colleges and universities may opt out of participation as a subscriber on the network, in whole or in part, if the board is able to secure telecommunications services from another source that ensures it will achieve the policy objectives set forth in subdivision 1.

Subd. 4a. **Alternative aggregation.** The commissioner may, but is not required to, approve community-based aggregation of demand for telecommunications services for state agencies, including Minnesota state colleges and universities. To be considered a community-based aggregation project:

(1) the project must aggregate telecommunications demands of state agencies with that of the private sector in a community or a group of communities in a geographic region to the extent permitted by law; and

(2) the aggregation must result in telecommunications infrastructure improvements that ensure the policy set forth in subdivision 1, paragraphs (a) and (b).

Subd. 4b. **Rates.** (a) The commissioner shall establish reimbursement rates in cooperation with the commissioner of finance to be billed to participating agencies and educational institutions sufficient to cover the operating, maintenance, and administrative costs of the system.

(b) Except as otherwise provided in subdivision 4, a direct appropriation made to an educational institution for usage costs associated with the state information infrastructure must only be used by the educational institution for payment of usage costs of the network as billed by the commissioner of administration.

Subd. 6. **Appropriation.** Money appropriated for the state information infrastructure and fees for telecommunications services must be deposited in an account in the intertechnologies fund. Money in the account is appropriated annually to the commissioner to carry out the purposes of this section.

Subd. 7. **Exemption.** The system is exempt from the five-year limitation on contracts set by sections 16C.05, subdivision 2, paragraph (a), clause (5), 16C.08, subdivision 3, clause (7), and 16C.09, clause (6).

**History:** 1998 c 398 art 5 s 55; 1999 c 86 art 1 s 10; 1999 c 214 art 2 s 1; 1999 c 250 art 1 s 61

## 16B.61 GENERAL POWERS OF COMMISSIONER; STATE BUILDING CODE.

Subdivision 1. **Adoption of code.** Subject to sections 16B.59 to 16B.75, the commissioner shall by rule establish a code of standards for the construction, reconstruction, alteration, and repair of buildings, governing matters of structural materials, design and construction, fire protection, health, sanitation, and safety, including design and construction standards regarding heat loss control, illumination, and climate control. The code must conform insofar as practicable to model building codes generally accepted and in use throughout the United States, including a code for building conservation. In the preparation of the code, consideration must be given to the existing statewide specialty codes presently in use in the state. Model codes with necessary modifications and statewide specialty codes may be adopted by reference. The code must be based on the application of scientific principles, approved tests, and professional judgment. To the extent possible, the code must be adopted in terms of desired results instead of the means of achieving those results, avoiding wherever possible the incorporation of specifications of particular methods or materials. To that end the code must encourage the use of new methods and new materials. Except as otherwise provided in sections 16B.59 to 16B.75, the commissioner shall administer and enforce the provisions of those sections.

Subd. 1a. **Administration by commissioner.** The commissioner shall administer and enforce the State Building Code as a municipality with respect to public buildings and state licensed facilities in the state. The commissioner shall establish appropriate permit, plan review, and inspection fees for public buildings and state licensed facilities. Fees and surcharges for public buildings and state licensed facilities must be remitted to the commissioner, who shall deposit them in the state treasury for credit to the special revenue fund.

Municipalities other than the state having a contractual agreement with the commissioner for code administration and enforcement service for public buildings and state licensed facilities shall charge their customary fees, including surcharge, to be paid directly to the contractual jurisdiction by the applicant seeking authorization to construct a public building or a state licensed facility. The commissioner shall contract with a municipality other than the state for plan review, code administration, and code enforcement service for public buildings and state licensed facilities in the contractual jurisdiction if the building officials of the municipality meet the requirements of section 16B.65 and wish to provide those services and if the commissioner determines that the municipality has enough adequately trained and qualified building inspectors to provide those services for the construction project.

Administration and enforcement in a municipality under this section must apply any optional provisions of the State Building Code adopted by the municipality. A municipality

adopting any optional code provision shall notify the state building official within 30 days of its adoption.

The commissioner shall administer and enforce the provisions of the code relating to elevators statewide, except as provided for under section 16B.747, subdivision 3.

**Subd. 2. Enforcement by certain bodies.** 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 commissioner of health, the provisions relating to high pressure steam piping and appurtenances shall be enforced by the department of labor and industry. Fees for inspections conducted by the state board of electricity shall be paid in accordance with the rules of the state board of electricity. Under direction of the commissioner of public safety, the state fire marshal shall enforce the Minnesota Uniform Fire Code as provided in chapter 299F.

**Subd. 3. Special requirements.** (a) **Space for commuter vans.** The code must 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.

(b) **Smoke detection devices.** The code must require that all dwellings, lodging houses, apartment houses, and hotels as defined in section 299F.362 comply with the provisions of section 299F.362.

(c) **Doors in nursing homes and hospitals.** The State Building Code may not require that each door entering a sleeping or patient's room from a corridor in a nursing home or hospital with an approved complete standard automatic fire extinguishing system be constructed or maintained as self-closing or automatically closing.

(d) **Child care facilities in churches; ground level exit.** A licensed day care center serving fewer than 30 preschool age persons and which is located in a below ground space in a church building is exempt from the State Building Code requirement for a ground level exit when the center has more than two stairways to the ground level and its exit.

(e) **Child care facilities in churches; vertical access.** Until August 1, 1996, an organization providing child care in an existing church building which is exempt from taxation under section 272.02, subdivision 6, shall have five years from the date of initial licensure under chapter 245A to provide interior vertical access, such as an elevator, to persons with disabilities as required by the State Building Code. To obtain the extension, the organization providing child care must secure a \$2,500 performance bond with the commissioner of human services to ensure that interior vertical access is achieved by the agreed upon date.

(f) **Family and group family day care.** Until the legislature enacts legislation specifying appropriate standards, the definition of Group R-3 occupancies in the State Building Code applies to family and group family day care homes licensed by the department of human services under Minnesota Rules, chapter 9502.

(g) **Mined underground space.** Nothing in the state building codes shall prevent cities from adopting rules governing the excavation, construction, reconstruction, alteration, and repair of mined underground space pursuant to sections 469.135 to 469.141, or of associated facilities in the space once the space has been created, provided the intent of the building code to establish reasonable safeguards for health, safety, welfare, comfort, and security is maintained.

(h) **Enclosed stairways.** No provision of the code or any appendix chapter of the code may require stairways of existing multiple dwelling buildings of two stories or less to be enclosed.

(i) **Double cylinder dead bolt locks.** No provision of the code or appendix chapter of the code may prohibit double cylinder dead bolt locks in existing single-family homes, townhouses, and first floor duplexes used exclusively as a residential dwelling. Any recommendation or promotion of double cylinder dead bolt locks must include a warning about their potential fire danger and procedures to minimize the danger.

(j) **Relocated residential buildings.** A residential building relocated within or into a political subdivision of the state need not comply with the State Energy Code or section 326.371 provided that, where available, an energy audit is conducted on the relocated building.

(k) **Automatic garage door opening systems.** The code must require all residential buildings as defined in section 325F.82 to comply with the provisions of sections 325F.82 and 325F.83.

(l) **Exit sign illumination.** For a new building on which construction is begun on or after October 1, 1993, or an existing building on which remodeling affecting 50 percent or more of the enclosed space is begun on or after October 1, 1993, the code must prohibit the use of internally illuminated exit signs whose electrical consumption during nonemergency operation exceeds 20 watts of resistive power. All other requirements in the code for exit signs must be complied with.

(m) **Exterior wood decks, patios, and balconies.** The code must permit the decking surface and upper portions of exterior wood decks, patios, and balconies to be constructed of (1) heartwood from species of wood having natural resistance to decay or termites, including redwood and cedars, (2) grades of lumber which contain sapwood from species of wood having natural resistance to decay or termites, including redwood and cedars, or (3) treated wood. The species and grades of wood products used to construct the decking surface and upper portions of exterior decks, patios, and balconies must be made available to the building official on request before final construction approval.

*[For text of subds 3a to 7, see M.S.1998]*

**History:** 1999 c 135 s 1,2; 1999 c 185 s 1

## 16B.616 BLEACHER SAFETY.

Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have the meanings given.

(b) "Place of public accommodation" means a public or privately owned sports or entertainment arena, gymnasium, auditorium, stadium, hall, special event center in a public park, or other facility for public assembly.

(c) "Bleacher" refers to any tiered or stepped seating facility, whether temporary or permanent, used in a place of public accommodation for the seating of its occupants.

Subd. 2. **Application.** All places of public accommodation must comply with the provisions of this section.

Subd. 3. **Safety requirements.** In places of public accommodation using bleacher seating, all bleachers or bleacher open spaces over 30 inches above grade or the floor below, must conform to the following safety requirements:

(1) the open space between bleacher footboards, seats, and guardrails must not exceed four inches, unless approved safety nets are installed;

(2) bleachers must have vertical perimeter guardrails with no more than four-inch rail spacing between vertical rails or other approved guardrails that address climbability and are designed to prevent accidents; and

(3) the state building official shall determine whether the safety nets and guardrail climbability meet the requirements of the alternate design section of the State Building Code. All new bleachers manufactured, installed, sold, or distributed after January 1, 2001, must comply with the State Building Code in effect and clauses (1), (2), and (3).

Subd. 4. **Enforcement.** (a) A statutory or home rule charter city that is not covered by the code because of action taken under section 16B.72 or 16B.73 is responsible for enforcement in the city of the code's requirements for bleacher safety. In all other areas where the code does not apply because of action taken under section 16B.72 or 16B.73, the county is responsible for enforcement of those requirements.

(b) Municipalities that have not adopted the code may enforce the code requirements for bleacher safety by either entering into a joint powers agreement for enforcement with another municipality that has adopted the code or contracting for enforcement with a qualified and certified building official or state licensed design professional to enforce the code.

(c) Municipalities, school districts, organizations, individuals, and other persons operating or owning places of public accommodation with bleachers shall provide a signed certification of compliance to the commissioner by January 1, 2001. The certification shall be prepared by a qualified and certified building official or state licensed design professional and shall certify that the bleachers have been inspected and are in compliance with the requirements of this section and are structurally sound.

Subd. 5. **Noncomplying bleachers prohibited.** The commissioner, in addition to other remedies provided for violations of this chapter, shall forbid use of bleachers not in compliance with this section.

Subd. 6. **Periodic inspections.** Bleacher footboards and guardrails must be reinspected at least every five years and a structural inspection must be made at least every ten years. Inspections may be completed in the same manner as provided in subdivision 4. This section does not preclude a municipal authority from establishing additional reinspections under the State Building Code.

**History:** 1999 c 250 art 1 s 62

**NOTE:** This section, as added by Laws 1999, chapter 250, article 1, section 62, is effective January 1, 2001. Laws 1999, chapter 250, article 1, section 116.

## 16B.62 STATE BUILDING CODE; APPLICATION.

*[For text of subd 1, see M.S.1998]*

Subd. 2. **Enforcement by state building official.** If the commissioner determines that a municipality is not properly administering and enforcing the State Building Code as provided in section 16B.71, the commissioner may have the administration and enforcement in the involved municipality undertaken by the state building official. 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 in municipalities who determine not to administer and enforce the State Building Code, the commissioner shall have administration and enforcement undertaken by the state building official or by another inspector certified by the state. In carrying out administration and enforcement under this subdivision, the commissioner shall apply any optional provision of the State Building Code adopted by the municipality. A municipality adopting any optional code provision shall notify the state building official within 30 days of its adoption. 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.

**History:** 1999 c 135 s 3

## 16B.64 APPLICATION OF ADMINISTRATIVE PROCEDURE ACT.

*[For text of subds 1 to 3, see M.S.1998]*

Subd. 4. **Hearings.** The commissioner shall hold all state hearings and make all determinations regarding any subject matter dealt with in the code including those in which another state agency proposes to adopt or amend rules which are incorporated by reference into the code or whenever the commissioner proposes to incorporate those rules into the State Building Code. In no event may a state agency subsequently authorized to adopt rules involving State Building Code subject matter proceed to adopt the rules without prior consultation with the commissioner.

*[For text of subds 5 to 7, see M.S.1998]*

**History:** 1999 c 135 s 4

## 16B.72 REFERENDA ON STATE BUILDING CODE IN NONMETROPOLITAN COUNTIES.

Notwithstanding any other provision of law to the contrary, a county that is not a metropolitan county as defined by section 473.121, subdivision 4, may provide, by a vote of the

majority of its electors residing outside of municipalities that have adopted the State Building Code before January 1, 1977, that no part of the State Building Code except the building requirements for handicapped persons, the requirements for bleacher safety, and the requirements for elevator safety applies within its jurisdiction.

The county board may submit to the voters at a regular or special election the question of adopting the building code. The county board shall submit the question to the voters if it receives a petition for the question signed by a number of voters equal to at least five percent of those voting in the last general election. The question on the ballot must be stated substantially as follows:

“Shall the State Building Code be adopted in ..... County?”

If the majority of the votes cast on the proposition is in the negative, the State Building Code does not apply in the subject county, outside home rule charter or statutory cities or towns that adopted the building code before January 1, 1977, except the building requirements for handicapped persons, the requirements for bleacher safety, and the requirements for elevator safety do apply.

Nothing in this section precludes a municipality or town that has not adopted the State Building Code from adopting and enforcing by ordinance or other legal means the State Building Code within its jurisdiction.

**History:** 1999 c 250 art 1 s 63

**NOTE:** The amendment to this section by Laws 1999, chapter 250, article 1, section 63, is effective January 1, 2001. Laws 1999, chapter 250, article 1, section 116.

### **16B.73 STATE BUILDING CODE IN MUNICIPALITIES UNDER 2,500; LOCAL OPTION.**

The governing body of a municipality whose population is less than 2,500 may provide that the State Building Code, except the requirements for handicapped persons, the requirements for bleacher safety, and the requirements for elevator safety, will not apply within the jurisdiction of the municipality, if the municipality is located in whole or in part within a county exempted from its application under section 16B.72. If more than one municipality has jurisdiction over an area, the State Building Code continues to apply unless all municipalities having jurisdiction over the area have provided that the State Building Code, except the requirements for handicapped persons, the requirements for bleacher safety, and the requirements for elevator safety, does not apply within their respective jurisdictions. Nothing in this section precludes a municipality or town from adopting and enforcing by ordinance or other legal means the State Building Code within its jurisdiction.

**History:** 1999 c 250 art 1 s 64

**NOTE:** The amendment to this section by Laws 1999, chapter 250, article 1, section 64, is effective January 1, 2001. Laws 1999, chapter 250, article 1, section 116.

### **16B.745 VIOLATIONS, PENALTIES.**

*[For text of subs 1 and 2, see M.S.1998]*

Subd. 3. **Minimum requirements.** No person, firm, or corporation may construct, install, alter, remove, or repair an elevator that does not meet the minimum requirements of this chapter, adopted rules, or national codes adopted by rule. Notwithstanding any provision of rule or national code adopted by rule to the contrary, however, a stairway chair lift that is not hard-wired to the building's electrical system, but is instead plugged into an electrical outlet, may be installed in a private residence for the use of its occupants.

*[For text of subd 4, see M.S.1998]*

**History:** 1999 c 185 s 2

### **16B.748 RULES.**

The commissioner may adopt rules for the following purposes:

(1) to establish minimum qualifications for elevator inspectors that must include possession of a current elevator constructor electrician's license issued by the state board of elec-

tricity and proof of successful completion of the national elevator industry education program examination or equivalent experience;

(2) to establish criteria for the qualifications of elevator contractors;

(3) to establish elevator standards under sections 16B.61, subdivisions 1 and 2, and 16B.64;

(4) to establish procedures for appeals of decisions of the commissioner under chapter 14 and procedures allowing the commissioner, before issuing a decision, to seek advice from the elevator trade, building owners or managers, and others knowledgeable in the installation, construction, and repair of elevators; and

(5) to establish requirements for the registration of all elevators.

**History:** 1999 c 250 art 3 s 3

**NOTE:** The amendment to this section by Laws 1999, chapter 250, article 3, section 3, is effective July 1, 2001. Laws 1999, chapter 250, article 3, section 29.

## 16B.88 OFFICE OF CITIZENSHIP AND VOLUNTEER SERVICES.

*[For text of subs 1 to 4, see M.S.1998]*

Subd. 5. [Repealed, 1999 c 86 art 2 s 6]