

CHAPTER 16B

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## ORGANIZATION

**16B.01 DEFINITIONS.**

Subdivision 1. **Applicability.** For purposes of this chapter, the following terms have the meanings given them, unless the context clearly indicates otherwise.

Subd. 2. **Agency.** "Agency" means any state officer, employee, board, commission, authority, department, or other agency of the executive branch of state government. Unless specifically provided elsewhere in this chapter, agency does not include the Minnesota state colleges and universities.

Subd. 3. **Commissioner.** "Commissioner" means the commissioner of administration.

Subd. 4. **State contract.** "State contract" means any written instrument or electronic document containing the elements of offer, acceptance and consideration to which a state agency is a party.

Subd. 5. **Supplies, materials, and equipment.** "Supplies," "materials," and "equipment" includes articles and things used by or furnished to an agency, including printing, binding, and publication of books and records, repairs, and improvements.

Subd. 6. **Utility services.** "Utility services" includes telephone, telegraph, postal, electric light, and power service, and all other services required for the maintenance, operation, and upkeep of buildings and offices.

**History:** 1984 c 544 s 6; 1994 c 632 art 3 s 28; 1996 c 398 s 3

**16B.02 DEPARTMENT OF ADMINISTRATION.**

The department of administration is under the supervision and control of the commissioner of administration, who is appointed by the governor under section 15.06.

**History:** 1984 c 544 s 7

**16B.03 APPOINTMENTS.**

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

**History:** 1984 c 544 s 8; 1999 c 250 art 1 s 53

**16B.04 AUTHORITY.**

Subdivision 1. **Rulemaking authority.** Subject to chapter 14, the commissioner may adopt, amend, and rescind rules relating to any purpose, responsibility, or authorization in this chapter. Rules adopted must comply with any provisions in this chapter which specify or restrict the adoption of particular rules.

Subd. 2. **Powers and duties, general.** Subject to other provisions of this chapter, the commissioner is authorized to:

- (1) supervise, control, review, and approve all state contracts and purchasing;
- (2) provide agencies with supplies and equipment and operate all central store or supply rooms serving more than one agency;
- (3) approve all computer plans and contracts, and oversee the state's data processing system;
- (4) investigate and study the management and organization of agencies, and reorganize them when necessary to ensure their effective and efficient operation;
- (5) manage and control state property, real and personal;
- (6) maintain and operate all state buildings, as described in section 16B.24, subdivision 1;
- (7) supervise, control, review, and approve all capital improvements to state buildings and the capitol building and grounds;
- (8) provide central duplicating, printing, and mail facilities;
- (9) oversee publication of official documents and provide for their sale;

(10) manage and operate parking facilities for state employees and a central motor pool for travel on state business;

(11) establish and administer a state building code; and

(12) provide rental space within the capitol complex for a private day care center for children of state employees. The commissioner shall contract for services as provided in this chapter. The commissioner shall report back to the legislature by October 1, 1984, with the recommendation to implement the private day care operation.

**Subd. 3. Delegation from governor.** The governor, unless otherwise provided by law, may delegate to the commissioner the administration of programs and projects of the office of the governor directed by either state or federal law, or which may be made available to the state under a grant of funds either public or private. Unless specifically prohibited by law, the governor may delegate to the commissioner general supervision of any program or activity of any agency the head of which is either appointed by the governor or by a gubernatorially appointed board. The provisions of this subdivision shall not be construed as authority to transfer programs or activities, or part of them, from one department to another.

**Subd. 4. Mission; efficiency.** It is part of the department's mission that within the department's resources the commissioner shall endeavor to:

(1) prevent the waste or unnecessary spending of public money;

(2) use innovative fiscal and human resource practices to manage the state's resources and operate the department as efficiently as possible;

(3) coordinate the department's activities wherever appropriate with the activities of other governmental agencies;

(4) use technology where appropriate to increase agency productivity, improve customer service, increase public access to information about government, and increase public participation in the business of government;

(5) utilize constructive and cooperative labor-management practices to the extent otherwise required by chapters 43A and 179A;

(6) report to the legislature on the performance of agency operations and the accomplishment of agency goals in the agency's biennial budget according to section 16A.10, subdivision 1; and

(7) recommend to the legislature appropriate changes in law necessary to carry out the mission and improve the performance of the department.

**History:** 1984 c 485 s 1; 1984 c 544 s 9; 1984 c 655 art 2 s 13 subd 1; 1995 c 248 art 11 s 2; 1998 c 359 s 2; 1998 c 366 s 26

#### 16B.05 DELEGATION BY COMMISSIONER.

**Subdivision 1. Delegation of duties by commissioner.** The commissioner may delegate duties imposed by this chapter to the head of an agency and to any subordinates of the head. Delegated duties are to be exercised in the name of the commissioner and under the commissioner's supervision and control.

**Subd. 2. Facsimile or digital signatures and electronic approvals.** When authorized by the commissioner, facsimile signatures, electronic approvals, or digital signatures may be used in accordance with the commissioner's delegated authority and instructions. Copies of the delegated authority and instructions must be filed with the commissioner of finance, state treasurer, and the secretary of state. A facsimile signature, electronic approval, or digital signature, when used in accordance with the commissioner's delegated authority and instructions, is as effective as an original signature.

**History:** 1984 c 544 s 10; 1986 c 444; 1994 c 632 art 3 s 29; 1997 c 202 art 3 s 1

**16B.052 AUTHORITY TO TRANSFER FUNDS.**

The commissioner may, with the approval of the commissioner of finance, transfer from an internal service or enterprise fund account to another internal service or enterprise fund account, any contributed capital appropriated by the legislature. The transfer may be made only to provide working capital or positive cash flow in the account to which the money is transferred. The commissioner shall report the amount and purpose of the transfer to the chair of the committee or division in the senate and house of representatives with primary jurisdiction over the budget of the department of administration. The transfer must be repaid within 18 months.

**History:** 1988 c 613 s 3; 2000 c 488 art 12 s 14

**16B.053 GRANTS.**

The commissioner may apply for, receive, and expend money made available from federal or other sources for the purposes of carrying out the duties and responsibilities of the commissioner under sections 16B.054 and 16B.055.

All moneys received by the commissioner under sections 16B.054 and 16B.055 must be deposited in the state treasury and are appropriated to the commissioner for the purpose for which the moneys are received. The money does not cancel and is available until expended.

**History:** 1998 c 359 s 3

**16B.054 DEVELOPMENTAL DISABILITIES.**

The department of administration is designated as the responsible agency to assist the Minnesota governor's council on developmental disabilities in carrying out all responsibilities under United States Code, title 42, section 6021 et seq., as well as those responsibilities relating to the program which are not delegated to the council.

**History:** 1998 c 359 s 4

**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.

Subd. 3. **Expiration.** Notwithstanding section 15.059, the council expires June 30, 2003.

**History:** 1998 c 359 s 5; 1999 c 250 art 1 s 114; 2001 c 162 s 2

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

**16B.07** [Repealed, 1998 c 386 art 1 s 35]

**16B.08** [Repealed, 1998 c 386 art 1 s 35]

**16B.089** [Renumbered 16B.189]

**16B.09** [Repealed, 1998 c 386 art 1 s 35]

**16B.10** [Repealed, 1984 c 544 s 88]

**16B.101** [Repealed, 1998 c 386 art 1 s 35]

**16B.102** [Repealed, 1998 c 386 art 1 s 35]

**16B.103** [Repealed, 1998 c 386 art 1 s 35]

**16B.104** [Renumbered 16C.145]

**16B.11** [Repealed, 1984 c 544 s 88]

**16B.12** [Repealed, 1984 c 544 s 88]

## RECYCLABILITY AND ENERGY EFFICIENCY

### **16B.121 PURCHASE OF RECYCLED, REPAIRABLE, AND DURABLE MATERIALS.**

The commissioner shall take the recycled content and recyclability of commodities to be purchased into consideration in bid specifications. When feasible and when the price of recycled materials does not exceed the price of nonrecycled materials by more than ten percent, the commissioner, and state agencies when purchasing under delegated authority, shall purchase recycled materials. In order to maximize the quantity and quality of recycled materials purchased, the commissioner, and state agencies when purchasing under delegated authority, may also use other appropriate procedures to acquire recycled materials at the most economical cost to the state.

When purchasing commodities and services, the commissioner, and state agencies when purchasing under delegated authority, shall apply and promote the preferred

waste management practices listed in section 115A.02, with special emphasis on reduction of the quantity and toxicity of materials in waste. The commissioner, and state agencies when purchasing under delegated authority, in developing bid specifications, shall consider the extent to which a commodity or product is durable, reusable, or recyclable and marketable through the state resource recovery program and the extent to which the commodity or product contains postconsumer material.

**History:** *1Sp1989 c 1 art 18 s 1; 1992 c 514 s 3; 1992 c 593 art 1 s 1; 1993 c 249 s 1*

### 16B.122 PURCHASE AND USE OF PAPER STOCK; PRINTING.

Subdivision 1. **Definitions.** The definitions in this subdivision apply to this section.

(a) "Copier paper" means paper purchased for use in copying machines.

(b) "Office paper" means notepads, loose-leaf fillers, tablets, and other paper commonly used in offices.

(c) "Postconsumer material" means a finished material that would normally be discarded as a solid waste, having completed its life cycle as a consumer item.

(d) "Practicable" means capable of being used, consistent with performance, in accordance with applicable specifications, and availability within a reasonable time.

(e) "Printing paper" means paper designed for printing, other than newsprint, such as offset and publication paper.

(f) "Public entity" means the state, an office, agency, or institution of the state, the metropolitan council, a metropolitan agency, the metropolitan mosquito control district, the legislature, the courts, a county, a statutory or home rule charter city, a town, a school district, another special taxing district, or any contractor acting pursuant to a contract with a public entity.

(g) "Soy-based ink" means printing ink made from soy oil.

(h) "Uncoated" means not coated with plastic, clay, or other material used to create a glossy finish.

Subd. 2. **Purchases; printing.** (a) Whenever practicable, a public entity shall:

(1) purchase uncoated office paper and printing paper;

(2) purchase recycled content paper with at least ten percent postconsumer material by weight;

(3) purchase paper which has not been dyed with colors, excluding pastel colors;

(4) purchase recycled content paper that is manufactured using little or no chlorine bleach or chlorine derivatives;

(5) use no more than two colored inks, standard or processed, except in formats where they are necessary to convey meaning;

(6) use reusable binding materials or staples and bind documents by methods that do not use glue;

(7) use soy-based inks; and

(8) produce reports, publications, and periodicals that are readily recyclable within the state resource recovery program.

(b) Paragraph (a), clause (1), does not apply to coated paper that is made with at least 50 percent postconsumer material.

(c) A public entity shall print documents on both sides of the paper where commonly accepted publishing practices allow.

(d) Notwithstanding paragraph (a), clause (2), and section 16B.121, copier paper purchased by a state agency must contain at least ten percent postconsumer material by fiber content.

Subd. 3. **Public entity purchasing.** (a) Notwithstanding section 365.37, 375.21, 412.311, or 473.705, a public entity may purchase recycled materials when the price of the recycled materials does not exceed the price of nonrecycled materials by more than ten percent. In order to maximize the quantity and quality of recycled materials

purchased, a public entity also may use other appropriate procedures to acquire recycled materials at the most economical cost to the public entity.

(b) When purchasing commodities and services, a public entity shall apply and promote the preferred waste management practices listed in section 115A.02, with special emphasis on reduction of the quantity and toxicity of materials in waste. A public entity, in developing bid specifications, shall consider the extent to which a commodity or product is durable, reusable, or recyclable and marketable through the applicable local or regional recycling program and the extent to which the commodity or product contains postconsumer material. When a project by a public entity involves the replacement of carpeting, the public entity may require all persons who wish to bid on the project to designate a carpet recycling company in their bids.

**History:** *1Sp1989 c 1 art 18 s 2; 1991 c 337 s 3; 1992 c 464 art 1 s 7; 1992 c 593 art 1 s 2; 1993 c 249 s 2; 1994 c 465 art 1 s 1; 1995 c 247 art 1 s 1*

**16B.123** [Repealed, 1998 c 386 art 1 s 35]

**16B.124 CONSIDERATION OF ENVIRONMENTAL IMPACTS OF METAL RECYCLING FACILITIES.**

(a) The state, counties, towns, and home rule charter or statutory cities shall include consideration of environmental impacts in selecting a recycling facility for the recycling of scrap metal.

(b) For the purposes of this section, "recycling facility" has the meaning given in section 115A.03, subdivision 25c.

**History:** *1995 c 247 art 1 s 2*

**16B.125** [Repealed, 1991 c 337 s 90]

**16B.126 FUNDS FOR ENERGY EFFICIENT BULBS.**

State agencies in the executive, legislative, and judicial branches that purchase replacement bulbs in accordance with section 16B.61, subdivision 3, paragraph (k), must use money allocated for utility expenditures for the purchase.

**History:** *1991 c 149 s 1; 2001 c 7 s 8*

**16B.13** [Repealed, 1998 c 386 art 1 s 35]

**16B.14** [Repealed, 1998 c 386 art 1 s 35]

**16B.15** [Repealed, 1998 c 386 art 1 s 35]

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

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

**16B.167** [Repealed, 1998 c 386 art 1 s 35]

**16B.17** [Repealed, 1998 c 386 art 1 s 35]

**PURCHASES FROM CORRECTIONS INDUSTRIES**

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

**16B.175** [Repealed, 1998 c 386 art 1 s 35]

**16B.18** [Repealed, 1998 c 386 art 1 s 35]

**16B.181 PURCHASES FROM CORRECTIONS INDUSTRIES.**

Subdivision 1. **Definitions.** As used in this section:

(1) "public entity" or "public entities" includes the state and an agency, department, or institution of the state, any governmental unit as defined in section 471.59, the state legislative and judicial branches, and state colleges and universities; and

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(2) "items" includes articles, products, supplies, and services.

Subd. 2. **Public entities; purchases from corrections industries.** (a) The commissioner of corrections, in consultation with the commissioner of administration, shall prepare updated lists of the items available for purchase from department of corrections industries and annually forward a copy of the most recent list to all public entities within the state. A public entity that is supported in whole or in part with funds from the state treasury may purchase items directly from corrections industries. The bid solicitation process is not required for these purchases.

(b) The commissioner of administration shall develop a contract or contracts to enable public entities to purchase items directly from corrections industries. The commissioner of administration, in consultation with the commissioner of corrections, shall determine the fair market price for listed items. The commissioner of administration shall require that all requests for bids or proposals, for items provided by corrections industries, be forwarded to the commissioner of corrections to enable corrections industries to submit bids. The commissioner of corrections shall consult with the commissioner of administration prior to introducing new products to the state agency market.

(c) No public entity may evade the intent of this section by adopting slight variations in specifications, when Minnesota corrections industry items meet the reasonable needs and specifications of the public entity.

(d) The commissioners of administration and corrections shall develop annual performance measures outlining goals to maximize inmate work program participation. The commissioners of administration and corrections shall appoint cochairs for a task force whose purpose is to determine additional methods to achieve the performance goals for public entity purchasing. The task force shall include representatives from the Minnesota house of representatives, Minnesota senate, the Minnesota state colleges and universities, University of Minnesota, Minnesota League of Cities, Minnesota Association of Counties, and administrators with purchasing responsibilities from the Minnesota state departments of corrections, public safety, finance, transportation, natural resources, human services, health, and economic security. Notwithstanding section 15.059, the task force created in this paragraph expires on June 30, 2003.

(e) If performance goals for public entity purchasing are not achieved in two consecutive fiscal years, public entities shall purchase items available from corrections industries. The commissioner of administration shall be responsible for notifying public entities of this requirement.

**History:** 1995 c 226 art 5 s 1; 1996 c 408 art 8 s 1; 1998 c 386 art 1 s 2; 2001 c 161 s 4; 2001 c 210 s 1; 2002 c 379 art 1 s 114

**16B.185** [Repealed, 1998 c 386 art 1 s 35]

**16B.189** [Repealed, 1990 c 541 s 31]

**16B.19** [Repealed, 1998 c 386 art 1 s 35]

**16B.20** [Repealed, 1998 c 386 art 1 s 35]

**16B.21** [Repealed, 1998 c 386 art 1 s 35]

**16B.22** [Repealed, 1998 c 386 art 1 s 35]

**16B.226** [Repealed, 1998 c 386 art 1 s 35]

**16B.227** [Repealed, 1998 c 386 art 1 s 35]

**16B.23** [Repealed, 1998 c 386 art 1 s 35]



## MANAGEMENT OF STATE PROPERTY

**16B.24 GENERAL AUTHORITY.**

Subdivision 1. **Operation and maintenance of buildings.** The commissioner is authorized to maintain and operate the state capitol building and grounds, subject to whatever standards and policies are set for its appearance and cleanliness by the capitol area architectural and planning board and the commissioner under section 15.50, subdivision 2, clause (j), and all other buildings, cafeterias, and grounds in state-owned buildings in the capitol area under section 15.50, subdivision 2, clause (a), the state department of public safety, bureau of criminal apprehension building in St. Paul, the state department of health building in Minneapolis, the Duluth government services center in Duluth, 321 Grove Street buildings in St. Paul, any other properties acquired by the department of administration, and, when the commissioner considers it advisable and practicable, any other building or premises owned or rented by the state for the use of a state agency. The commissioner shall assign and reassign office space in the capitol and state buildings to make an equitable division of available space among agencies. The commissioner shall regularly update the long-range strategic plan for locating agencies and shall follow the plan in assigning and reassigning space to agencies. The plan must include locational and urban design criteria, a cost-analysis method to be used in weighing state ownership against leasing of space in specific instances, and a transportation management plan. If the commissioner determines that a deviation from the plan is necessary or desirable in a specific instance, the commissioner shall provide the legislature with a timely written explanation of the reasons for the deviation. The power granted in this subdivision does not apply to state hospitals or to educational, penal, correctional, or other institutions not enumerated in this subdivision the control of which is vested by law in some other agency.

Subd. 2. **Repairs.** The commissioner shall supervise and control the making of necessary repairs to all state buildings and structures, except:

(1) structures, other than buildings, under the control of the state transportation department; and

(2) buildings and structures under the control of the board of trustees of the Minnesota state colleges and universities.

All repairs to the public and ceremonial areas and the exterior of the state capitol building shall be carried out subject to the standards and policies of the capitol area architectural and planning board and the commissioner of administration adopted pursuant to section 15.50, subdivision 2, clause (h).

Subd. 3. **Disposal of old buildings.** The commissioner, upon request of the head of an agency which has control of a state-owned building which is no longer used or which is a fire or safety hazard, shall, after obtaining approval of the chairs of the senate finance committee and house of representatives appropriations committee, sell, wreck, or otherwise dispose of the building. In the event a sale is made the proceeds shall be deposited in the proper account or in the general fund.

Subd. 3a. **Sale of real property.** By February 1 of each year, the commissioner shall report to the chairs of the senate committee on finance and the house of representatives committees on ways and means and capital investment all sales or other transfers of real property owned by the state that have taken place in the preceding calendar year. The report shall include a description of the property, reason for the sale, the name of the buyer, and the price for which the property was sold. Sales of easements need not be included. This subdivision does not apply to real property held by the department of natural resources, the department of transportation, or the board of water and soil resources, except for real property that has been used for office space by any of those agencies. This subdivision does not apply to property owned by the board of trustees of the Minnesota state colleges and universities or the University of Minnesota.

Subd. 4. **Inspections; appraisals; inventories.** The commissioner shall provide for the periodic inspection and appraisal of all state property, real and personal, and for

current and perpetual inventories of all state property. The commissioner shall require agencies to make reports of the real and personal property in their custody at the intervals and in the form the commissioner considers necessary.

**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.

**Subd. 6. Property leases.** (a) **Leases.** The commissioner shall lease land and other premises when necessary for state purposes. Notwithstanding subdivision 6a, paragraph (a), the commissioner may lease land or premises for up to ten years, subject to cancellation upon 30 days' written notice by the state for any reason except lease of other non-state-owned land or premises for the same use. The commissioner may not lease non-state-owned land and buildings or substantial portions of land or buildings within the capitol area as defined in section 15.50 unless the commissioner first consults with the capitol area architectural and planning board. If the commissioner enters into a lease-purchase agreement for buildings or substantial portions of buildings within the capitol area, the commissioner shall require that any new construction of non-state-owned buildings conform to design guidelines of the capitol area architectural and planning board. Lands needed by the department of transportation for storage of vehicles or road materials may be leased for five years or less, such leases for terms

over two years being subject to cancellation upon 30 days' written notice by the state for any reason except lease of other non-state-owned land or premises for the same use. An agency or department head must consult with the chairs of the house appropriations and senate finance committees before entering into any agreement that would cause an agency's rental costs to increase by ten percent or more per square foot or would increase the number of square feet of office space rented by the agency by 25 percent or more in any fiscal year.

(b) **Use vacant public space.** No agency may initiate or renew a lease for space for its own use in a private building unless the commissioner has thoroughly investigated presently vacant space in public buildings, such as closed school buildings, and found that none is available or use of the space is not feasible, prudent, and cost-effective compared with available alternatives.

(c) **Preference for certain buildings.** For needs beyond those which can be accommodated in state-owned buildings, the commissioner shall acquire and utilize space in suitable buildings of historical, architectural, or cultural significance for the purposes of this subdivision unless use of that space is not feasible, prudent and cost-effective compared with available alternatives. Buildings are of historical, architectural, or cultural significance if they are listed on the national register of historic places, designated by a state or county historical society, or designated by a municipal preservation commission.

(d) **Recycling space.** Leases for space of 30 days or more for 5,000 square feet or more must require that space be provided for recyclable materials.

Subd. 6a. **Lease-purchase agreement; cancellation.** (a) With the approval of the commissioner of finance and the recommendation of the legislative advisory commission, the commissioner of administration may enter into lease-purchase agreements. A lease-purchase agreement must provide the state with a unilateral right to purchase the leased premises at specified times for specified amounts. Under these lease agreements, the lease rental rates shall not be more than market rental rates. Notwithstanding subdivision 6, the term of the lease may be for more than ten years, but must not exceed 20 years. Prior to exercising the state's right to purchase the premises, the purchase must be approved by an act of the legislature.

(b) A lease-purchase agreement entered into under paragraph (a) must be subject to cancellation by the state for any reason except lease of other non-state-owned land or premises for the same use.

Subd. 7. **Power, heating, and lighting plants.** The commissioner shall inspect all state power, heating, and lighting plants, make rules governing their operation, and recommend improvements in the plants which will promote their economical and efficient operation.

Subd. 8. **Regional service center.** The commissioner may establish a regional service center on a demonstration basis. The commissioner shall select agencies to participate in the demonstration service center and determine equitable methods of sharing space, personnel and equipment. The commissioner may enter into a lease for a base term of five years with a five year leasehold renewal option to acquire suitable space for the service center.

Subd. 9. **Smoking in state buildings.** (a) To protect the public health, comfort, and environment and to protect the nonsmoker's right to a smoke-free environment, smoking in all buildings managed or leased by the commissioner under subdivisions 1 and 6 is prohibited except in veterans homes where smoking areas have been designated under a policy adopted in accordance with paragraph (b).

(b) A veterans home may permit smoking only in designated areas, providing that existing physical barriers and ventilation systems can be used to prevent the presence of smoke in adjacent nonsmoking areas.

No employee complaining of a violation of this subdivision to a lessor, lessee, manager, or supervisor may be subjected to any disciplinary action as a result of making the complaint.

Subd. 10. **Child care/workplace school space.** For state office space that is leased, purchased, or substantially remodeled after August 1, 1988, the commissioner shall consider including space usable for child care services or for a workplace school. Space must be included if the commissioner determines that it is needed and that it could be provided at reasonable cost. The commissioner may prepare sites as a common usage space for the capitol complex.

Subd. 11. **Recycling of fluorescent lamps.** When a fluorescent lamp containing mercury is removed from service in a building or premises owned by the state or rented by the state, the commissioner shall ensure that the lamp is recycled if a recycling facility, which has been licensed or permitted by the agency or is operated subject to a compliance agreement with, or other approval by, the commissioner, is available in this state.

**History:** 1983 c 216 art 1 s 87; 1984 c 544 s 29; 1Sp1985 c 13 s 121; 1986 c 444; 1987 c 98 s 1; 1988 c 613 s 9,10; 1988 c 685 s 1; 1988 c 686 art 1 s 44,45; 1989 c 335 art 1 s 62; 1990 c 506 art 2 s 11; 1990 c 572 s 4,5; 1990 c 594 art 1 s 46; 1991 c 345 art 1 s 60; 1992 c 514 s 5,6; 1992 c 558 s 33; 1993 c 192 s 70; 1993 c 249 s 4; 1994 c 483 s 1; 1994 c 634 art 1 s 2; 1994 c 643 s 39; 1Sp1995 c 2 art 1 s 23; 1996 c 395 s 18; 1996 c 463 s 33,34; 1997 c 202 art 2 s 23; 1997 c 206 s 1,2; 1998 c 359 s 6; 1999 c 250 art 1 s 55

#### 16B.241 COORDINATED FACILITY PLANNING.

The commissioner of administration shall develop a coordinated facility planning process for offices located outside the metropolitan area for the following agencies: the departments of health, agriculture, and natural resources; the pollution control agency; and the board of water and soil resources. Any proposals for consolidation or construction of facilities for these agencies that are included in budget documents submitted to the legislature under section 16A.11 must first be considered as part of the planning process required by this section.

**History:** 1994 c 643 s 40

#### 16B.245 INVENTORY OF STATE-OWNED LAND.

Subdivision 1. **Definitions.** For the purposes of this section, "state-owned land" means land, with or without improvements upon it, for which the state owns fee title. It does not include:

- (1) land held in trust by the state for political subdivisions of the state;
- (2) permanent school trust fund lands;
- (3) university trust fund lands;
- (4) mineral interests; or
- (5) trunk highway right-of-way.

Subd. 2. **Inventory.** The commissioner of administration must inventory all state-owned land and determine the number of acres owned by the state as of December 31, 2002. The inventory must identify for each parcel the state agency responsible for the parcel, its location, size, and whether it is (1) currently being used for a public purpose, (2) anticipated to be used for a public purpose in the future, or (3) not currently being used or anticipated to be used for a public purpose. The inventory must also identify how much land is included in each classification under section 86A.05. Within two months of completing the inventory, and by January 15 each odd-numbered year thereafter, the commissioner must report on the inventory to the chairs of the house and senate committees with jurisdiction over higher education, capital investment, and natural resources and environment finance, and the chairs of the house committee on ways and means and the senate committee on finance.

**History:** 2002 c 393 s 36

#### 16B.25 LOST PROPERTY ON STATE LANDS.

Subdivision 1. **Permits.** The commissioner may grant a permit to search upon lands, highways, or in buildings owned by the state for lost or abandoned property.

Conditions of a permit may include a formula for dividing between the state and the finder the proceeds of any property found and unclaimed.

Subd. 2. **Notice.** Lost or abandoned property found on state lands is placed in the custody of the commissioner. If the rightful owner is known, the owner must be notified by certified mail and may reclaim the property on paying the expenses of the search.

Subd. 3. **Disposal.** Unclaimed property may be sold at public sale, disposed of as state surplus property, or destroyed, based on the commissioner's judgment of its value.

Subd. 4. **Money.** All lost or abandoned money found under a permit granted pursuant to this section, and the proceeds from the sale of other abandoned or lost property found under a permit, must be deposited in the general fund.

**History:** 1984 c 544 s 30; 1Sp2001 c 10 art 2 s 25

### 16B.26 UTILITY COMPANIES; PERMITS TO CROSS STATE-OWNED LANDS.

Subdivision 1. **Easements.** (a) **Authority.** Except where the authority conferred by this section has been imposed on some other state or county office, the commissioner may grant an easement or permit over, under, or across any land owned by the state for the purpose of constructing roads, streets, telephone, telegraph, and electric power lines, cables or conduits, underground or otherwise, or mains or pipe lines for gas, liquids, or solids in suspension. This authority does not apply to land under the jurisdiction of the commissioner of natural resources or land obtained for trunk highway purposes.

(b) **Notice of revocation.** An easement or permit is revocable by written notice given by the commissioner if at any time its continuance will conflict with a public use of the land over, under, or upon which it is granted, or for any other reason. The notice must be in writing and is effective 90 days after the notice is sent by certified mail to the last known address of the record holder of the easement. If the address of the holder of the easement or permit is not known, it expires 90 days after the notice is recorded in the office of the county recorder of the county in which the land is located. Upon revocation of an easement, the commissioner may allow a reasonable time to vacate the premises affected.

(c) **Easement runs with land.** State land subject to an easement or permit granted by the commissioner remains subject to sale or lease, and the sale or lease does not revoke the permit or easement granted.

Subd. 2. **Land controlled by other agencies.** If the easement or permit involves land under the jurisdiction of an agency other than the department of administration, it is subject to the approval of the head of the agency and is subject to revocation by the commissioner as provided in this section, on request of the head of the agency.

Subd. 3. **Application.** An application for easement or permit under this section must be in quadruplicate and must include: a legal description of the land affected; a map showing the area affected by the easement or permit; and a detailed design of any structures to be placed on the land. The commissioner may require that the application be in another form and include other descriptions, maps, or designs. The commissioner may at any time order changes or modifications respecting construction or maintenance of structures or other conditions of the easement which the commissioner finds necessary to protect the public health and safety.

Subd. 4. **Form; duration.** The easement or permit must be in a form prescribed by the attorney general and must describe the location of the easement granted. The easement or permit continues until revoked by the commissioner, subject to change or modification as provided in this section.

Subd. 5. **Consideration; terms.** The commissioner may prescribe consideration and conditions for granting an easement or permit. Money received by the state under this section must be credited to the fund to which income or proceeds of sale from the land would be credited, if provision for the sale is made by law. Otherwise, it must be credited to the general fund.

**History:** 1984 c 544 s 31

**16B.27 GOVERNOR'S RESIDENCE.**

Subdivision 1. **Use.** The governor's residence must be used for official ceremonial functions of the state, and to provide suitable living quarters for the governor of the state.

Subd. 2. **Maintenance.** The commissioner shall maintain the governor's residence in the same way as other state buildings are maintained and shall rehabilitate, decorate, and furnish the building. The decoration and furnishing shall be guided by the governor's residence council.

Subd. 3. **Council.** The governor's residence council consists of the following 19 members: the commissioner; the spouse or a designee of the governor; the executive director of the Minnesota state arts board; the director of the Minnesota historical society; a member of the senate appointed pursuant to the rules of the senate; a member of the house of representatives appointed pursuant to the rules of the house of representatives; 13 persons appointed by the governor including one in the field of higher education, one member of the American Society of Interior Designers, Minnesota Chapter, one member of the American Institute of Architects, Minnesota chapter, one member of the American Society of Landscape Architects, Minnesota Chapter, one member of the family that donated the governor's residence to the state, if available, and eight public members with four public members' terms being coterminous with the governor who appoints them. Members of the council serve without compensation. Membership terms, removal, and filling of vacancies for members appointed by the governor are governed by section 15.0575. The council shall elect a chair and a secretary from among its members. The council expires on June 30, 2003.

Subd. 4. **Duties.** The council shall develop an overall restoration plan for the governor's residence and surrounding grounds and approve alterations in the existing structure.

Subd. 5. **Gifts.** (a) To maintain and improve the quality of furnishings for the public areas of the building, the council may solicit and accept donated money, furnishings, objects of art and other items the council determines may have historical value in keeping with the building's period and purpose. The gift acceptance procedures of sections 7.09 to 7.12 do not apply to this subdivision.

(b) Notwithstanding sections 7.09 to 7.12, the council may solicit contributions for the renovation of and capital improvements to the governor's residence.

(c) Gifts for the benefit of the governor's residence and surrounding grounds are not accepted by the state unless accepted by the council. The council shall maintain a complete inventory of all gifts and articles received.

Subd. 6. **Use by nonstate entities.** A nonstate entity using the governor's residence must pay the state for all direct and indirect costs associated with use of the facility.

**History:** 1984 c 544 s 32; 1984 c 655 art 1 s 5; art 2 s 13 subd 1; 1986 c 444; 1988 c 629 s 12; 1993 c 46 s 1; 1998 c 359 s 7; 2001 c 161 s 5; 2001 c 162 s 3; 2002 c 374 art 7 s 7

**16B.275 CAPITOL AREA CAFETERIAS.**

In entering into contracts for operation of cafeterias in the capitol complex, the commissioner must attempt to ensure the department does not receive revenues in excess of those needed to operate and maintain the cafeteria space.

**History:** 1997 c 202 art 2 s 24

**16B.28** [Repealed, 1998 c 386 art 1 s 35]

**16B.29** [Repealed, 1998 c 386 art 1 s 35]

**16B.295 NOTICE OF DOCUMENTS TO LIBRARIES.**

The commissioner of administration shall make available to educational institution libraries and public libraries documents the department of administration receives, does

not need, and would otherwise discard. For purposes of this section, "documents" has the meaning given in section 3.302, subdivision 3.

**History:** 1986 c 320 s 1

## CAPITAL IMPROVEMENTS

### 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:** 1984 c 544 s 35; 1992 c 558 s 34; 1996 c 395 s 18; 1996 c 457 s 5; 1998 c 404 s 33; 1999 c 240 art 1 s 16

### 16B.305 CAPITAL BUDGET REQUESTS.

Subdivision 1. **Architectural and cost standards.** The commissioner shall discuss various architectural and cost standards with experts from the public and private sector and recommend the use of appropriate design and cost standards for all capital budget requests.

Subd. 2. **Review of requests.** The commissioner shall review agency requests for state buildings and help agencies prepare adequate plans for use in presenting their capital budget requests to the commissioner of finance, the governor, and the legislature. The commissioner shall provide information on how a building project is consistent with the department's long-range strategic plan for locating state agencies in the commissioner's recommendations on a request.

Subd. 3. **Consultation required.** State agencies and other public bodies considering capitol area projects shall consult with the capitol area architectural and planning board before developing plans for capital improvements or capital budget proposals for submission to the legislature and governor. The board shall provide to the governor and legislature a statement as to the request's impact upon the capitol area and its compatibility with the comprehensive plan for the capitol area.

**History:** 1991 c 342 s 6; 1994 c 643 s 41

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

Subdivision 1. **Construction plans and specifications.** (a) The commissioner shall (1) have plans and specifications prepared for the construction, alteration, or enlargement of all state buildings, structures, and other improvements except highways and bridges, and except for buildings and structures under the control of the board of regents of the University of Minnesota or of the board of trustees of the Minnesota

state colleges and universities; (2) approve those plans and specifications; (3) advertise for bids and award all contracts in connection with the improvements; (4) supervise and inspect all work relating to the improvements; (5) approve all lawful changes in plans and specifications after the contract for an improvement is let; and (6) approve estimates for payment. This subdivision does not apply to the construction of the zoological gardens.

(b) Notwithstanding any law to the contrary, the commissioner, the board of regents of the University of Minnesota, and the board of trustees of the Minnesota state colleges and universities may solicit and award a design-build contract for those projects specifically designated by law for design-build using the procedures provided in section 16C.31.

(c) Paragraph (b) expires January 1, 2004.

(d) The commissioner, the board, the board of regents of the University of Minnesota, and the board of trustees of the Minnesota state colleges and universities shall create a panel of representatives, including representatives of the construction industry and the architecture and engineering professions, to evaluate the use of design-build and the procedures for design-builder selection under section 16C.31, and shall report to the legislature on or before January 1, 2004, as to the success of design-build as a method of construction and the need and desirability for any changes in the selection procedure.

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.

Subd. 3. **Federal aid.** (a) **Application for aid.** The commissioner, or any other agency to whom an appropriation is made for a capital improvement, shall apply for the maximum federal share for each project.

(b) **Acceptance of aid.** The commissioner is the state agency empowered to accept money provided for or made available to this state by the United States of America or any federal department or agency for the construction and equipping of any building for state purposes not otherwise provided for by law, other than University of Minnesota buildings, in accordance with the provisions of federal law and any rules or regulations promulgated under federal law. The commissioner may do whatever is required of this state by federal law, rules, and regulations in order to obtain the federal money.

(c) **Federal funds considered part of appropriation.** The commissioner may after consultation with the chairs of the senate finance committee and house of representatives appropriations committee, adopt a plan, provide for an improvement, or construct a building that contemplates expenditure for its completion of more money than the appropriation for it, if the excess money is provided by the United States government and granted to the state of Minnesota under federal law or any rule or regulation promulgated under federal law. This federal money, for the purpose of this section, is a part of the appropriation for the project.

(d) **Delayed federal money.** If an amount is payable to a creditor of the state from a project account which is financed partly with federal money and the project is included in appropriations made to the commissioner for public buildings and equipment, and the amount cannot be paid on time because of a deficiency of money in the project account caused by a delay in the receipt of federal money, the commissioner



may provide money needed to pay the amount by temporarily transferring the sum to the project account from any other appropriation made to the commissioner in the same act. Required money for a payment is appropriated for that purpose. When the delayed federal money is received, the commissioner shall have the amount of money transferred returned to the account from which it came.

**Subd. 4. Capitol area architectural and planning board.** (a) **Comprehensive use plan; competitions.** Notwithstanding any provision of this section to the contrary, plans for proposed new buildings and for features of existing public buildings in the capitol area which the capitol area architectural and planning board consider to possess architectural significance are subject to section 15.50, subdivision 2, clauses (c) and (e).

(b) **Approval required.** The preparation of plans and specifications for the capitol area, as defined in section 15.50, may not be initiated, contracted for, or conducted without consultation with the capitol area architectural and planning board to the extent the plans and specifications involve the public and ceremonial areas and the exterior of the capitol building and the lobbies, public concourses, and other features of other public buildings in the capitol area which the capitol area architectural and planning board considers to have architectural significance. The commissioner may not approve or adopt plans or specifications for the capitol area unless they have been approved by the capitol area architectural and planning board. The capitol area architectural and planning board must also be advised of and approve changes in plans and specifications which affect projects within the capitol area.

**Subd. 5. Methods of acquisition.** If money has been appropriated to the commissioner to acquire lands or sites for public buildings or real estate, the acquisition may be by gift, purchase, or condemnation proceedings. Condemnation proceedings must be under chapter 117.

**Subd. 6. State buildings.** (a) The commissioner of administration, in cooperation with the commissioner of finance shall:

(1) establish a state building classification system for state-owned buildings, with each class representing a different quality of building construction, to be incorporated into the capital budget format and instructions; and

(2) create and maintain an inventory of all major state buildings and office space owned or leased by the state, including a classification system on the condition and suitability of each major building.

(b) The commissioner of administration shall present to the legislature a supportable cost analysis whenever the commissioner proposes, for the purpose of providing state agency office space, to:

(1) enter into a lease for more than 50,000 square feet or for more than ten years;

(2) enter into a lease-purchase agreement or an agreement to lease with option to buy property;

(3) purchase an existing building; or

(4) construct a new building.

**Subd. 7. Department may keep litigation money.** Notwithstanding any law to the contrary, the department of administration may keep money received from successful litigations by or against the department involving capital improvements to state buildings. Awards made to the state or the department resulting from litigation against or by the department must be kept by the department to the credit of the account or accounts from which the litigation and capital improvement project were originally funded. Awards may be used to pay for litigation costs and the cost to correct the deficiencies which were the subject of the litigation. The department shall report on any awards it receives as part of its biennial budget request.

**History:** 1984 c 544 s 36; 1986 c 444; 1989 c 300 art 1 s 25,26; 1990 c 610 art 1 s 41; 1992 c 514 s 7; 1992 c 558 s 35; 1996 c 395 s 18; 1996 c 457 s 6; 1999 c 250 art 1 s 56; 2002 c 393 s 37

**16B.32 ENERGY USE.**

Subdivision 1. **Alternative energy sources.** Plans prepared by the commissioner for a new building or for a renovation of 50 percent or more of an existing building or its energy systems must include designs which use active and passive solar energy systems, earth sheltered construction, and other alternative energy sources where feasible.

Subd. 2. **Energy conservation goals.** The commissioner of administration in consultation with the commissioner of commerce, 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 and wholly state-leased 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 exceed existing energy code by at least 30 percent. All agencies 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.

Subd. 3. **Gifts.** The commissioner may accept gifts for energy efficiency improvements in state-owned and wholly leased buildings. Energy cost savings from these improvements, up to the cost of these improvements, shall be deposited in a special revenue fund established in the state treasury. Money in the special revenue fund is appropriated to the commissioner to implement further energy efficiency improvements in state-owned or wholly leased buildings.

**History:** 1984 c 544 s 37; 1991 c 235 art 5 s 1,3; 1994 c 632 art 3 s 32; 1994 c 634 art 1 s 3; 1995 c 254 art 1 s 91; 1999 c 250 art 1 s 57,115; 2001 c 162 s 4; 2001 c 212 art 1 s 1; 1Sp2001 c 4 art 6 s 7; 2002 c 379 art 1 s 114

**16B.325 SUSTAINABLE BUILDING GUIDELINES.**

The department of administration and the department of commerce, with the assistance of other agencies, shall develop sustainable building design guidelines for all new state buildings by January 15, 2003. The primary objectives of these guidelines are to ensure that all new state buildings initially exceed existing energy code, as established in Minnesota Rules, chapter 7676, by at least 30 percent. The guidelines must focus on achieving the lowest possible lifetime cost for new buildings and allow for changes in the guidelines that encourage continual energy conservation improvements in new buildings. The design guidelines must establish sustainability guidelines that include air quality and lighting standards and that create and maintain a healthy environment and facilitate productivity improvements; specify ways to reduce material costs; and must consider the long-term operating costs of the building, including the use of renewable energy sources and distributed electric energy generation that uses a renewable source or natural gas or a fuel that is as clean or cleaner than natural gas. In developing the guidelines, the departments shall use an open process, including providing the opportunity for public comment. The guidelines established under this section are mandatory for all new buildings receiving funding from the bond proceeds fund after January 1, 2004.

**History:** 2001 c 212 art 1 s 2

**16B.33 DESIGNER SELECTION BOARD.**

Subdivision 1. **Definitions.** As used in this section, the following terms have the meanings given them:

- (a) "Agency" has the meaning given in section 16B.01.

(b) "Architect" means an architect or landscape architect registered to practice under sections 326.02 to 326.15.

(c) "Board" means the state designer selection board.

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

(e) "Engineer" means an engineer registered to practice under sections 326.02 to 326.15.

(f) "Person" includes an individual, corporation, partnership, association, or any other legal entity.

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

(h) "Project" means an undertaking to construct, erect, or remodel a building by or for the state or an agency.

(i) "User agency" means the agency undertaking a specific project.

**Subd. 2. Organization of board.** (a) **Membership.** The state designer selection board consists of seven individuals, the majority of whom must be Minnesota residents. Each of the following four organizations shall nominate one individual whose name and qualifications shall be submitted to the commissioner of administration for consideration: the Consulting Engineers Council of Minnesota after consultation with other professional engineering societies in the state; the AIA Minnesota; the Minnesota chapter of the Associated General Contractors after consultation with other commercial contractor associations in the state; and the Minnesota board of the arts. The commissioner may appoint the four named individuals to the board but may reject a nominated individual and request another nomination. The fifth member shall be a representative of the user agency, the University of Minnesota, or the Minnesota state colleges and universities, designated by the user agency. The remaining two citizen members shall also be appointed by the commissioner.

(b) **Nonvoting member.** In addition to the seven members of the board, one nonvoting member representing the commissioner shall participate in the interviewing and selection of designers pursuant to this section.

(c) **Terms; compensation; removal; vacancies.** The membership terms, compensation, removal of members, and filling of vacancies on the board are as provided in section 15.0575. No individual may serve for more than two consecutive terms.

(d) **Officers, rules.** At its first meeting, the board shall elect a voting member of the board as chair. The board shall also elect other officers necessary for the conduct of its affairs. The board shall adopt rules governing its operations and the conduct of its meetings. The rules shall provide for the terms of the chair and other officers.

(e) **Meetings.** The board shall meet as often as is necessary, not less than twice annually, in order to act expeditiously on requests submitted to it for selection of primary designers.

(f) **Office, staff, records.** The department of administration shall provide the board with suitable quarters to maintain an office, hold meetings, and keep records. The commissioner shall designate an employee of the department of administration to serve as executive secretary to the board and shall furnish a secretarial staff to the board as necessary for the expeditious conduct of the board's duties and responsibilities.

**Subd. 3. Agencies must request designer.** (a) **Application.** Upon undertaking a project with an estimated cost greater than \$750,000 or a planning project with estimated fees greater than \$60,000, every user agency, except the capitol area architectural and planning board, shall submit a written request for a primary designer for its project to the commissioner, who shall forward the request to the board. The University of Minnesota and the Minnesota state colleges and universities shall follow the process in subdivision 3a to select designers for their projects. The written request

must include a description of the project, the estimated cost of completing the project, a description of any special requirements or unique features of the proposed project, and other information which will assist the board in carrying out its duties and responsibilities set forth in this section.

(b) **Reactivated project.** If a project for which a designer has been selected by the board becomes inactive, lapses, or changes as a result of project phasing, insufficient appropriations, or other reasons, the commissioner, the Minnesota state colleges and universities, or the University of Minnesota may, if the project is reactivated, retain the same designer to complete the project.

(c) **Fee limit reached after designer selected.** If a project initially estimated to be below the cost and planning fee limits of this subdivision has its cost or planning fees revised so that the limits are exceeded, the project must be referred to the board for designer selection even if a primary designer has already been selected. In this event, the board may, without conducting interviews, elect to retain the previously selected designer if it determines that the interests of the state are best served by that decision and shall notify the commissioner of its determination.

Subd. 3a. **Higher education projects.** (a) When the University of Minnesota or the Minnesota state colleges and universities undertakes a project involving construction or major remodeling, as defined in section 16B.335, subdivision 1, with an estimated cost greater than \$2,000,000 or a planning project with estimated fees greater than \$200,000, the system shall submit a written request for a primary designer to the commissioner, as provided in subdivision 3.

(b) When the University of Minnesota or the Minnesota state colleges and universities undertakes a project involving renovation, repair, replacement, or rehabilitation, the system office may submit a written request for a primary designer to the commissioner as provided in subdivision 3.

(c) For projects at the University of Minnesota or the state colleges and universities, the board shall select at least two primary designers under subdivision 4 for recommendation to the board of regents or the board of trustees. Meeting records or written evaluations that document the final selection are public records. The board of regents or the board of trustees shall notify the commissioner of the designer selected from the recommendations.

Subd. 4. **Designer selection process.** (a) **Publicity.** Upon receipt of a request from a user agency for a primary designer, the board shall publicize the proposed project in order to determine the identity of designers interested in the design work on the project. The board shall establish criteria for the selection process and make this information public, and shall compile data on and conduct interviews of designers. The board's selection criteria must include consideration of each interested designer's performance on previous projects for the state or any other person. Upon completing the process, the board shall select the primary designer and shall state its reasons in writing. Notification to the commissioner of the selection shall be made not more than 60 days after receipt from a user agency of a request for a primary designer. The commissioner shall promptly notify the designer and the user agency. The commissioner shall negotiate the designer's fee and prepare the contract to be entered into between the designer and the user agency.

(b) **Conflict of interest.** A board member may not participate in the review, discussion, or selection of a designer or firm in which the member has a financial interest.

(c) **Selection by commissioner.** In the event the board receives a request for a primary designer on a project, the estimated cost of which is less than the limit established by subdivision 3, or a planning project with estimated fees of less than the limit established by subdivision 3, the board may submit the request to the commissioner of administration, with or without recommendations, and the commissioner shall thereupon select the primary designer for the project.

(d) **Second selection.** If the designer selected for a project declines the appointment or is unable to reach agreement with the commissioner on the fee or the terms of

the contract, the commissioner shall, within 60 days after the first appointment, request the board to make another selection.

(e) **Sixty days to select.** If the board fails to make a selection and forward its recommendation to the commissioner within 60 days of the user agency's request for a designer, the commissioner may appoint a designer to the project without the recommendation of the board.

(f) **Less than satisfactory performance.** The commissioner, or the University of Minnesota and the Minnesota state colleges and universities for projects under their supervision, shall forward to the board a written report describing each instance in which the performance of a designer selected by the board or the commissioner has been less than satisfactory. Criteria for determining satisfaction include the ability of the designer to complete design work on time, to provide a design responsive to program needs within the constraints of the budget, to solve design problems and achieve a design consistent with the proposed function of the building, to avoid costly design errors or omissions, and to observe the construction work. These reports are public data and are available for inspection under section 13.03.

Subd. 5. **Design-build.** (a) The board shall select design-builders under section 16C.31 for all design-build projects with an estimated cost greater than \$750,000. If a project is undertaken with an estimated cost of less than \$750,000, the commissioner or board, in the commissioner's sole discretion, may select the design-builder following the requirements in section 16C.31. If the commissioner elects to make the selection, the commissioner shall perform the duties prescribed for the board in section 16C.31. This paragraph does not apply to projects under the control of the board of regents of the University of Minnesota or the board of trustees of the Minnesota state colleges and universities.

(b) Upon written request by the board of regents of the University of Minnesota or the board of trustees of the Minnesota state colleges and universities, the board shall evaluate and recommend at least three design-builders following the requirements in section 16C.31 for any design-build project under the control of the board of regents or the board of trustees.

(c) The commissioner, the board of regents of the University of Minnesota, or the board of trustees of the Minnesota state colleges and universities shall forward to the board a written report describing each instance in which the performance of a design-builder has been less than satisfactory for projects under their supervision.

(d) This subdivision expires January 1, 2004.

**History:** 1984 c 544 s 38; 1985 c 285 s 5; 1986 c 444; 1992 c 514 s 8; 1996 c 398 s 7-10; 2000 c 384 s 1,2; 2001 c 33 s 1; 2002 c 393 s 38

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

Subdivision 1. **Construction and major remodeling.** (a) The commissioner, or any other recipient to whom an appropriation is made to acquire or better public lands or buildings or other public improvements of a capital nature, must not prepare final plans and specifications for any construction, major remodeling, or land acquisition in anticipation of which the appropriation was made until the agency that will use the project has presented the program plan and cost estimates for all elements necessary to complete the project to the chair of the senate finance committee and the chair of the house ways and means committee and the chairs have made their recommendations, and the chair of the house capital investment committee is notified. "Construction or major remodeling" means construction of a new building, a substantial addition to an existing building, or a substantial change to the interior configuration of an existing building. The presentation must note any significant changes in the work that will be done, or in its cost, since the appropriation for the project was enacted or from the predesign submittal. The program plans and estimates must be presented for review at least two weeks before a recommendation is needed. The recommendations are advisory only. Failure or refusal to make a recommendation is considered a negative recommendation. The chairs of the senate finance committee, the house capital

investment committee, and the house ways and means committee must also be notified whenever there is a substantial change in a construction or major remodeling project, or in its cost.

(b) Capital projects exempt from the requirements of this subdivision include demolition or decommissioning of state assets, hazardous material projects, utility infrastructure projects, environmental testing, parking lots, exterior lighting, fencing, highway rest areas, truck stations, storage facilities not consisting primarily of offices or heated work areas, roads, bridges, trails, pathways, campgrounds, athletic fields, dams, floodwater retention systems, water access sites, harbors, sewer separation projects, water and wastewater facilities, port development projects for which the commissioner of transportation has entered into an assistance agreement under section 457A.04, ice centers, a local government project with a construction cost of less than \$1,500,000, or any other capital project with a construction cost of less than \$750,000.

**Subd. 2. Other projects.** All other capital projects for which a specific appropriation is made must not proceed until the recipient undertaking the project has notified the chair of the senate finance committee, the chair of the house capital investment committee, and the chair of the house ways and means committee that the work is ready to begin. Notice is not required for capital projects needed to comply with the Americans with Disabilities Act or funded by an agency's operating budget or by a capital asset preservation and replacement account under section 16A.632, or a higher education capital asset preservation and renewal account under section 135A.046.

**Subd. 3. Predesign requirement.** The definitions in paragraphs (a) and (b) apply to this section.

(a) "Predesign" means the stage in the development of a project during which the purpose, scope, cost, and schedule of the complete project are defined and instructions to design professionals are produced.

(b) "Design" means the stage in the development of a project during which schematic, design development, and contract documents are produced.

(c) A recipient to whom an appropriation is made for a project subject to review under subdivision 1 or notice under subdivision 2 shall prepare a predesign package and submit it to the commissioner for review and recommendation before proceeding with design activities. The commissioner must complete the review and recommendation within ten working days after receiving it. Failure to review and recommend within the ten days is considered a positive recommendation. The predesign package must be sufficient to define the purpose, scope, cost, and schedule of the project and must demonstrate that the project has been analyzed according to appropriate space needs standards. All predesign, design, and construction projects shall include consideration of the state of Minnesota's correctional industries program, MINNCOR Industries, consistent with section 16B.181, subdivision 2, paragraph (c), in predesign planning and product specifications.

(d) This subdivision does not apply to capital projects for park buildings owned by a local government unit in the metropolitan area defined in section 473.121, subdivision 2.

**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 obtain information and technical assistance from the state energy office in the department of commerce on energy conservation and alternative energy development relating to the planning and construction of the capital improvement project.

**Subd. 5. Information technology.** Agency requests for construction and remodeling funds shall include money for cost-effective information technology investments that would enable an agency to reduce its need for office space, provide more of its services electronically, and decentralize its operations. The office of technology must review and approve the information technology portion of construction and major remodeling program plans before the plans are submitted to the chairs of the senate finance

committee and the house of representatives ways and means committee for their recommendations and the chair of the house of representatives capital investment committee is notified as required by subdivision 1.

**Subd. 6. Information technology review precondition.** No state agency or department shall propose and the legislature shall not consider building or relocation projects without reviewing implications of utilizing information technology on space utilization.

**History:** 1989 c 300 art 1 s 27; 1990 c 591 art 6 s 1; 1990 c 610 art 1 s 42; 1992 c 513 art 4 s 23; 1993 c 4 s 11; 1994 c 643 s 42-45; 1Sp1995 c 2 art 1 s 24-26; 1996 c 463 s 35; 1997 c 159 art 2 s 5; 1997 c 202 art 3 s 35; 1997 c 246 s 11; 1998 c 404 s 34; 1999 c 86 art 1 s 9; 1Sp2001 c 4 art 6 s 8; 1Sp2001 c 12 s 12; 2002 c 393 s 39

#### 16B.34 INMATE LABOR.

At a state institution or state park or in the maintenance of a state armory, an appropriation for construction, improvements, or maintenance may be expended through the use of inmate or project labor when authorized by the commissioner with the concurrence of the head of the interested state department.

**History:** 1984 c 544 s 39

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

**Subdivision 1. Percent of appropriations for art.** An appropriation for the construction or alteration of any state building may contain an amount not to exceed one percent of the total appropriation for the building for the acquisition of works of art, excluding landscaping, which may be an integral part of the building or its grounds, attached to the building or grounds or capable of being displayed in other state buildings. Money used for this purpose is available only for the acquisition of works of art to be exhibited in areas of a building or its grounds accessible, on a regular basis, to members of the public. For the purposes of this section "state building" means a building the construction or alteration of which is paid for wholly or in part by the state.

**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.

**Subd. 2. Exempt buildings.** A building for which the appropriation is less than \$500,000 for construction or alteration or a building for which the commissioner of administration has determined that this section is inappropriate is exempt from the requirements of this section.

**Subd. 3. Unused funds.** If an amount made available under subdivision 1 is not expended for works of art for the building, the unexpended portion is available to the Minnesota board of the arts for the commission or purchase of works of art for state buildings existing or for which an appropriation was made prior to June 15, 1983, and is not available to pay construction costs of the building.

**Subd. 4. Campuses.** Art for a building on a public college or university campus shall be selected by the campus, in consultation with the arts board. Consideration of the artwork of faculty and students on that campus is encouraged.

**Subd. 5. Contractor's bond not required.** Sections 574.26 to 574.32 do not apply to this section.

**History:** 1984 c 544 s 40; 1996 c 398 s 11; 1997 c 202 art 2 s 25; 1999 c 126 s 2; 1999 c 216 art 4 s 1

## SERVICES TO STATE AGENCIES

**16B.36 INVESTIGATIONS.**

Subdivision 1. **Authority.** The commissioner may examine, investigate, or make a survey of the organization, administration, and management of state agencies and institutions under their control, and may assist state agencies by providing analytical, statistical, and organizational development services to them in order to secure greater efficiency and economy through reorganization or consolidation of agencies or functions and to eliminate duplication of function, effort, or activity, so far as possible. The commissioner shall periodically submit to the legislature a list of the studies being conducted for this purpose and any future studies scheduled at the time the list is submitted. For purposes of this section, the Minnesota state colleges and universities is a state agency.

Subd. 2. **Hearings.** The commissioner shall recommend to the legislature any necessary changes in the laws of the state as a result of a survey or investigation, or otherwise, in order to secure a better organization of the state government or greater efficiency and economy in administration. For this purpose, the commissioner may hold hearings, and issue subpoenas for and compel the attendance of witnesses, the giving of testimony, and the production of books, records, accounts, documents, and papers, as provided in section 15.08.

**History:** 1984 c 544 s 41; 1Sp1985 c 13 s 123; 1991 c 345 art 1 s 61; 1996 c 398 s 12

**16B.37 REORGANIZATION OF AGENCIES.**

Subdivision 1. **Commissioner's authority.** To improve efficiency and avoid duplication, the commissioner may transfer personnel, powers, or duties, or any combination of them, from a state agency to another state agency that has been in existence for at least one year prior to the date of transfer. A transfer must have received the prior approval of the governor. The commissioner shall no later than January 15 of each year submit to the legislature a bill making all statutory changes required by reorganization orders issued by the commissioner during the preceding calendar year. For purposes of this section, the Minnesota state colleges and universities is a state agency.

Subd. 2. **Reorganization order.** A transfer made pursuant to subdivision 1 must be in the form of a reorganization order. A proposed reorganization order must be submitted to the chairs of the governmental operations committees in the house of representatives and the senate at least 30 days before being filed with the secretary of state. A reorganization order must be filed with the secretary of state, be uniform in format, and be numbered consecutively. An order is effective upon filing with the secretary of state and remains in effect until amended or superseded. Copies of the filed order must be delivered promptly by the commissioner to the secretary of the senate, the chief clerk of the house, and the chairs of the governmental operations committees in the senate and house of representatives. A reorganization order which transfers all or substantially all of the powers or duties or personnel of a department, the housing finance agency, or the pollution control agency is not effective until it is ratified by concurrent resolution or enacted into law.

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

Subd. 4. **Work of department for another.** To avoid duplication and improve efficiency, the commissioner may direct an agency to do work for another agency or may direct a division or section of an agency to do work for another division or section within the same agency and shall require reimbursement for the work. Reimbursements received by an agency are reappropriated to the account making the original expenditure in accordance with the transfer warrant procedure established by the commissioner of finance.



Subd. 5. **Employees assigned.** With the approval of the governor and by agreement of the heads of the departments or agencies concerned, any appointive subordinate officer or employee of a department or agency may be employed by or assigned to perform duties under another department or agency.

**History:** 1984 c 544 s 42; 1986 c 444; 1991 c 262 s 1; 1996 c 398 s 13

### 16B.38 DISSOLVED OR SUSPENDED AGENCIES.

The commissioner shall undertake all necessary administrative functions of an agency which has been temporarily or permanently dissolved or suspended. These functions may include but are not limited to: authorizing payment of all obligations of the dissolved or suspended agency including payroll certifications; serving as custodian for and disposing of all property of the agency; and, in the event that the agency is only temporarily dissolved or suspended, serving as its chief administrative officer with all necessary powers until the agency is reconstituted. To implement these responsibilities the commissioner may spend any necessary money from a dissolved or suspended agency's appropriation.

**History:** 1984 c 544 s 43

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

Subdivision 1. [Repealed, 1987 c 365 s 25]

Subd. 1a. **Endowment fund.** The commissioner of administration may establish an endowment fund to reward state agencies and their employees for improving productivity and service quality. The commissioner shall use gift money to establish the fund. The interest earnings are appropriated to the commissioner to make agency and employee awards.

Subd. 2. [Renumbered 43A.319]

**History:** 1984 c 531 s 3; 1984 c 544 s 44; 1984 c 655 art 2 s 13 subd 1; 1986 c 444; 1987 c 365 s 11; 1989 c 343 s 5; 1993 c 337 s 2; 1999 c 250 art 1 s 114

16B.40 [Repealed, 1997 c 202 art 3 s 36]

### 16B.405 SOFTWARE SALES.

Subdivision 1. **Authorization.** The commissioner may sell or license computer software products or services developed by state agencies or custom developed by a vendor, through whatever sales method the commissioner considers appropriate. Prices for the software products or services may be based on market considerations.

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:** 1987 c 365 s 12; 1990 c 506 art 2 s 12; 1991 c 199 art 1 s 6; 1995 c 220 s 27; 1999 c 205 art 4 s 1

16B.41 [Repealed, 1997 c 202 art 3 s 36]

16B.415 [Repealed, 2002 c 298 s 8]

16B.42 [Expired]

16B.43 [Repealed, 1997 c 202 art 3 s 36]

**16B.44 MODIFICATION OF OPERATING AND MANAGEMENT PROCEDURES.**

When improved program effectiveness, better use of services, and greater efficiency and economy in state government can be demonstrated, the commissioner with the approval of the governor may require a state agency to adjust its operating and management procedures to take advantage of improved systems, procedures, and methods resulting from systems analysis and information science technology.

**History:** 1984 c 544 s 49

**16B.45 FUNCTION OF LEGISLATIVE AUDITOR.**

The legislative auditor may conduct performance evaluations of all systems analysis, information services, and computerization efforts of agencies, the University of Minnesota, and metropolitan boards, agencies, and commissions. Upon request of the governing body or the state information systems advisory council, the legislative auditor shall conduct the same services for political subdivisions of the state and report the findings to the governor and the legislature. The cost of these evaluations must be paid by the agencies being evaluated.

**History:** 1984 c 544 s 50

**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:** 1984 c 544 s 51; 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; Indian tribal governments; 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. 2. [Repealed by amendment, 1998 c 359 s 9]

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. 5. [Repealed, 1990 c 506 art 2 s 24]

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:** 1989 c 246 s 2; 1989 c 335 art 1 s 64; 1990 c 594 art 1 s 47; 1991 c 345 art 1 s 64; 1992 c 514 s 10-12; 1994 c 634 art 1 s 8,9; 1Sp1995 c 3 art 12 s 1; 1996 c 398 s 15; 1997 c 202 art 3 s 4; 1998 c 359 s 9; 1998 c 386 art 2 s 14; 1998 c 397 art 11 s 3; 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; 2001 c 162 s 5

#### 16B.466 ADMINISTRATION OF STATE COMPUTER FACILITIES.

Subdivision 1. **Commissioner's responsibility.** The commissioner shall integrate and operate the state's centralized computer facilities to serve the needs of state government. The commissioner shall provide technical assistance to state agencies in the design, development, and operation of their computer systems.

Subd. 2. **Joint actions.** The commissioner may, within available funding, join with the federal government, other states, local governments, and organizations representing those groups either jointly or severally in the development and implementation of systems analysis, information services, and computerization projects.

**History:** 1997 c 202 art 3 s 5

#### 16B.467 ELECTRONIC CONDUCT OF STATE BUSINESS.

The commissioner of administration shall develop and implement a system under which:

(1) state business can be conducted and permits or licenses obtained through electronic communication with the appropriate state agencies; and

(2) applications for grants can be made electronically to state agencies when feasible.

**History:** 1994 c 559 s 2; 1997 c 202 art 3 s 6; 2000 c 332 s 2

**16B.47 MICROGRAPHICS.**

The commissioner shall provide micrographics services and products to meet agency needs. Within available resources, the commissioner may also provide micrographic services to political subdivisions. Agency plans and programs for micrographics must be submitted to and receive the approval of the commissioner prior to implementation. Upon the commissioner's approval, subsidiary or independent microfilm operations may be implemented in other state agencies. The commissioner may direct that copies of official state documents be distributed to official state depositories on microfilm.

**History:** 1984 c 544 s 52

**16B.48 GENERAL SERVICES AND INTERTECHNOLOGIES REVOLVING FUNDS.**

Subdivision 1. **Reimbursements.** Fees prescribed under section 16B.51, for the rendering of the services provided in that section are deposited in the state treasury by the collecting agency and credited to the general services revolving fund.

Subd. 2. **Purpose of funds.** Money in the state treasury credited to the general services revolving fund and money that is deposited in the fund is appropriated annually to the commissioner for the following purposes:

- (1) to operate a central store and equipment service;
- (2) to operate a central duplication and printing service;
- (3) to operate the central mailing service, including purchasing postage and related items and refunding postage deposits;
- (4) to operate a documents service as prescribed by section 16B.51;
- (5) to provide services for the maintenance, operation, and upkeep of buildings and grounds managed by the commissioner of administration;
- (6) to operate a materials handling service, including interagency mail and product delivery, solid waste removal, courier service, equipment rental, and vehicle and equipment maintenance;
- (7) to provide analytical, statistical, and organizational development services to state agencies, local units of government, metropolitan and regional agencies, and school districts;
- (8) to operate a records center and provide micrographics products and services; and
- (9) to perform services for any other agency. Money may be expended for this purpose only when directed by the governor. The agency receiving the services shall reimburse the fund for their cost, and the commissioner shall make the appropriate transfers when requested. The term "services" as used in this clause means compensation paid officers and employees of the state government; supplies, materials, equipment, and other articles and things used by or furnished to an agency; and utility services and other services for the maintenance, operation, and upkeep of buildings and offices of the state government.

Subd. 3. **Intertechnologies revolving fund.** Money in the intertechnologies revolving fund is appropriated annually to the commissioner to operate information and telecommunications services, including management, consultation, and design services.

Subd. 4. **Reimbursements.** Except as specifically provided otherwise by law, each agency shall reimburse intertechnologies and general services revolving funds for the cost of all services, supplies, materials, labor, and depreciation of equipment, including reasonable overhead costs, which the commissioner is authorized and directed to furnish an agency. The cost of all publications or other materials produced by the commissioner and financed from the general services revolving fund must include reasonable overhead costs. The commissioner of administration shall report the rates to be charged for each revolving fund no later than July 1 each year to the chair of the committee or division in the senate and house of representatives with primary jurisdiction over the budget of the department of administration. The commissioner of finance shall make appropriate transfers to the revolving funds described in this section

when requested by the commissioner of administration. The commissioner of administration may make allotments, encumbrances, and, with the approval of the commissioner of finance, disbursements in anticipation of such transfers. In addition, the commissioner of administration, with the approval of the commissioner of finance, may require an agency to make advance payments to the revolving funds in this section sufficient to cover the agency's estimated obligation for a period of at least 60 days. All reimbursements and other money received by the commissioner of administration under this section must be deposited in the appropriate revolving fund. Any earnings remaining in the fund established to account for the documents service prescribed by section 16B.51 at the end of each fiscal year not otherwise needed for present or future operations, as determined by the commissioners of administration and finance, must be transferred to the general fund.

**Subd. 5. Liquidation.** If the intertechnologies or general services revolving fund is abolished or liquidated, the total net profit from the operation of each fund must be distributed to the various funds from which purchases were made. The amount to be distributed to each fund must bear to the net profit the same ratio as the total purchases from each fund bears to the total purchases from all the funds during the same period of time.

**History:** 1984 c 544 s 53; 1984 c 654 art 2 s 50; 1984 c 655 art 2 s 13 subd 1; 1Sp1985 c 13 s 125; 1986 c 363 s 7; 1988 c 613 s 13; 1989 c 335 art 4 s 10; 1990 c 506 art 2 s 13; 1991 c 345 art 1 s 65; 1994 c 634 art 1 s 10,11; 1996 c 457 s 8; 2000 c 488 art 12 s 15

#### 16B.481 FEES FOR TRAINING AND MAINTENANCE.

The commissioner may charge state agencies and political subdivisions a fee for the cost of energy conservation training and preventive maintenance programs. Fees collected by the commissioner must be deposited in the state treasury and are appropriated to the commissioner to pay the cost of the training and maintenance programs.

**History:** 1987 c 365 s 13

16B.482 [Repealed, 1998 c 386 art 1 s 35]

#### 16B.4821 PROVISION OF MATERIALS AND SERVICES TO MNSCU.

**Subdivision 1. Materials and services available.** Notwithstanding any law to the contrary, the Minnesota state colleges and universities may request from the commissioner of administration any services and materials available to any state agency under this chapter, including but not limited to purchasing, contracting, leasing, energy conservation, communications systems, construction, and all other programs and contracts administered by the department of administration, whether administered directly or indirectly by contract or otherwise. The commissioner of administration shall make reasonable efforts to comply with any such request. The chancellor of the Minnesota state colleges and universities and the commissioner of administration shall cooperate to identify services and materials available to state agencies from the department of administration.

**Subd. 2. Status requested by chancellor.** The Minnesota state colleges and universities shall be a state agency where being a state agency is a prerequisite to obtaining or participating in any services, materials acquisition, or programs under this chapter which are requested by the chancellor.

**Subd. 3. Notification.** The Minnesota state colleges and universities shall be a state agency for purposes of being included on any state agency's list to receive notices and information appropriate to the purposes of the Minnesota state colleges and universities.

**History:** 1996 c 398 s 17

**16B.483 INTELLECTUAL PROPERTY.**

Before executing a contract or license agreement involving intellectual property developed or acquired by the state, a state agency shall seek review and comment from the attorney general on the terms and conditions of the contract or agreement.

**History:** 1994 c 632 art 3 s 33

**16B.485 INTERFUND LOANS.**

The commissioner may, with the approval of the commissioner of finance, make loans from an internal service or enterprise fund to another internal service or enterprise fund, and the amount necessary is appropriated from the fund that makes the loan. The commissioner shall report the amount and purpose of the loan to the chair of the committee or division in the senate and house of representatives with primary jurisdiction over the budget of the department of administration. The term of a loan made under this section must be not more than 24 months.

**History:** 1995 c 254 art 1 s 59; 2000 c 488 art 12 s 16

**16B.49 CENTRAL MAILING SYSTEM.**

The commissioner shall maintain and operate for state agencies, departments, institutions, and offices a central mail handling unit. Official, outgoing mail for units in St. Paul must be delivered unstamped to the unit. The unit shall also operate an interoffice mail distribution system. The department may add personnel and acquire equipment that may be necessary to operate the unit efficiently and cost-effectively. Account must be kept of the postage required on that mail, which is then a proper charge against the agency delivering the mail. To provide funds for the payment of postage, each agency shall make advance payments to the commissioner sufficient to cover its postage obligations for at least 60 days. For purposes of this section, the Minnesota state colleges and universities is a state agency.

**History:** 1984 c 544 s 54; 1994 c 634 art 1 s 13; 1996 c 398 s 18; 1997 c 206 s 4

**16B.50 COMMUNICATIONS.MEDIA DIVISION.**

The commissioner shall maintain and operate for agencies a communications.media division that is responsible for all duplicating and printing services. The commissioner shall prescribe and designate classes of state printing. The duplicating and printing work to be done by the division is restricted to producing any form, booklet or pamphlet to the extent the commissioner deems appropriate.

**History:** 1984 c 544 s 55; 1997 c 206 s 5

**16B.51 AGENCY REPORTS.**

**Subdivision 1. Supervision by commissioner.** The commissioner shall supervise and control the making and distribution of all reports and other publications of all kinds issued by the state and state agencies when not otherwise prescribed by law. The commissioner shall also prescribe the manner and form of issuing reports required by sections 8.08; 16A.50; 35.03; 129D.02, subdivision 5; 256.01; 299C.18; and 360.015, subdivision 17.

**Subd. 2. Prescribe fees.** The commissioner may prescribe fees to be charged for services rendered by the state or an agency in furnishing to those who request them certified copies of records or other documents, certifying that records or documents do not exist and furnishing other reports, publications, data, or related material which is requested. The fees, unless otherwise prescribed by law, may be fixed at the market rate. The commissioner of finance is authorized to approve the prescribed rates for the purpose of assuring that they, in total, will result in receipts greater than costs in the fund. Fees prescribed under this subdivision are deposited in the state treasury by the collecting agency and credited to the general services revolving fund. Nothing in this subdivision permits the commissioner of administration to furnish any service which is now prohibited or unauthorized by law.

Subd. 3. **Sale of publications.** The commissioner may sell official reports, documents, data, and publications of all kinds, may delegate their sale to state agencies, and may establish facilities for their sale within the department of administration and elsewhere within the state service. The commissioner may remit a portion of the price of any publication or data to the agency producing the publication or data. Money that is remitted to an agency is annually appropriated to that agency to discharge the costs of preparing the publications or data.

Subd. 4. **Exceptions.** This section does not apply to the Regents of the University of Minnesota or to the state agricultural society.

Subd. 5. **Limitations on subject matter prohibited.** The commissioner may not adopt rules to prescribe the fees permitted by subdivision 2 or which limit in any way the subject matter of a report or publication which the law requires or authorizes an agency to produce.

**History:** 1984 c 544 s 56; 1984 c 654 art 2 s 45,46; 1984 c 655 art 2 s 13 subd 1; 1987 c 365 s 14; 1987 c 394 s 1; 1994 c 634 art 1 s 14,15; 1998 c 254 art 1 s 6

### 16B.52 MISUSE OF STATE PUBLICATIONS.

Subdivision 1. **Permissible publications; pictures.** No elected, administrative, or executive state officer, may have printed, nor may the commissioner authorize the printing of, at government expense, official reports and other publications intended for general public circulation except those authorized by law or included in the intent of the appropriation out of which the cost will be defrayed. Executive officers shall, before presenting their annual reports and other publications to the commissioner, examine them and exclude from them pictures of elected and administrative officials, and any other pictorial device calculated to or tending to attribute the publication to an individual instead of the department of state government from which it emanates. All other engravings, maps, drawings and illustrations must be excluded from the reports and publications, except those the executive officers certify when they present the reports for printing to be necessary and to relate entirely to the transaction of the state's business, or to be reasonably required to present for clear understanding the substance of the report.

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

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

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

Subd. 5. **Publications by department of administration.** Notwithstanding the provisions of this section or any other law relating to the subject matter of this section, the department of administration may continue to publish reports, documents, and related materials of the same manner described in its catalogs of Minnesota state publications.

**History:** 1984 c 544 s 57

### 16B.53 SALE OF LAWS AND RESOLUTIONS.

Subdivision 1. **Authority.** The commissioner shall provide for the sale and distribution of copies of laws and resolutions on file in the office of the secretary of state in accordance with this section. The secretary of state shall cooperate with the commissioner in furnishing the services provided for in this section.

Subd. 2. **Charges.** The commissioner shall establish charges for those laws and resolutions sufficient to cover their cost. Fees established for the sale and distribution



of laws and resolutions, including mailing and postage charges, may be accepted by the commissioner in advance, and any unused portions amounting to \$1 or more may be returned to the person entitled to them upon request, notwithstanding the provision of any other law prohibiting refunds.

Subd. 3. **Revolving fund.** Money collected by the commissioner under this section must be deposited in the general services revolving fund in the state treasury. Money in that fund is annually appropriated to the commissioner for the purposes of carrying out this section.

**History:** 1984 c 480 s 15; 1984 c 544 s 58; 1984 c 655 art 2 s 13 subd 1; 1990 c 426 art 1 s 9

## TRAVEL MANAGEMENT

### 16B.531 TRAVEL SERVICES.

The commissioner may offer a centralized travel service to all state departments and agencies, and to the Minnesota state colleges and universities, and may, in connection with that service, accept payments from travel agencies under contracts for the provision of travel services. The payments must be deposited in the motor pool revolving account established by section 16B.54, subdivision 8, and must be used for the expenses of managing the centralized travel service. Revenues in excess of the management costs of the centralized service must be returned to the general fund.

**History:** 1987 c 365 s 15; 1996 c 398 s 19

### 16B.54 CENTRAL MOTOR POOL; ESTABLISHMENT.

Subdivision 1. **Motor pools.** The commissioner shall manage a central motor pool of passenger motor vehicles and trucks used by state agencies with principal offices in the city of St. Paul and may provide for branch central motor pools at other places within the state. For purposes of this section, (1) "agencies" includes the Minnesota state colleges and universities, and (2) "truck" means a pickup or panel truck up to one ton carrying capacity.

Subd. 2. **Vehicles.** (a) The commissioner may direct an agency to make a transfer of a passenger motor vehicle or truck currently assigned to it. The transfer must be made to the commissioner for use in the central motor pool. The commissioner shall reimburse an agency whose motor vehicles have been paid for with funds dedicated by the constitution for a special purpose and which are assigned to the central motor pool. The amount of reimbursement for a motor vehicle is its average wholesale price as determined from the midwest edition of the National Automobile Dealers Association official used car guide.

(b) To the extent that funds are available for the purpose, the commissioner may purchase or otherwise acquire additional passenger motor vehicles and trucks necessary for the central motor pool. The title to all motor vehicles assigned to or purchased or acquired for the central motor pool is in the name of the department of administration.

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

(d) The commissioner shall provide for the uniform marking of all motor vehicles. Motor vehicle colors must be selected from the regular color chart provided by the manufacturer each year. The commissioner may further provide for the use of motor vehicles without marking by:

- (1) the governor;
- (2) the lieutenant governor;

(3) the division of criminal apprehension, the division of alcohol and gambling enforcement, and arson investigators of the division of fire marshal in the department of public safety;

(4) the financial institutions division of the department of commerce;

(5) the division of disease prevention and control of the department of health;

(6) the state lottery;

(7) criminal investigators of the department of revenue;

(8) state-owned community service facilities in the department of human services;

(9) the investigative staff of the department of economic security;

(10) the office of the attorney general; and

(11) the investigative staff of the gambling control board.

**Subd. 3. Responsible person; personnel.** The commissioner is responsible for the control, regulation, acquisition, operation, maintenance, repair, and disposal of all motor vehicles of the central motor pool. The commissioner may employ a director and other necessary classified employees for the operation of the central motor pool in accordance with chapter 43A.

**Subd. 4. Maintenance, repair, and storage; appropriation.** (a) **Maintenance, repair, storage.** The commissioner may contract with the head of an agency or another person operating facilities for the maintenance, repair, and storage of motor vehicles to provide for maintenance, repair, and storage of motor vehicles of the central motor pool.

(b) **Appropriation.** Money received by the head of an agency under a contract with the commissioner under this subdivision is annually appropriated to the agency for the same purposes as money expended by the agency head for the operation of state-owned facilities for the maintenance, repair, and storage of motor pool vehicles.

**Subd. 5. Use of motor vehicles.** The motor vehicles in the central motor pool are for official state business only. An agency requiring the services of a motor vehicle shall request it from the central motor pool on either a temporary or permanent basis. No privately owned motor vehicle may be used for official state business except when authorized by the commissioner.

**Subd. 6. Schedule of charges.** An agency using the facilities of the central motor pool shall periodically reimburse the commissioner for the services, in accordance with the schedule of charges the commissioner establishes. This schedule of charges must be based on the costs incurred in operating the central motor pool, including reasonable overhead costs, vehicle depreciation, insurance for public liability and property damage, and other costs. The commissioner must retain records and reports and all schedules used as a basis for charging state agencies for the services furnished.

**Subd. 7. Exceptions.** This section does not apply to motor vehicles of the state patrol or the University of Minnesota, or to motor vehicles of any other agency which are specially equipped for the needs of that agency.

**Subd. 8. Motor pool revolving account.** (a) **Account established.** Money or reimbursements the commissioner receives from the operation of the central motor pool is deposited in the state treasury and credited to a motor pool revolving account. Money in the account is annually appropriated to the commissioner to carry out this section. The motor pool revolving account may be used to provide material transfer services to agencies.

(b) **Unobligated excess transferred.** When the unobligated amount of money in the state treasury credited to the motor pool revolving account exceeds the average monthly operating expense at the end of the fiscal year, the unobligated amount in excess of one month's operating expense must be transferred to the general fund in the state treasury.

**History:** 1984 c 544 s 59; 1Sp1985 c 13 s 126; 1986 c 444; 1989 c 277 art 1 s 1; 1989 c 334 art 6 s 4; 1990 c 506 art 2 s 14; 1990 c 572 s 8; 1991 c 233 s 109; 1992 c 486 s 1; 1994 c 483 s 1; 1996 c 269 s 1; 1996 c 398 s 20; 1997 c 129 art 2 s 1; 1997 c 206 s 6; 1Sp2001 c 8 art 2 s 9

**16B.55 USE OF STATE VEHICLES; COMPENSATION FOR USE OF PERSONAL VEHICLES.**

Subdivision 1. **Definition.** For purposes of this section, "state vehicle" means a vehicle owned or leased by the state or loaned to the state.

Subd. 2. **Prohibited uses.** A state vehicle may be used only for authorized state business. A state vehicle may not be used for transportation to or from the residence of a state employee, except as provided in subdivision 3.

Subd. 3. **Permitted uses.** A state vehicle may be used by a state employee to travel to or from the employee's residence:

(1) on a day on which it may be necessary for the employee to respond to a work-related emergency during hours when the employee is not normally working;

(2) if the employee has been assigned the use of a state vehicle for authorized state business on an extended basis, and the employee's primary place of work is not the state work station to which the employee is permanently assigned;

(3) if the employee has been assigned the use of a state vehicle for authorized state business away from the work station to which the employee is permanently assigned, and the number of miles traveled, or the time needed to conduct the business, will be minimized if the employee uses a state vehicle to travel to the employee's residence before or after traveling to the place of state business; or

(4) if the employee is authorized to participate in a ridesharing program established by the commissioner pursuant to section 174.257.

Use of a state vehicle under this subdivision requires the prior approval of the agency head or the designee of the agency head.

Subd. 4. **Personal vehicles.** No state employee shall be compensated by the state for use of a personal vehicle for travel between the employee's residence and the state work station to which the employee is permanently assigned, except pursuant to a collective bargaining agreement negotiated under chapter 179A or a compensation plan adopted by the commissioner of employee relations under section 43A.05. A collective bargaining agreement or compensation plan may only provide for this compensation in cases in which an employee is called back to work during hours when the employee is not normally working.

Subd. 5. **Exclusions.** Subdivisions 2 to 4 do not apply to the van pooling program established in section 16B.56, to a ridesharing program established by the department of transportation, to a trooper employed by the state patrol, or to use of a state vehicle by the governor or lieutenant governor.

Subd. 6. **Vehicle operating procedures.** The commissioner shall set operating procedures for use of state vehicles. These operating procedures are not subject to the Administrative Procedure Act.

**History:** 1984 c 544 s 60; 1986 c 444; 1988 c 613 s 14,15; 2001 c 7 s 9

**16B.56 COMMUTER VANS; USE BY STATE EMPLOYEES AND SPOUSES AND OTHERS.**

Subdivision 1. **Employee transportation program.** (a) **Establishment.** To conserve energy and alleviate traffic congestion around state offices, the commissioner shall, in cooperation with the commissioner of transportation, the state energy office in the department of commerce, and interested nonprofit agencies, establish and operate an employee transportation program using commuter vans with a capacity of not less than seven nor more than 16 passengers. Commuter vans may be used by state employees and others to travel between their homes and their work locations. However, only state employee drivers may use the van for personal purposes after working hours, not including partisan political activity. The commissioner shall acquire or lease commuter vans, or otherwise contract for the provision of commuter vans, and shall make the vans available for the use of state employees and others in accordance with standards and procedures adopted by the commissioner. The commissioner shall promote the maximum participation of state employees and others in the use of the vans.

(b) **Administrative policies.** The commissioner shall adopt standards and procedures under this section without regard to chapter 14. The commissioner shall provide for the recovery by the state of vehicle acquisition, lease, operation, and insurance costs through efficient and convenient assignment of vans, and for the billing of costs and collection of fees. A state employee using a van for personal use shall pay, pursuant to the standards and procedures adopted by the commissioner, for operating and routine maintenance costs incurred as a result of the personal use. Fees collected under this subdivision shall be deposited in the accounts from which the costs of operating, maintaining, and leasing or amortization for the specific vehicle are paid.

Subd. 2. **Eligible participants.** State employees and their spouses and other people are eligible for the employee transportation program established by this section, if the driver and substitute driver of every van pool are state employees and if state employees constitute a majority of the members of every van pool. Available space in van pools must, whenever possible, be filled by state employees.

Subd. 3. **Areas of use.** Use of the vans pursuant to this section is limited to areas not having adequate public transportation between the residences of state employees and others and their places of employment.

Subd. 4. [Repealed, 1994 c 634 art 1 s 26]

Subd. 5. **Insurance; limitations.** Notwithstanding section 15.31 or any other law to the contrary, the commissioner may purchase, pursuant to this chapter, collision insurance coverage for the commuter vans. Notwithstanding sections 16B.54, subdivision 2, and 168.012, the vans may not be marked. The vans may not be equipped with tax-exempt motor vehicle number plates.

Subd. 6. [Repealed, 1984 c 408 s 4]

**History:** 1984 c 408 s 1-3; 1984 c 544 s 61; 1984 c 655 art 2 s 13 subd 1; 1987 c 312 art 1 s 10 subd 2; 1Sp2001 c 4 art 6 s 9

## 16B.57 GASOLINE AND PETROLEUM PRODUCTS, SOURCE OF SUPPLY FOR AGENCIES.

Subdivision 1. **Petroleum products facilities.** The commissioner may require a state agency which has facilities for the storage and distribution of gasoline and other petroleum products to furnish gasoline and other petroleum products to any other state agency and shall require payment to compensate for the cost of those products. The commissioner shall prescribe all procedures for the guidance of state agencies in carrying out the requirements of this section.

Subd. 2. **Appropriation.** Money paid by one state agency to another to compensate for the cost of products furnished under subdivision 1 is annually appropriated to the state agency which furnishes those products.

**History:** 1984 c 544 s 62

## 16B.58 STATE PARKING FACILITIES.

Subdivision 1. **Powers and duties of commissioner.** No person may park a motor vehicle, either privately or publicly owned, upon any parking lot or facility owned or operated by the state except as authorized by this section. The commissioner shall operate and supervise all state parking lots and facilities associated with buildings described in section 16B.24, subdivision 1, or when the commissioner considers it advisable and practicable, any other parking lots or facilities owned or rented by the state for the use of a state agency or state employees. The commissioner may also provide employee shuttle service and promote alternative transportation modes, including initiatives to increase the number of multi-occupancy vehicles. The commissioner may fix and collect rents, charges, or fees in connection with and for the use of any state parking lot or facility within the cities of St. Paul and Minneapolis except for any state lot or facility the control of which is vested by law in a state agency other than the department of administration.

Subd. 2. **Rules.** Copies of the commissioner's rules under this section must be provided to all contract parkers. Each parking lot or facility must be posted with notice of who is entitled to park there.

Subd. 3. **Removal and impounding of vehicles.** A motor vehicle parked on a state parking lot or facility in violation of the rules of the commissioner is a public nuisance and the commissioner shall provide for the abatement of the nuisance by rules, including provision for the removal and impounding of the motor vehicle. The cost of the removal and impounding is a lien against the motor vehicle until paid.

Subd. 4. **Violations.** A person, elective or appointed state official, firm, association, or corporation which violates any of the provisions of this section or any rule made by the commissioner under this section is guilty of a misdemeanor.

Subd. 5. **Money collected.** Money collected by the commissioner as rents, charges, or fees in connection with and for the use of a parking lot or facility is appropriated to the commissioner for the purpose of operating, maintaining, improving, and replacing parking lots or facilities owned or operated by the state, including providing necessary and suitable uniforms for employees, and to carry out the purposes of this section, except as provided in subdivision 7.

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

Subd. 7. [Repealed, 2001 c 162 s 10]

Subd. 8. [Repealed, 1997 c 202 art 2 s 64]

**History:** 1984 c 544 s 63; 1984 c 597 s 30; 1984 c 655 art 2 s 13 subd 1; 1986 c 444; 1990 c 572 s 9; 1992 c 514 s 13; 1994 c 628 art 3 s 6; 1998 c 359 s 10

#### 16B.581 DISTINCTIVE TAX-EXEMPT LICENSE PLATES.

Vehicles owned or leased by the state of Minnesota must display distinctive tax-exempt license plates unless otherwise exempted under section 168.012. The commissioner shall design these distinctive plates subject to the approval of the registrar. An administrative fee of \$20 and a license plate fee of \$10 for two plates per vehicle or a license plate fee of \$5 for one plate per trailer is paid at the time of registration. The license plate registration is valid for the life of the vehicle or until the vehicle is no longer owned or leased by the state of Minnesota.

When the state of Minnesota applies for distinctive tax-exempt plates on vehicles previously owned by local units of government, it shall pay an administrative fee of \$10 and a plate fee that covers the cost of replacement.

**History:** 1994 c 634 art 1 s 16

### STATE BUILDING CODE

#### 16B.59 STATE BUILDING CODE; POLICY AND PURPOSE.

The State Building Code governs the construction, reconstruction, alteration, and repair of buildings and other structures to which the code is applicable. The commissioner shall administer and amend a state code of building construction which will provide basic and uniform performance standards, establish reasonable safeguards for health, safety, welfare, comfort, and security of the residents of this state and provide for the use of modern methods, devices, materials, and techniques which will in part tend to lower construction costs. The construction of buildings should be permitted at the least possible cost consistent with recognized standards of health and safety.

**History:** 1984 c 544 s 64; 1995 c 254 art 2 s 1

#### 16B.60 DEFINITIONS, STATE BUILDING CODE.

Subdivision 1. **Scope.** For the purposes of sections 16B.59 to 16B.75, the terms defined in this section have the meanings given them.

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

Subd. 3. **Municipality.** "Municipality" means a city, county, or town, the University of Minnesota, or the state for public buildings and state licensed facilities.

Subd. 4. **Code.** "Code" means the State Building Code adopted by the commissioner in accordance with sections 16B.59 to 16B.75.

Subd. 5. **Agricultural building.** "Agricultural building" means a structure on agricultural land as defined in section 273.13, subdivision 23, designed, constructed, and used to house farm implements, livestock, or agricultural produce or products used by the owner, lessee, and sublessee of the building and members of their immediate families, their employees, and persons engaged in the pickup or delivery of agricultural produce or products.

Subd. 6. **Public building.** "Public building" means a building and its grounds the cost of which is paid for by the state or a state agency regardless of its cost, and a school district building project the cost of which is \$100,000 or more.

Subd. 7. **Physically handicapped.** "Physically handicapped" means having sight disabilities, hearing disabilities, disabilities of incoordination, disabilities of aging, or other disabilities that significantly reduce mobility, flexibility, coordination, or perceptiveness.

Subd. 8. **Remodeling.** "Remodeling" means deliberate reconstruction of an existing public building in whole or in part in order to bring it up to date in conformity with present uses of the structure and to which other rules on the upgrading of health and safety provisions are applicable.

Subd. 9. **Historic building.** "Historic building" means a state-owned building that is on the National Register of Historic Places.

Subd. 10. **Equivalent protection.** "Equivalent protection" means a measure other than a code requirement that provides essentially the same protection that would be provided by a code requirement.

Subd. 11. **State licensed facilities.** "State licensed facilities" means a building and its grounds that are licensed by the state as a hospital, nursing home, supervised living facility, free-standing outpatient surgical center, or correctional facility.

Subd. 12. **Designate.** "Designate" means the formal designation by a municipality's administrative authority of a certified building official accepting responsibility for code administration.

Subd. 13. **Administrative authority.** "Administrative authority" means a municipality's governing body or their assigned administrative authority.

**History:** 1984 c 544 s 65; 1Sp1985 c 14 art 4 s 3; 1987 c 387 s 1,2; 1989 c 329 art 5 s 1; 1990 c 458 s 1; 1990 c 572 s 10,11; 1994 c 634 art 2 s 1,2; 1995 c 254 art 2 s 2,3; 1Sp2001 c 10 art 2 s 26-28

## 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 also include duties and responsibilities for code administration, including procedures for administrative action, penalties, and suspension and revocation of certification. 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.

The commissioner shall develop rules addressing the plan review fee assessed to similar buildings without significant modifications including provisions for use of building systems as specified in the industrial/modular program specified in section 16B.75. Additional plan review fees associated with similar plans must be based on costs commensurate with the direct and indirect costs of the service.

**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. The commissioner, in consultation with the commissioner of labor and industry, shall adopt amendments to the mechanical code portion of the State Building Code to implement standards for process piping.

**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 belowground 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) **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.

(h) **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.

(i) **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.

(j) **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.

(k) **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.

(l) **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.

Subd. 3a. **Recycling space.** The code must require suitable space for the separation, collection, and temporary storage of recyclable materials within or adjacent to new or significantly remodeled structures that contain 1,000 square feet or more. Residential structures with fewer than four dwelling units are exempt from this subdivision.

Subd. 4. **Review of plans for public buildings and state licensed facilities.** Construction or remodeling may not begin on any public building or state licensed facility until the plans and specifications have been approved by the commissioner or



municipality under contractual agreement pursuant to subdivision 1a. The plans and specifications must be submitted for review, and within 30 days after receipt of the plans and specifications, the commissioner or municipality under contractual agreement shall notify the submitting authority of any corrections.

**Subd. 5. Accessibility.** (a) **Public buildings.** The code must provide for making public buildings constructed or remodeled after July 1, 1963, accessible to and usable by physically handicapped persons, although this does not require the remodeling of public buildings solely to provide accessibility and usability to the physically handicapped when remodeling would not otherwise be undertaken.

(b) **Leased space.** No agency of the state may lease space for agency operations in a non-state-owned building unless the building satisfies the requirements of the State Building Code for accessibility by the physically handicapped, or is eligible to display the state symbol of accessibility. This limitation applies to leases of 30 days or more for space of at least 1,000 square feet.

(c) **Meetings or conferences.** Meetings or conferences for the public or for state employees which are sponsored in whole or in part by a state agency must be held in buildings that meet the State Building Code requirements relating to accessibility for physically handicapped persons. This subdivision does not apply to any classes, seminars, or training programs offered by the Minnesota state colleges and universities or the University of Minnesota. Meetings or conferences intended for specific individuals none of whom need the accessibility features for handicapped persons specified in the State Building Code need not comply with this subdivision unless a handicapped person gives reasonable advance notice of an intent to attend the meeting or conference. When sign language interpreters will be provided, meetings or conference sites must be chosen which allow hearing impaired participants to see their signing clearly.

(d) **Exemptions.** The commissioner may grant an exemption from the requirements of paragraphs (b) and (c) in advance if an agency has demonstrated that reasonable efforts were made to secure facilities which complied with those requirements and if the selected facilities are the best available for access for handicapped persons. Exemptions shall be granted using criteria developed by the commissioner in consultation with the council on disability.

(e) **Symbol indicating access.** The wheelchair symbol adopted by Rehabilitation International's Eleventh World Congress is the state symbol indicating buildings, facilities, and grounds which are accessible to and usable by handicapped persons. In the interests of uniformity, this symbol is the sole symbol for display in or on all public or private buildings, facilities, and grounds which qualify for its use. The secretary of state shall obtain the symbol and keep it on file. No building, facility, or grounds may display the symbol unless it is in compliance with the rules adopted by the commissioner under subdivision 1. Before any rules are proposed for adoption under this paragraph, the commissioner shall consult with the council on disability. Rules adopted under this paragraph must be enforced in the same way as other accessibility rules of the State Building Code.

(f) **Municipal enforcement.** Municipalities which have not adopted the State Building Code may enforce the building code requirements for handicapped persons by either entering into a joint powers agreement for enforcement with another municipality which has adopted the State Building Code; or contracting for enforcement with an individual certified under section 16B.65, subdivision 3, to enforce the State Building Code.

(g) **Equipment allowed.** The code must allow the use of vertical wheelchair lifts and inclined stairway wheelchair lifts in public buildings. An inclined stairway wheelchair lift must be equipped with light or sound signaling device for use during operation of the lift. The stairway or ramp shall be marked in a bright color that clearly indicates the outside edge of the lift when in operation. The code shall not require a guardrail between the lift and the stairway or ramp. Compliance with this provision by itself does not mean other handicap accessibility requirements have been met.

Subd. 6. **Energy efficiency.** The code must provide for building new low-income housing in accordance with energy efficiency standards adopted under subdivision 1. For purposes of this subdivision, low-income housing means residential housing built for low-income persons and families under a program of a housing and redevelopment authority, the Minnesota housing finance agency, or another entity receiving money from the state to construct such housing.

Subd. 7. **Access for the hearing-impaired.** All rooms in the state office building and in the capitol that are used by the house of representatives or the senate for legislative hearings, and the public galleries overlooking the house and senate chambers, must be fitted with assistive listening devices for the hearing-impaired. Each hearing room and the public galleries must have a sufficient number of receivers available so that hearing-impaired members of the public may participate in the committee hearings and public sessions of the house and senate.

**History:** 1984 c 544 s 66; 1984 c 655 art 2 s 13 subd 1; 1984 c 658 s 1; 1985 c 194 s 30; 1985 c 248 s 70; 1986 c 444; 1Sp1986 c 3 art 4 s 2; 1987 c 291 s 192; 1987 c 354 s 8; 1987 c 387 s 3; 1988 c 608 s 1; 1988 c 685 s 2; 1989 c 82 s 1; 1989 c 335 art 1 s 65; 1990 c 414 s 1; 1991 c 104 s 1; 1991 c 134 s 1; 1991 c 149 s 2; 1991 c 235 art 3 s 1; 1991 c 240 s 1; 1991 c 337 s 4; 1992 c 597 s 1; 1993 c 327 s 1; 1994 c 480 s 6; 1994 c 567 s 1; 1994 c 634 art 2 s 3,4; 1995 c 100 s 1; 1995 c 166 s 1,2,17; 1995 c 213 art 1 s 1; 1995 c 254 art 2 s 4-6; 1996 c 395 s 18; 1999 c 135 s 1,2; 1999 c 185 s 1; 2000 c 297 s 1; 2001 c 7 s 10; 2001 c 207 s 1,2; 1Sp2001 c 10 art 2 s 29

#### 16B.615 RESTROOM FACILITIES.

Subdivision 1. **Definition.** For purposes of this section, "place of public accommodation" means a publicly or privately owned sports or entertainment arena, stadium, theater, community or convention hall, special event center, amusement facility, or special event center in a public park, that is designed for occupancy by 200 or more people.

Subd. 2. **Application.** This section applies only to a place of public accommodation for which construction, or alterations exceeding 50 percent of the estimated replacement value of the existing facility, begins after July 1, 1995.

Subd. 3. **Ratio.** In a place of public accommodation subject to this section, the ratio of water closets for women to the total of water closets and urinals provided for men must be at least three to two, unless there are two or fewer fixtures for men.

Subd. 4. **Rules.** The commissioner of administration shall adopt rules to implement this section. The rules may provide for a greater ratio of women's to men's facilities for certain types of occupancies than is required in subdivision 3, and may apply the required ratios to categories of occupancies other than those defined as places of public accommodation under subdivision 1.

**History:** 1994 c 632 art 3 s 34

#### 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 55 inches above grade or the floor below, and all bleacher guardrails if any part of the guardrail is 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, except that retractable bleachers already in place as of January 1, 2001, may have open spaces not exceeding nine inches and any bleachers owned by the University of Minnesota, the Minnesota state colleges and universities, or a private college or university may have open spaces not exceeding nine inches;

(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 this subdivision.

**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 that are subject to the safety requirements in subdivision 3 shall provide a signed certification of compliance to the commissioner by January 1, 2002. For bleachers subject to the exception in subdivision 3, clause (1), entities covered by this paragraph must have on file a bleacher safety management plan and amortization schedule. 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. For bleachers owned by a school district or nonpublic school, the person the district or nonpublic school designates to be responsible for buildings and grounds may make the certification.

**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; 2000 c 417 s 1,2; 2000 c 492 art 1 s 35,36; 1Sp2001 c 6 art 4 s 1

#### **16B.617 ENERGY CODE RULES REMAIN IN EFFECT.**

(a) Notwithstanding Laws 1999, chapter 135, section 9, Minnesota Rules, chapter 7670, does not expire on April 15, 2000, but remains in effect for residential buildings not covered by Minnesota Rules, chapter 7676. The provisions of Minnesota Rules, chapter 7670, that apply to category 1 buildings govern new, detached single one- and two-family R-3 occupancy residential buildings. All new, detached single one- and two-family R-3 occupancy buildings subject to Minnesota Rules, chapter 7670, submitting an application for a building permit after April 14, 2000, must meet the requirements for category 1 buildings, as set out in Minnesota Rules, chapter 7670.

(b) As an alternative to compliance with paragraph (a), compliance with Minnesota Rules, chapters 7672 and 7674, is optional for a contractor or owner.

(c) The department of administration, building codes and standards division (BCSD), shall issue a report to the legislature by December 1, 2001, addressing the cost benefit, as well as air quality, building durability, moisture, enforcement, enforceability, and liability regarding implementation of Minnesota Rules, chapters 7670, 7672, and 7674. The report must include a feasibility study of establishing new criteria for category 2 detached single one- and two-family R-3 occupancy buildings that are energy efficient, enforceable, and provide sufficient nonmechanical ventilation or permeability for a home to maintain good air quality, building durability, and adequate release of moisture.

(d) This section expires when the commissioner of administration adopts a new energy code in accordance with Laws 2002, chapter 317, section 4.

**History:** 2000 c 407 s 1; 2002 c 317 s 1

**NOTE:** The amendment to this section by Laws 2002, chapter 317, section 1, is effective when rules are adopted by the commissioner of administration containing appropriate provisions addressing combustion air and make-up air in residential construction as part of the mechanical code. Laws 2002, chapter 317, section 4.

### 16B.6175 ENERGY CODE.

Notwithstanding section 16B.617, the commissioner of administration, in consultation with the construction codes advisory council, shall explore and review the availability and appropriateness of any model energy codes related to the construction of single one- and two-family residential buildings. In consultation with the council, the commissioner shall take steps to adopt the chosen code with all necessary and appropriate amendments.

The commissioner may not adopt all or part of a model energy code relating to the construction of residential buildings without research and analysis that addresses, at a minimum, air quality, building durability, moisture, enforcement, enforceability cost benefit, and liability. The research and analysis must be completed in cooperation with practitioners in residential construction and building science and an affirmative recommendation by the construction codes advisory council.

**History:** 2002 c 317 s 3

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

**Subdivision 1. Municipal enforcement.** The State Building Code applies statewide and supersedes the building code of any municipality. A municipality must not by ordinance or through development agreement require building code provisions regulating components or systems of any residential structure that are different from any provision of the State Building Code. A municipality may, with the approval of the state building official, adopt an ordinance that is more restrictive than the State Building Code where geological conditions warrant a more restrictive ordinance. A municipality may appeal the disapproval of a more restrictive ordinance to the commissioner. An appeal under this subdivision is subject to the schedule, fee, procedures, cost provisions, and appeal rights set out in section 16B.67. The State Building Code does not apply to agricultural buildings except with respect to state inspections required or rulemaking authorized by sections 103F.141, 216C.19, subdivision 8, and 326.244. All municipalities shall adopt and enforce the State Building Code with respect to new construction within their respective jurisdictions.

If a city has adopted or is enforcing the State Building Code on June 3, 1977, or determines by ordinance after that date to undertake enforcement, it shall enforce the code within the city. A city may by ordinance extend the enforcement of the code to contiguous unincorporated territory not more than two miles distant from its corporate limits in any direction. Where two or more noncontiguous cities which have elected to enforce the code have boundaries less than four miles apart, each is authorized to enforce the code on its side of a line equidistant between them. Once enforcement authority is extended extraterritorially by ordinance, the authority may continue to be exercised in the designated territory even though another city less than four miles distant later elects to enforce the code. After the extension, the city may enforce the

code in the designated area to the same extent as if the property were situated within its corporate limits.

A city which, on June 3, 1977, had not adopted the code may not commence enforcement of the code within or outside of its jurisdiction until it has provided written notice to the commissioner, the county auditor, and the town clerk of each town in which it intends to enforce the code. A public hearing on the proposed enforcement must be held not less than 30 days after the notice has been provided. Enforcement of the code by the city outside of its jurisdiction commences on the first day of January in the year following the notice and hearing.

Municipalities may provide for the issuance of permits, inspection, and enforcement within their jurisdictions by means which are convenient, and lawful, including by means of contracts with other municipalities pursuant to section 471.59, and with qualified individuals. The other municipalities or qualified individuals may be reimbursed by retention or remission of some or all of the building permit fee collected or by other means. In areas of the state where inspection and enforcement is unavailable from qualified employees of municipalities, the commissioner shall train and designate individuals available to carry out inspection and enforcement on a fee basis. Nothing in this section prohibits a municipality from adopting ordinances relating to zoning, subdivision, or planning unless the ordinance conflicts with a provision of the State Building Code that regulates components or systems of any residential structure.

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:** 1984 c 544 s 67; 1987 c 312 art 1 s 10 subd 1; 1990 c 391 art 8 s 2; 1994 c 634 art 2 s 5,10; 1999 c 135 s 3; 2001 c 207 s 3

#### 16B.625 EXEMPTIONS.

The commissioner may exempt a part of a historic building occupied by the state from the state or another building, fire, safety, or other code if the exemption is necessary to preserve the historic or esthetic character of the building or to prevent theft, vandalism, terrorism, or another crime. When the commissioner grants an exemption, the commissioner shall consider providing equivalent protection. A certificate of occupancy may not be denied because of an exemption under this section.

**History:** 1990 c 572 s 12

#### 16B.63 STATE BUILDING OFFICIAL.

Subdivision 1. **Appointment.** The commissioner shall appoint a state building official who under the direction and supervision of the commissioner shall administer the code.

Subd. 2. **Qualifications.** To be eligible for appointment as state building official an individual must be competent in the field of administration and shall have the

experience in building design, construction, and supervision which the commissioner considers necessary.

**Subd. 3. Powers and duties.** The state building official may, with the approval of the commissioner, employ personnel necessary to carry out the inspector's function under sections 16B.59 to 16B.75. The state building official shall distribute without charge one copy of the code to each municipality within the state. Additional copies shall be made available to municipalities and interested parties for a fee prescribed by the commissioner. The state building official shall perform other duties in administering the code assigned by the commissioner.

**Subd. 4. Accessibility specialists.** The state building official shall, with the approval of the commissioner, assign three department employees to assist municipalities in complying with section 16B.61, subdivision 5.

**Subd. 5. Interpretative authority.** To achieve uniform and consistent application of the State Building Code, the state building official has final interpretative authority applicable to all codes adopted as part of the State Building Code except for the plumbing code and the electrical code when enforced by the state board of electricity. A final interpretative committee composed of seven members, consisting of three building officials, two inspectors from the affected field, and two construction industry representatives, shall review requests for final interpretations relating to that field. A request for final interpretation must come from a local or state level building code board of appeals. The state building official must establish procedures for membership of the interpretative committees. The appropriate committee shall review the request and make a recommendation to the state building official for the final interpretation within 30 days of the request. The state building official must issue an interpretation within ten business days from the recommendation from the review committee. A final interpretation may be appealed within 30 days of its issuance to the commissioner under section 16B.67. The final interpretation must be published within ten business days of its issuance and made available to the public. Municipal building officials shall administer all final interpretations issued by the state building official until the final interpretations are considered for adoption as part of the State Building Code.

**History:** 1984 c 544 s 68; 1986 c 444; 1991 c 345 art 1 s 66; 1994 c 634 art 2 s 10; 1995 c 254 art 2 s 7; 2001 c 207 s 4

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

**Subdivision 1. Applicability.** Subject to this section, the adoption of the code and amendment is subject to the Administrative Procedure Act.

**Subd. 2. Distribution of incorporations by reference.** The commissioner need not publish or distribute those parts of the code which are adopted by reference pursuant to section 14.07, subdivision 4.

**Subd. 3. Filing.** The commissioner shall file one copy of the complete code with the secretary of state, except that all standards referred to in any model or statewide specialty code or any of the modifications of a code need not be filed. All standards referred to in the code must be kept on file and available for inspection in the office of the commissioner.

**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.

**Subd. 5. Proposed amendments; hearings.** Any interested person may propose amendments to the code which may be either applicable to all municipalities or, where it is alleged and established that conditions exist within a municipality which are not generally found within other municipalities, amendments may be restricted in application to that municipality. Notice of public hearings on proposed amendments shall be

given to the governing bodies of all municipalities in addition to those persons entitled to notice under the Administrative Procedure Act.

**Subd. 6. Adoption.** The commissioner shall approve any proposed amendments deemed by the commissioner to be reasonable in conformity with the policy and purpose of the code and justified under the particular circumstances involved. Upon adoption, a copy of each amendment must be distributed to the governing bodies of all affected municipalities.

**Subd. 7. Investigation and research.** With the approval of the commissioner the state building official shall investigate or provide for investigations, or may accept authenticated reports from authoritative sources, concerning new materials or modes of construction intended for use in the construction of buildings or structures, and shall propose amendments to the code setting forth the conditions under which the new materials or modes may be used.

**History:** 1984 c 544 s 69; 1985 c 248 s 8; 1986 c 444; 1987 c 312 art 1 s 10 subd 1; 1994 c 634 art 2 s 10; 1999 c 135 s 4

### 16B.65 BUILDING OFFICIALS.

**Subdivision 1. Designation.** By January 1, 2002, each municipality shall designate a building official to administer the code. A municipality may designate no more than one building official responsible for code administration defined by each certification category established in rule. Two or more municipalities may combine in the designation of a building official for the purpose of administering the provisions of the code within their communities. In those municipalities for which no building officials have been designated, the state building official may use whichever state employees are necessary to perform the duties of the building official until the municipality makes a temporary or permanent designation. All costs incurred by virtue of these services rendered by state employees must be borne by the involved municipality and receipts arising from these services must be paid into the state treasury and credited to the special revenue fund.

**Subd. 2. Qualifications.** A building official, to be eligible for designation, must be certified and have the experience in design, construction, and supervision which the commissioner deems necessary and must be generally informed on the quality and strength of building materials, accepted building construction requirements, and the nature of equipment and needs conducive to the safety, comfort, and convenience of building occupants. No person may be designated as a building official for a municipality unless the commissioner determines that the official is qualified as provided in subdivision 3.

**Subd. 3. Certification.** The commissioner shall:

- (1) prepare and conduct written and practical examinations to determine if a person is qualified pursuant to subdivision 2 to be a building official;
- (2) accept documentation of successful completion of testing programs developed by nationally recognized testing agencies, as proof of qualification pursuant to subdivision 2; or
- (3) determine qualifications by both clauses (1) and (2).

Upon a determination of qualification under clause (1), (2), or both of them, the commissioner shall issue a certificate to the building official stating that the official is certified. Each person applying for examination and certification pursuant to this section shall pay a nonrefundable fee of \$70. The commissioner or a designee may establish categories of certification that will recognize the varying complexities of code enforcement in the municipalities within the state. The commissioner shall provide educational programs designed to train and assist building officials in carrying out their responsibilities.

The department of employee relations may, at the request of the commissioner, provide statewide testing services.

Subd. 4. **Duties.** Building officials shall, in the municipality for which they are designated, be responsible for all aspects of code administration for which they are certified, including the issuance of all building permits and the inspection of all manufactured home installations. The commissioner may direct a municipality with a building official to perform services for another municipality, and in that event the municipality being served shall pay the municipality rendering the services the reasonable costs of the services. The costs may be subject to approval by the commissioner.

Subd. 5. **Oversight committee.** (a) The commissioner shall establish a code administration oversight committee to evaluate, mediate, and recommend to the commissioner any administrative action, penalty, suspension, or revocation with respect to complaints filed with or information received by the commissioner alleging or indicating the unauthorized performance of official duties or unauthorized use of the title certified building official, or a violation of statute, rule, or order that the commissioner has issued or is empowered to enforce. The committee consists of five certified building officials, at least two of whom must be from nonmetropolitan counties. Committee members must be compensated according to section 15.059, subdivision 3. The commissioner's designee shall act as an ex-officio member of the oversight committee.

(b) If the commissioner has a reasonable basis to believe that a person has engaged in an act or practice constituting the unauthorized performance of official duties, the unauthorized use of the title certified building official, or a violation of a statute, rule, or order that the commissioner has issued or is empowered to enforce, the commissioner may proceed with administrative actions or penalties as described in subdivision 5a or suspension or revocation as described in subdivision 5b.

Subd. 5a. **Administrative action and penalties.** The commissioner shall, by rule, establish a graduated schedule of administrative actions for violations of sections 16B.59 to 16B.75 and rules adopted under those sections. The schedule must be based on and reflect the culpability, frequency, and severity of the violator's actions. The commissioner may impose a penalty from the schedule on a certification holder for a violation of sections 16B.59 to 16B.75 and rules adopted under those sections. The penalty is in addition to any criminal penalty imposed for the same violation. Administrative monetary penalties imposed by the commissioner must be paid to the special revenue fund.

Subd. 5b. **Suspension; revocation.** Except as otherwise provided for by law, the commissioner may, upon notice and hearing, revoke or suspend or refuse to issue or reissue a building official certification if the applicant, building official, or certification holder:

- (1) violates a provision of sections 16B.59 to 16B.75 or a rule adopted under those sections;
- (2) engages in fraud, deceit, or misrepresentation while performing the duties of a certified building official;
- (3) makes a false statement in an application submitted to the commissioner or in a document required to be submitted to the commissioner; or
- (4) violates an order of the commissioner.

Notice must be provided and the hearing conducted in accordance with the provisions of chapter 14 governing contested case proceedings. Nothing in this subdivision limits or otherwise affects the authority of a municipality to dismiss or suspend a building official at its discretion, except as otherwise provided for by law.

Subd. 6. **Vacancies.** In the event that a designated building official position is vacant within a municipality, that municipality shall designate a certified building official to fill the vacancy as soon as possible. The commissioner must be notified of any vacancy or designation in writing within 15 days. If the municipality fails to designate a certified building official within 15 days of the occurrence of the vacancy, the state building official may provide state employees to serve that function as provided in subdivision 1 until the municipality makes a temporary or permanent



designation. Municipalities must not issue permits without a designated certified building official.

Subd. 7. **Continuing education.** Subject to sections 16B.59 to 16B.75, the commissioner may by rule establish or approve continuing education programs for municipal building officials dealing with matters of building code administration, inspection, and enforcement.

Each person certified as a building official for the state must satisfactorily complete applicable educational programs established or approved by the commissioner every three calendar years to retain certification.

Each person certified as a building official must submit in writing to the commissioner an application for renewal of certification within 60 days of the last day of the third calendar year following the last certificate issued. Each application for renewal must be accompanied by proof of satisfactory completion of minimum continuing education requirements and the certification renewal fee established by the commissioner.

**History:** 1984 c 544 s 70; 1984 c 578 s 1; 1984 c 655 art 2 s 13 subd 1; 1Sp1985 c 17 s 6; 1986 c 444; 1988 c 613 s 16; 1995 c 254 art 2 s 8-11; 1998 c 359 s 11,12; 1Sp2001 c 10 art 2 s 30; 2002 c 220 art 10 s 30,31

#### 16B.66 CERTAIN INSPECTIONS.

The state building official may, upon an application setting forth a set of plans and specifications that will be used in more than one municipality to acquire building permits, review and approve the application for the construction or erection of any building or structure designed to provide dwelling space for no more than two families if the set of plans meets the requirements of the State Building Code. All costs incurred by the state building official by virtue of the examination of the set of plans and specifications must be paid by the applicant. A building official shall issue a building permit upon application and presentation to the official of a set of plans and specifications bearing the approval of the state building official if the requirements of all other local ordinances are satisfied.

**History:** 1984 c 544 s 71; 1986 c 444; 1994 c 634 art 2 s 6,10

#### 16B.665 PERMIT FEE LIMITATION ON MINOR RESIDENTIAL IMPROVEMENTS.

A municipality as defined in section 16B.60, subdivision 3, or a town may not charge a permit fee that exceeds \$15 or 5 percent of the cost of the improvement, installation, or replacement, whichever is greater, for the improvement, installation, or replacement of a residential fixture or appliance that:

- (1) does not require modification to electric or gas service;
  - (2) has a total cost of \$500 or less, excluding the cost of the fixture or appliance;
- and
- (3) is improved, installed, or replaced by the home owner or a licensed contractor.

**History:** 2001 c 207 s 5

#### 16B.67 APPEALS.

A person aggrieved by the final decision of any municipality as to the application of the code, including any rules adopted under sections 471.465 to 471.469, may, within 180 days of the decision, appeal to the commissioner. Appellant shall submit a nonrefundable fee of \$70, payable to the commissioner, with the request for appeal. An appeal must be heard as a contested case under chapter 14. The commissioner shall submit written findings to the parties. The party not prevailing shall pay the costs of the contested case hearing, including fees charged by the office of administrative hearings and the expense of transcript preparation. Costs under this section do not include attorney fees. Any person aggrieved by a ruling of the commissioner may appeal in accordance with chapter 14. For the purpose of this section "any person aggrieved"

includes the council on disability. No fee or costs shall be required when the council on disability is the appellant.

**History:** 1984 c 544 s 72; 1986 c 444; 1987 c 354 s 4; 1988 c 613 s 17; 1995 c 254 art 2 s 12

#### **16B.68 CERTAIN PERMITS.**

Building permits or certificates of occupancy validly issued before July 1, 1972, regarding buildings or structures being constructed or altered according to the permits or certificates, are valid after that date. The construction may be completed according to the building permit, unless the building official determines that life or property is in jeopardy.

**History:** 1984 c 544 s 73

#### **16B.685 ANNUAL REPORT.**

Beginning with the first report filed by April 1, 2003, each municipality shall annually report by April 1 to the department, in a format prescribed by the department, all construction and development-related fees collected by the municipality from developers, builders, and subcontractors. The report must include:

- (1) the number and valuation of units for which fees were paid;
- (2) the amount of building permit fees, plan review fees, administrative fees, engineering fees, infrastructure fees, and other construction and development-related fees; and
- (3) the expenses associated with the municipal activities for which fees were collected.

**History:** 2001 c 207 s 6

#### **16B.69 VIOLATION, PENALTY.**

A violation of the code is a misdemeanor.

**History:** 1984 c 544 s 74

#### **16B.70 SURCHARGE.**

Subdivision 1. **Computation.** To defray the costs of administering sections 16B.59 to 16B.76, a surcharge is imposed on all permits issued by municipalities in connection with the construction of or addition or alteration to buildings and equipment or appurtenances after June 30, 1971. The commissioner may use any surplus in surcharge receipts to award grants for code research and development and education.

If the fee for the permit issued is fixed in amount the surcharge is equivalent to one-half mill (.0005) of the fee or 50 cents, whichever amount is greater. For all other permits, the surcharge is as follows:

- (1) if the valuation of the structure, addition, or alteration is \$1,000,000 or less, the surcharge is equivalent to one-half mill (.0005) of the valuation of the structure, addition, or alteration;
- (2) if the valuation is greater than \$1,000,000, the surcharge is \$500 plus two-fifths mill (.0004) of the value between \$1,000,000 and \$2,000,000;
- (3) if the valuation is greater than \$2,000,000, the surcharge is \$900 plus three-tenths mill (.0003) of the value between \$2,000,000 and \$3,000,000;
- (4) if the valuation is greater than \$3,000,000, the surcharge is \$1,200 plus one-fifth mill (.0002) of the value between \$3,000,000 and \$4,000,000;
- (5) if the valuation is greater than \$4,000,000, the surcharge is \$1,400 plus one-tenth mill (.0001) of the value between \$4,000,000 and \$5,000,000; and
- (6) if the valuation exceeds \$5,000,000, the surcharge is \$1,500 plus one-twentieth mill (.00005) of the value that exceeds \$5,000,000.

Subd. 2. **Collection and reports.** All permit surcharges must be collected by each municipality and a portion of them remitted to the state. Each municipality having a

population greater than 20,000 people shall prepare and submit to the commissioner once a month a report of fees and surcharges on fees collected during the previous month but shall retain the greater of two percent or that amount collected up to \$25 to apply against the administrative expenses the municipality incurs in collecting the surcharges. All other municipalities shall submit the report and surcharges on fees once a quarter but shall retain the greater of four percent or that amount collected up to \$25 to apply against the administrative expenses the municipalities incur in collecting the surcharges. The report, which must be in a form prescribed by the commissioner, must be submitted together with a remittance covering the surcharges collected by the 15th day following the month or quarter in which the surcharges are collected. All money collected by the commissioner through surcharges and other fees prescribed by sections 16B.59 to 16B.75 shall be deposited in the state government special revenue fund and is appropriated to the commissioner for the purpose of administering and enforcing the State Building Code under sections 16B.59 to 16B.75.

Subd. 3. **Revenue to equal costs.** Revenue received from the surcharge imposed in subdivision 1 should approximately equal the cost, including the overhead cost, of administering sections 16B.59 to 16B.75. By November 30 each year, the commissioner must report to the commissioner of finance and to the legislature on changes in the surcharge imposed in subdivision 1 needed to comply with this policy. In making this report, the commissioner must assume that the services associated with administering sections 16B.59 to 16B.75 will continue to be provided at the same level provided during the fiscal year in which the report is made.

**History:** 1984 c 544 s 75; 1Sp1985 c 13 s 127; 1989 c 303 s 1; 1989 c 335 art 4 s 11; 1991 c 2 art 7 s 5; 1994 c 634 art 2 s 7; 1995 c 254 art 2 s 13; 1997 c 202 art 2 s 26; 1Sp2001 c 10 art 2 s 31; 2002 c 317 s 2

#### **16B.71 PERMIT FEES, TO WHOM APPLICABLE.**

Municipal building officials shall administer and enforce the State Building Code with respect to all subject structures constructed within their jurisdiction, including all buildings constructed by municipalities other than the state, as defined in section 16B.60, and the University of Minnesota. These governmental bodies shall pay the building permit fees and surcharges that the inspecting municipality customarily imposes for its administration and enforcement of the code.

**History:** 1984 c 544 s 76; 1987 c 387 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:** 1984 c 544 s 77; 1994 c 634 art 2 s 8; 1995 c 166 s 3; 1997 c 206 s 7; 1998 c 359 s 13; 1999 c 250 art 1 s 63

#### **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:** 1984 c 544 s 78; 1994 c 634 art 2 s 9; 1995 c 166 s 4; 1997 c 206 s 8; 1999 c 250 art 1 s 64

#### **16B.735 ENFORCEMENT OF REQUIREMENTS FOR HANDICAPPED PERSONS.**

A statutory or home rule charter city that is not covered by the State Building Code because of action taken under section 16B.72 or 16B.73 is responsible for enforcement in the city of the State Building Code's requirements for handicapped persons. In all other areas where the State Building Code does not apply because of action taken under section 16B.72 or 16B.73, the county is responsible for enforcement of those requirements.

**History:** 1998 c 359 s 14

#### **16B.74 DEFINITIONS.**

Subdivision 1. As used in sections 16B.74 to 16B.746 the terms "passenger or freight elevator," "automatic operation" and "continuous pressure operation" shall have the following meanings.

Subd. 2. **Passenger or freight elevator.** "Passenger or freight elevator" means all elevators except those that comply with the safety rules of the department of administration relating to construction and installation and that have automatic operation or continuous pressure operation.

Subd. 3. **Automatic operation** shall mean operation wherein the starting of the elevator car is effected in response to momentary actuation of operating devices at the landing or of operating devices in the car identified with the landings, or both, or in response to an automatic starting mechanism and wherein the car is stopped automatically at the landings.

Subd. 4. **Continuous pressure operation** shall mean operation by means of buttons or switches in the car and at the landing, any one of which may be used to control the movement of the car as long as the button or switch is manually maintained in the actuating position.

Subd. 5. **Elevator.** As used in this chapter, "elevator" means moving walks and vertical transportation devices such as escalators, passenger elevators, freight elevators, dumbwaiters, handpowered elevators, endless belt lifts, and wheelchair platform lifts, but does not include external temporary material lifts or temporary construction personnel elevators at sites of construction of new or remodeled buildings.

Subd. 6. **Municipality.** "Municipality," as used in sections 16B.74 to 16B.748, means a city, county, or town meeting the requirements of section 368.01, subdivision 1.

**History:** 1955 c 561 s 1; Ex1967 c 1 s 6; 1985 c 248 s 70; 1989 c 303 s 5,6; 1995 c 166 s 5,6,17

#### **16B.741 ELEVATOR AVAILABLE FOR INSPECTION.**

A person, firm, entity, or corporation that owns or controls a building or other structure housing an elevator that is subject to inspection by the department, shall, upon request, provide access at a reasonable hour to the elevator for purposes of inspection.

**History:** 1989 c 303 s 4; 1995 c 166 s 17

#### **16B.742 ELEVATOR OPERATORS.**

The owner, manager, or lessee of any building in which there is installed a passenger or freight elevator, as hereinafter defined, shall designate a competent person or competent persons regularly to operate such elevator; provided, however, that any such owner, manager or lessee may arrange with one or more tenants of such building to designate one or more of their employees regularly to operate such elevator. No person not so designated shall operate any such elevator and no person shall employ or permit a person not so designated to operate any such elevator. The foregoing prohibitions shall not apply during any period of time when any such elevator is being constructed, installed, inspected, repaired or maintained.

**History:** 1955 c 561 s 1; 1986 c 444; 1995 c 166 s 17

#### **16B.743 LICENSING AUTHORITIES.**

Any municipality may by ordinance establish a licensing authority with jurisdiction over all passenger and freight elevators within such municipality, fix the initial and renewal fee for, and the period of duration of, licenses to operate such elevators, and setting forth the requirements for applicants for and the terms and conditions of licenses to operate such elevators.

**History:** 1955 c 561 s 2; 1973 c 123 art 5 s 7; 1995 c 166 s 7,17

#### **16B.744 ELEVATORS, ENTRANCES SEALED.**

It shall be the duty of the department of administration and the licensing authority of any municipality which adopts any such ordinance whenever it finds any such elevator under its jurisdiction in use in violation of any provision of sections 16B.74 to 16B.745 to seal the entrances of such elevator and attach a notice forbidding the use of such elevator until the provisions thereof are complied with.

**History:** 1955 c 561 s 3; Ex1967 c 1 s 6; 1973 c 123 art 5 s 7; 1995 c 166 s 8,17

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

Subdivision 1. **Removal of seal.** No person, firm, or corporation may remove any seal or notice forbidding the use of an elevator, except by authority of the department of administration or the licensing authority having jurisdiction over the elevator, or operate an elevator after a notice has been attached forbidding its use, unless the notice has been removed by authority of the department of administration or the licensing authority having jurisdiction over the elevator.

Subd. 2. **False certification.** No inspector, or other party authorized by this section or by rule to inspect elevators, may falsely certify the safety of an elevator, or grant a license or permit contrary to any provision of this chapter.

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.

Subd. 4. **Penalties.** The commissioner of administration shall administer sections 16B.74 to 16B.749. In addition to the remedies provided for violations of this chapter, the commissioner may impose a penalty of up to \$1,000 for a violation of any provision of sections 16B.74 to 16B.749.

**History:** 1955 c 561 s 4; Ex1967 c 1 s 6; 1989 c 303 s 7; 1995 c 166 s 9-11,17; 1999 c 185 s 2

#### 16B.746 LICENSES FOR OPERATORS.

In the event an operator is employed to operate an automatic elevator or continuous pressure elevator as provided in sections 16B.74 to 16B.745, such operator shall be duly licensed as provided in sections 16B.74 to 16B.745.

**History:** 1955 c 561 s 5; 1995 c 166 s 17

#### 16B.747 FEES FOR LICENSURE AND INSPECTION.

Subdivision 1. **Permits.** No person, firm, or corporation may construct, install, alter, or remove an elevator without first filing an application for a permit with the department of administration or a municipality authorized by subdivision 3 to inspect elevators. Upon successfully completing inspection and the payment of the appropriate fee, the owner must be granted an operating permit for the elevator.

Subd. 2. **Contractor licenses.** The commissioner may establish criteria for the qualifications of elevator contractors and issue licenses based upon proof of the applicant's qualifications.

Subd. 3. **Permissive municipal regulation.** A municipality may conduct a system of elevator inspection in conformity with this chapter, State Building Code requirements, and adopted rules that includes the inspection of elevator installation, repair, alteration, and removal, construction, and the routine and periodic inspection and testing of existing elevators. The municipality shall employ inspectors meeting the minimum requirements established by Minnesota Rules to perform the inspections and to witness the tests. A municipality may establish and retain its own fees for inspection of elevators and related devices in its jurisdiction. A municipality may not adopt standards that do not conform to the uniform standards prescribed by the department.

If the commissioner determines that a municipality is not properly administering and enforcing the law, rules, and codes, the commissioner shall have the inspection, administration, and enforcement undertaken by a qualified inspector employed by the department.

Subd. 4. **Deposit of fees.** Fees received under this section must be deposited in the state treasury and credited to the special revenue fund.

**History:** 1989 c 303 s 8; 1995 c 166 s 12,13,17; 1997 c 206 s 9

#### 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 electricity 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:** 1989 c 303 s 9; 1995 c 166 s 14,17; 1996 c 305 art 3 s 1; 1999 c 250 art 3 s 3

#### 16B.749 CONFLICT OF LAWS.

Nothing in sections 16B.74 to 16B.749 supersedes the Minnesota Electrical Act in chapter 326.

**History:** 1995 c 166 s 15,17

#### 16B.75 INTERSTATE COMPACT ON INDUSTRIALIZED/MODULAR BUILDINGS.

The state of Minnesota ratifies and approves the following compact:

##### INTERSTATE COMPACT ON INDUSTRIALIZED/MODULAR BUILDINGS ARTICLE I FINDINGS AND DECLARATIONS OF POLICY

(1) The compacting states find that:

(a) Industrialized/modular buildings are constructed in factories in the various states and are a growing segment of the nation's affordable housing and commercial building stock.

(b) The regulation of industrialized/modular buildings varies from state to state and locality to locality, which creates confusion and burdens state and local building officials and the industrialized/modular building industry.

(c) Regulation by multiple jurisdictions imposes additional costs, which are ultimately borne by the owners and users of industrialized/modular buildings, restricts market access and discourages the development and incorporation of new technologies.

(2) It is the policy of each of the compacting states to:

(a) Provide the states which regulate the design and construction of industrialized/modular buildings with a program to coordinate and uniformly adopt and administer the states' rules and regulations for such buildings, all in a manner to assure interstate reciprocity.

(b) Provide to the United States Congress assurances that would preclude the need for a voluntary preemptive federal regulatory system for modular housing, as outlined in Section 572 of the Housing and Community Development Act of 1987, including development of model standards for modular housing construction, such that design and performance will insure quality, durability and safety; will be in accordance with life-cycle cost-effective energy conservation standards; all to promote the lowest total construction and operating costs over the life of such housing.

##### ARTICLE II DEFINITIONS

As used in this compact, unless the context clearly requires otherwise:

(1) "Commission" means the interstate industrialized/modular buildings commission.

(2) "Industrialized/modular building" means any building which is of closed construction, i.e. constructed in such a manner that concealed parts or processes of manufacture cannot be inspected at the site, without disassembly, damage or destruction, and which is made or assembled in manufacturing facilities, off the building site, for installation, or assembly and installation, on the building site. "Industrialized/modular building" includes, but is not limited to, modular housing which is factory-built single-family and multifamily housing (including closed wall panelized housing) and other modular, nonresidential buildings. "Industrialized/modular building" does not include any structure subject to the requirements of the National Manufactured Home Construction and Safety Standards Act of 1974.

(3) "Interim reciprocal agreement" means a formal reciprocity agreement between a noncompacting state wherein the noncompacting state agrees that labels evidencing compliance with the model rules and regulations for industrialized/modular buildings,

as authorized in Article VIII, section (9), shall be accepted by the state and its subdivisions to permit installation and use of industrialized/modular buildings. Further, the noncompacting state agrees that by legislation or regulation, and appropriate enforcement by uniform administrative procedures, the noncompacting state requires all industrialized/modular building manufacturers within that state to comply with the model rules and regulations for industrialized/modular buildings.

(4) "State" means a state of the United States, territory or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(5) "Uniform administrative procedures" means the procedures adopted by the commission (after consideration of any recommendations from the rules development committee) which state and local officials, and other parties, in one state, will utilize to assure state and local officials, and other parties, in other states, of the substantial compliance of industrialized/modular building construction with the construction standard of requirements of such other states; to assess the adequacy of building systems; and to verify and assure the competency and performance of evaluation and inspection agencies.

(6) "Model rules and regulations for industrialized/modular buildings" means the construction standards adopted by the commission (after consideration of any recommendations from the rules development committee) which govern the design, manufacture, handling, storage, delivery and installation of industrialized/modular buildings and building components. The construction standards and any amendments thereof shall conform insofar as practicable to model building codes and referenced standards generally accepted and in use throughout the United States.

### ARTICLE III CREATION OF COMMISSION

The compacting states hereby create the Interstate Industrialized/Modular Buildings Commission, hereinafter called commission. Said commission shall be a body corporate of each compacting state and an agency thereof. The commission shall have all the powers and duties set forth herein and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states.

### ARTICLE IV SELECTION OF COMMISSIONERS

The commission shall be selected as follows. As each state becomes a compacting state, one resident shall be appointed as commissioner. The commissioner shall be selected by the governor of the compacting state, being designated from the state agency charged with regulating industrialized/modular buildings or, if such state agency does not exist, being designated from among those building officials with the most appropriate responsibilities in the state. The commissioner may designate another official as an alternate to act on behalf of the commissioner at commission meetings which the commissioner is unable to attend.

Each state commissioner shall be appointed, suspended, or removed and shall serve subject to and in accordance with the laws of the state which said commissioner represents; and each vacancy occurring shall be filled in accordance with the laws of the state wherein the vacancy exists.

For every three state commissioners that have been appointed in the manner described, those state commissioners shall select one additional commissioner who shall be a representative of manufacturers of residential- or commercial-use industrialized/modular buildings. For every six state commissioners that have been appointed in the manner described, the state commissioners shall select one additional commissioner who shall be a representative of consumers of industrialized/modular buildings. In the event states withdraw from the compact or, for any other reason, the number of state commissioners is reduced, the state commissioners shall remove the last added



representative commissioner as necessary to maintain the ratio of state commissioners to representative commissioners described herein.

Upon a majority vote of the state commissioners, the state commissioners may remove, fill a vacancy created by, or replace any representative commissioner, provided that any replacement is made from the same representative group and the ratio described herein is maintained. Unless provided otherwise, the representative commissioners have the same authority and responsibility as the state commissioners.

In addition, the commission may have as a member one commissioner representing the United States government if federal law authorizes such representation. Such commissioner shall not vote on matters before the commission. Such commissioner shall be appointed by the President of the United States, or in such other manner as may be provided by Congress.

#### ARTICLE V VOTING

Each commissioner (except the commissioner representing the United States government) shall be entitled to one vote on the commission. A majority of the commissioners shall constitute a quorum for the transaction of business. Any business transacted at any meeting of the commission must be by affirmative vote of a majority of the quorum present and voting.

#### ARTICLE VI ORGANIZATION AND MANAGEMENT

The commission shall elect annually, from among its members, a chairman, a vice chairman and a treasurer. The commission shall also select a secretariat, which shall provide an individual who shall serve as secretary of the commission. The commission shall fix and determine the duties and compensation of the secretariat. The commissioners shall serve without compensation, but shall be reimbursed for their actual and necessary expenses from the funds of the commission.

The commission shall adopt a seal.

The commission shall adopt bylaws, rules, and regulations for the conduct of its business, and shall have the power to amend and rescind these bylaws, rules, and regulations.

The commission shall establish and maintain an office at the same location as the office maintained by the secretariat for the transaction of its business and may meet at any time, but in any event must meet at least once a year. The chairman may call additional meetings and upon the request of a majority of the commissioners of three or more of the compacting states shall call an additional meeting.

The commission annually shall make the governor and legislature of each compacting state a report covering its activities for the preceding year. Any donation or grant accepted by the commission or services borrowed shall be reported in the annual report of the commission and shall include the nature, amount and conditions, if any, of the donation, gift, grant or services borrowed and the identity of the donor or lender. The commission may make additional reports as it may deem desirable.

#### ARTICLE VII COMMITTEES

The commission will establish such committees as it deems necessary, including, but not limited to, the following:

(1) An executive committee which functions when the full commission is not meeting, as provided in the bylaws of the commission. The executive committee will ensure that proper procedures are followed in implementing the commission's programs and in carrying out the activities of the compact. The executive committee shall be elected by vote of the commission. It shall be comprised of at least three and no more than nine commissioners, selected from the state commissioners and one member of the industry commissioners and one member of the consumer commissioners.

(2) A rules development committee appointed by the commission. The committee shall be consensus-based and consist of not less than seven nor more than 21 members. Committee members will include state building regulatory officials; manufacturers of industrialized/modular buildings; private, third-party inspection agencies; and consumers. This committee may recommend procedures which state and local officials, and other parties, in one state, may utilize to assure state and local officials, and other parties, in other states, of the substantial compliance of industrialized/modular building construction with the construction standard requirements of such other states; to assess the adequacy of building systems; and to verify and assure the competency and performance of evaluation and inspection agencies. This committee may also recommend construction standards for the design, manufacture, handling, storage, delivery and installation of industrialized/modular buildings and building components. The committee will submit its recommendations to the commission, for the commission's consideration in adopting and amending the uniform administrative procedures and the model rules and regulations for industrialized/modular buildings. The committee may also review the regulatory programs of the compacting states to determine whether those programs are consistent with the uniform administrative procedures or the model rules and regulations for industrialized/modular buildings and may make recommendations concerning the states' programs to the commission. In carrying out its functions, the rules committee may conduct public hearings and otherwise solicit public input and comment.

(3) Any other advisory, coordinating or technical committees, membership on which may include private persons, public officials, associations or organizations. Such committees may consider any matter of concern to the commission.

(4) Such additional committees as the commission's bylaws may provide.

#### ARTICLE VIII POWER AND AUTHORITY

In addition to the powers conferred elsewhere in this compact, the commission shall have power to:

(1) Collect, analyze and disseminate information relating to industrialized/modular buildings.

(2) Undertake studies of existing laws, codes, rules and regulations, and administrative practices of the states relating to industrialized/modular buildings.

(3) Assist and support committees and organizations which promulgate, maintain and update model codes or recommendations for uniform administrative procedures or model rules and regulations for industrialized/modular buildings.

(4) Adopt and amend uniform administrative procedures and model rules and regulations for industrialized/modular buildings.

(5) Make recommendations to compacting states for the purpose of bringing such states' laws, codes, rules and regulations and administrative practices into conformance with the uniform administrative procedures or the model rules and regulations for industrialized/modular buildings, provided that such recommendations shall be made to the appropriate state agency with due consideration for the desirability of uniformity while also giving appropriate consideration to special circumstances which may justify variations necessary to meet unique local conditions.

(6) Assist and support the compacting states with monitoring of plan review programs and inspection programs, which will assure that the compacting states have the benefit of uniform industrialized/modular building plan review and inspection programs.

(7) Assist and support organizations which train state and local government and other program personnel in the use of uniform industrialized/modular building plan review and inspection programs.

(8) Encourage and promote coordination of state regulatory action relating to manufacturers, public or private inspection programs.

(9) Create and sell labels to be affixed to industrialized/modular building units, constructed in or regulated by compacting states, where such labels will evidence compliance with the model rules and regulations for industrialized/modular buildings, enforced in accordance with the uniform administrative procedures. The commission may use receipts from the sale of labels to help defray the operating expenses of the commission.

(10) Assist and support compacting states' investigations into and resolutions of consumer complaints which relate to industrialized/modular buildings constructed in one compacting state and sited in another compacting state.

(11) Borrow, accept or contract for the services of personnel from any state or the United States or any subdivision or agency thereof, from any interstate agency, or from any institution, association, person, firm or corporation.

(12) Accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials and services (conditional or otherwise) from any state or the United States or any subdivision or agency thereof, from any interstate agency, or from any institution, person, firm or corporation, and may receive, utilize and dispose of the same.

(13) Establish and maintain such facilities as may be necessary for the transacting of its business. The commission may acquire, hold, and convey real and personal property and any interest therein.

(14) Enter into contracts and agreements, including but not limited to, interim reciprocal agreements with noncompacting states.

#### ARTICLE IX FINANCE

The commission shall submit to the governor or designated officer or officers of each compacting state a budget of its estimated expenditures for such period as may be required by the laws of that state for presentation to the legislature thereof.

Each of the commission's budgets of estimated expenditures shall contain specific recommendations of the amounts to be appropriated by each of the compacting states. The total amount of appropriations requested under any such budget shall be apportioned among the compacting states as follows: one-half in equal shares; one-fourth among the compacting states in accordance with the ratio of their populations to the total population of the compacting states, based on the last decennial federal census; and one-fourth among the compacting states in accordance with the ratio of industrialized/modular building units manufactured in each state to the total of all units manufactured in all of the compacting states.

The commission shall not pledge the credit of any compacting state. The commission may meet any of its obligations in whole or in part with funds available to it by donations, grants, or sale of labels: provided that the commission takes specific action setting aside such funds prior to incurring any obligation to be met in whole or in part in such manner. Except where the commission makes use of funds available to it by donations, grants or sale of labels, the commission shall not incur any obligation prior to the allotment of funds by the compacting states adequate to meet the same.

The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the commission.

The accounts of the commission shall be open at any reasonable time for inspection by duly constituted officers of the compacting states and any person authorized by the commission.

Nothing contained in this article shall be construed to prevent commission compliance relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the commission.

#### ARTICLE X ENTRY INTO FORCE AND WITHDRAWAL

This compact shall enter into force when enacted into law by any three states. Thereafter, this compact shall become effective as to any other state upon its enactment thereof. The commission shall arrange for notification of all compacting states whenever there is a new enactment of the compact.

Any compacting state may withdraw from this compact by enacting a statute repealing the same. No withdrawal shall affect any liability already incurred by or chargeable to a compacting state prior to the time of such withdrawal.

#### ARTICLE XI RECIPROCITY

If the commission determines that the standards for industrialized/modular buildings prescribed by statute, rule or regulation of compacting state are at least equal to the commission's model rules and regulations for industrialized/modular buildings, and that such state standards are enforced by the compacting state in accordance with the uniform administrative procedures, industrialized/modular buildings approved by such a compacting state shall be deemed to have been approved by all the compacting states for placement in those states in accordance with procedures prescribed by the commission.

#### ARTICLE XII EFFECT ON OTHER LAWS AND JURISDICTION

Nothing in this compact shall be construed to:

(1) Withdraw or limit the jurisdiction of any state or local court or administrative officer or body with respect to any person, corporation or other entity or subject matter, except to the extent that such jurisdiction pursuant to this compact, is expressly conferred upon another agency or body.

(2) Supersede or limit the jurisdiction of any court of the United States.

#### ARTICLE XIII CONSTRUCTION AND SEVERABILITY

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any state or of the United States or the applicability thereof to any government, agency, person or circumstances is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.

**History:** 1990 c 458 s 2; 1995 c 254 art 4 s 1

#### 16B.76 CONSTRUCTION CODES ADVISORY COUNCIL.

Subdivision 1. **Membership.** (a) The construction codes advisory council consists of the following members:

(1) the commissioner of administration or the commissioner's designee representing the department's building codes and standards division;

(2) the commissioner of health or the commissioner's designee representing an environmental health section of the department;

(3) the commissioner of public safety or the commissioner's designee representing the department's state fire marshal division;

(4) the commissioner of commerce or the commissioner's designee representing the department's state energy office; and

(5) one member representing each of the following occupations or entities, appointed by the commissioner of administration:

- (i) a certified building official;
- (ii) a fire service representative;
- (iii) a licensed architect;
- (iv) a licensed engineer;
- (v) a building owners and managers representative;
- (vi) a licensed residential building contractor;
- (vii) a commercial building contractor;
- (viii) a heating and ventilation contractor;
- (ix) a plumbing contractor;
- (x) a representative of a construction and building trades union; and
- (xi) a local unit of government representative.

(b) For members who are not state officials or employees, terms, compensation, removal, and the filling of vacancies are governed by section 15.059. The council shall select one of its members to serve as chair.

(c) The council expires June 30, 2003.

Subd. 2. **Duties of council.** The council shall review laws, codes, rules, standards, and licensing requirements relating to building construction and may:

(1) recommend ways to eliminate inconsistencies, to streamline construction regulation and construction processes, and to improve procedures within and among jurisdictions;

(2) review and comment on current and proposed laws and rules to promote coordination and consistency;

(3) advise agencies on possible changes in rules to make them easier to understand and apply; and

(4) promote the coordination, within each jurisdiction, of the administration and enforcement of construction codes.

The council shall report its findings and recommendations to the commissioner of administration and the head of any other affected agency by the end of each calendar year. The council may recommend changes in laws or rules governing building construction. The council may establish subcommittees to facilitate its work. If the council establishes subcommittees, it shall include in their memberships representation from entities and organizations expressing an interest in membership. The commissioner of administration shall maintain a list of interested entities and organizations.

Subd. 3. **Agency cooperation.** State agencies and local governmental units shall cooperate with the council and, so far as possible, provide information or assistance to it upon its request. The commissioner of administration shall provide necessary staff and administrative support to the council.

**History:** 1998 c 366 s 28; 2001 c 161 s 6; 2001 c 162 s 6; 1Sp2001 c 4 art 6 s 10

## GENERAL

### 16B.85 RISK MANAGEMENT.

Subdivision 1. **Alternatives to conventional insurance.** The commissioner may implement programs of insurance or alternatives to the purchase of conventional insurance. This authority does not extend to areas of risk subject to: (1) collective bargaining agreements, (2) plans established under section 43A.18, or (3) programs

established under sections 176.5401 to 176.611, except for the department of administration. The mechanism for implementing possible alternatives to conventional insurance is the risk management fund created in subdivision 2.

**Subd. 2. Risk management fund.** (a) All state agencies, political subdivisions, and the Minnesota state colleges and universities, may, in cooperation with the commissioner, participate in insurance programs and other funding alternative programs provided by the risk management fund.

(b) When an entity described in paragraph (a) enters into an insurance or self-insurance program, each entity shall contribute the appropriate share of its costs as determined by the commissioner.

(c) The money in the fund to pay claims arising from state activities and for administrative costs, including costs for the adjustment and defense of the claims, is appropriated to the commissioner.

(d) Interest earned from the investment of money in the fund shall be credited to the fund and be available to the commissioner for the expenditures authorized in this subdivision.

(e) The fund is exempt from the provisions of section 16A.152, subdivision 4. In the event that proceeds in the fund are insufficient to pay outstanding claims and associated administrative costs, the commissioner, in consultation with the commissioner of finance, may assess entities participating in the fund amounts sufficient to pay the costs. The commissioner shall determine the proportionate share of the assessment of each entity.

**Subd. 3. Responsibilities.** The commissioner shall:

(1) review the state's exposure to various types of potential risks in consultation with affected entities and advise them as to the reduction of risk and fiscal management of those losses;

(2) be responsible for statewide risk management coordination, evaluation of funding and insuring alternatives, and the approval of all insurance purchases in consultation with affected entities;

(3) identify ways to eliminate redundant efforts in the management of state risk management and insurance programs;

(4) maintain the state risk management information system; and

(5) administer and maintain the state risk management fund.

**Subd. 4. Competitive bidding.** The commissioner may request bids from insurance carriers or negotiate with insurance carriers and may enter into contracts of insurance carriers that in the judgment of the division are best qualified to underwrite and service the insurance programs.

**Subd. 5. Risk management fund not considered insurance.** A state agency, including an entity defined as a part of the state in section 3.732, subdivision 1, clause (1), may procure insurance against liability of the agency and its employees for damages resulting from the torts of the agency and its employees. The procurement of this insurance constitutes a waiver of the limits of governmental liability under section 3.736, subdivisions 4 and 4a, only to the extent that valid and collectible insurance, including where applicable, proceeds from the Minnesota Guarantee Fund, exceeds those limits and covers the claim. Purchase of insurance has no other effect on the liability of the agency and its employees. Procurement of commercial insurance, participation in the risk management fund under this section, or provisions of an individual self-insurance plan with or without a reserve fund or reinsurance does not constitute a waiver of any governmental immunities or exclusions.

**History:** 1986 c 455 s 3; 1988 c 613 s 18; 1992 c 513 art 4 s 32; 1993 c 192 s 111; 1994 c 634 art 1 s 17; 1996 c 398 s 21; 2001 c 162 s 7,8

#### **16B.86 PRODUCTIVITY LOAN ACCOUNT.**

The productivity loan account is a special account in the state treasury. Money in the account is appropriated to the commissioner of administration to make loans to

finance agency projects that will result in either reduced operating costs or increased revenues, or both, for a state agency.

**History:** 1987 c 365 s 16

### 16B.87 AWARD AND REPAYMENT OF PRODUCTIVITY LOANS.

Subdivision 1. **Committee.** The productivity loan committee consists of the commissioners of administration, finance, revenue, and employee relations, and the state planning director. The commissioner of administration serves as chair of the committee. The members serve without compensation or reimbursement for expenses.

Subd. 2. **Award and terms of loans.** An agency shall apply for a loan on a form provided by the commissioner of administration. The committee shall review applications for loans and shall award a loan based upon criteria adopted by the committee. The committee shall determine the amount, interest, and other terms of the loan. The time for repayment of a loan may not exceed five years.

Subd. 3. **Repayment.** An agency receiving a loan under this section shall repay the loan according to the terms of the loan agreement. The principal and interest must be paid to the commissioner of administration who shall deposit it in the productivity loan fund.

Subd. 4. [Repealed, 1997 c 7 art 2 s 67]

**History:** 1987 c 365 s 17.

### 16B.875 REVIEW BY COMMISSIONER OF ADMINISTRATION.

The commissioner of administration shall review on a regular basis the duties and responsibilities of the various state departments, agencies and boards which have an operational effect upon the safety of the public, and recommend to the governor and the legislature such organizational and statutory policies as will best serve the purposes of Laws 1969, Chapter 1129.

**History:** 1969 c 1129 art 1 s 1; 1976 c 5 s 1; 1977 c 305 s 35,36; 1981 c 356 s 248; 1982 c 424 s 130; 1983 c 289 s 115 subd 1; 1985 c 248 s 70; 1Sp1985 c 10 s 87; 1987 c 312 art 1 s 26 subd 2; 1993 c 163 art 1 s 29; 1995 c 248 art 11 s 21; 1998 c 366 s 68; 1999 c 238 art 2 s 69

### 16B.88 Subdivision 1. [Renumbered 4.50, subdivision 1]

Subd. 2. [Renumbered 4.50, subd 2]

Subd. 3. [Renumbered 4.50, subd 3]

Subd. 3a. [Renumbered 4.50, subd 4]

Subd. 4. [Renumbered 4.50, subd 5]

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

Subd. 6. [Repealed, 1997 c 206 s 13]

### 16B.89 [Repealed, 1998 c 386 art 1 s 35]

### 16B.92 [Renumbered 4A.05]

## NONGOVERNMENTAL PHARMACEUTICAL CONTRACTING ALLIANCE

### 16B.93 DEFINITIONS.

Subdivision 1. **Applicability.** For purposes of sections 16B.93 to 16B.96, the terms in this section have the meanings given them.

Subd. 2. **Contractor.** "Contractor" means an individual, business entity, or other private organization that is awarded a contract by the commissioner to negotiate and administer the price contracts for prescription drugs under section 16B.94, subdivision 2.

Subd. 3. **Nongovernmental Pharmaceutical Contracting Alliance or Nongovernmental Alliance.** "Nongovernmental Pharmaceutical Contracting Alliance" or "Nongov-

ernmental Alliance” means the alliance established and administered by the commissioner under the authority granted in section 16B.94.

Subd. 4. **Manufacturer.** “Manufacturer” means a manufacturer as defined under section 151.44, paragraph (c).

Subd. 5. **Prescription drug.** “Prescription drug” means a drug as defined in section 151.44, paragraph (d).

Subd. 6. **Purchaser.** “Purchaser” means a pharmacy as defined in section 151.01, subdivision 2, including pharmacies operated by health maintenance organizations and hospitals.

Subd. 7. **Seller.** “Seller” means a person, other than a manufacturer, who sells or distributes drugs to purchasers or other sellers within the state.

*History: 1997 c 202 art 2 s 27*

#### **16B.94 NONGOVERNMENTAL PHARMACEUTICAL CONTRACTING ALLIANCE.**

Subdivision 1. **Establishment and administration.** The commissioner, in consultation with appropriate experts on pharmaceutical pricing, shall establish and administer a Nongovernmental Pharmaceutical Contracting Alliance. The Nongovernmental Alliance shall negotiate contracts for prescription drugs with manufacturers and sellers and shall make the contract prices negotiated available to purchasers. The commissioner shall select the prescription drugs for which price contracts are negotiated. The commissioner shall, to the greatest extent feasible, operate the alliance using the administrative and contracting procedures of the Minnesota Multistate Governmental Contracting Alliance for Pharmaceuticals administered by the commissioner under the authority granted in section 471.59. The commissioner may negotiate a price differential based on volume purchasing and may also grant multiple awards.

Subd. 2. **Use of contractor.** The commissioner may contract with an individual, business entity, or other private organization to serve as a contractor to negotiate and administer the price contracts for prescription drugs. In developing requirements for the contractor, the commissioner shall consult with appropriate experts on pharmaceutical pricing.

Subd. 3. **Administrative costs.** The commissioner may charge manufacturers and sellers that enter into prescription drug price contracts with the commissioner under subdivision 1 a fee to cover the commissioner’s expenses in negotiating and administering the price contracts. The fee established shall have the force and effect of law if the requirements of section 14.386, paragraph (a), are met. Section 14.386, paragraph (b), does not apply. Fees collected by the commissioner under this subdivision must be deposited in the state treasury and credited to a special account. Money in the account is appropriated to the commissioner to pay the costs of negotiating and administering price contracts under this section.

Subd. 4. **Expansion to other states.** The commissioner may expand the Nongovernmental Alliance to other states and make the contract prices negotiated available to non-Minnesota purchasers.

*History: 1997 c 202 art 2 s 28*

#### **16B.95 STATE CONTRACT PRICE.**

Subdivision 1. **Manufacturer and seller requirement.** A manufacturer or seller that contracts with the commissioner shall make the contract price negotiated available to all purchasers.

Subd. 2. **Purchaser requirement.** The commissioner shall require purchasers that purchase prescription drugs at the contract price to pass at least 75 percent of the savings resulting from purchases at the negotiated contract price to consumers. The commissioner may require a purchaser that plans to purchase prescription drugs at the contract price negotiated by the commissioner to submit any information regarding



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prescription drug purchase projections the commissioner determines is necessary for contract price negotiations.

**History:** 1997 c 202 art 2 s 29

## **16B.96 NONDISCRIMINATION.**

A health plan company, as defined in section 62Q.01, shall not discriminate against a purchaser for taking advantage of the contract price negotiated by the commissioner.

**History:** 1997 c 202 art 2 s 30