CHAPTER 16

DEPARTMENT OF ADMINISTRATION

SUBCHAPTER I
GENERAL ADMINISTRATION

16.001 Organization of department.
16.002 Definitions.
16.003 Department of administration.
16.004 Secretary, powers and duties.
16.005 Bradley Center Sports and Entertainment Corporation.
16.006 Treatment of classified employees.
16.007 Claims board.
16.008 Payment of special charges for extraordinary police service to state facilities.
16.009 Board on aging and long−term care.
16.01 Women's council.
16.02 Acid deposition research council.
16.023 Wisconsin land council.
16.03 Interagency coordinating council.
16.04 Fleet management and maintenance.
16.045 Storage and use of gasohol and alternative fuels.
16.05 Interstate agreements.
16.06 American Indian assistance.
16.10 Ratification of the midwest interstate low−level radioactive waste compact.
16.11 Midwest interstate low−level radioactive waste compact.
16.115 Fees.
16.12 Violation of midwest interstate low−level radioactive waste compact.
16.13 Data collection.
16.135 Low−level radioactive waste council.
16.15 Resource recovery and recycling program.
16.18 Management assistance grants to certain counties.
16.22 National and community service.
16.25 Volunteer fire fighter and emergency medical technician service award program.
16.255 College savings program vendor.
16.26 Weatherization assistance.
16.27 Low−income energy assistance.

SUBCHAPTER III
FINANCE

16.40 Department of administration, duties, powers.
16.401 Treasury management.
16.405 Requests for issuance of operating notes.
16.41 Agency and authority accounting; information; aid.
16.412 Agency payments.
16.415 Certification of payrolls.
16.417 Dual employment or retention.
16.42 Agency requests.
16.423 Base budget review reports.
16.425 Summary of tax exemption devices.
16.43 Budget compiled.
16.44 Budget hearings.
16.45 Budget message to legislature.
16.46 Biennial budget, contents.
16.461 Biennial budget, summary of funds.
16.465 Budget stabilization fund reallocations.
16.47 Budget bill.
16.48 Unemployment reserve financial statement.
16.50 Departmental estimates.
16.501 Forward Wisconsin, Inc.; funds.
16.505 Position authorization.
16.51 Department of administration; preauditing and accounting; additional duties and powers.
16.513 Program and segregated revenue sufficiency.
16.515 Supplementation of program revenue and program revenue−service appropriations.
16.517 Adjustments of program revenue positions and funding levels.
16.518 Transfers to the budget stabilization fund and the cash building projects fund.
16.519 Fund transfers relating to tobacco settlement agreement.
16.52 Accounting.
16.525 State aid recipients' accounting.
16.526 Payment of the state's unfunded liabilities under the Wisconsin Retirement System; revenue obligations.
16.527 Retirement of state's unfunded liabilities under the Wisconsin Retirement System; appropriation obligations.
16.528 Interest on late payments.
16.529 Lapses and fund transfers relating to unfunded retirement liability debt service.
16.53 Preaudit procedure.
16.531 Cash flow plan; report.
16.54 Acceptance of federal funds.
16.544 Federal aid disallowances.
16.545 Federal aid management service.
16.548 Federal−state relations office; report.
16.55 Frauds and uncollectible shortages.
16.57 Board of regents; staff.
16.58 Services to units of local government.
16.60 Services to nonprofit corporations.
16.61 Records of state offices and other public records.
16.611 State public records; optical disk and electronic storage.
16.612 Local government records; optical disk and electronic storage standards.
16.62 Records management service.
16.63 Sale of state's rights to tobacco settlement agreement payments.

SUBCHAPTER IV
PURCHASING

16.70 Purchasing; definitions.
16.701 Subscription service.
16.7015 Bidders list.
16.705 Contractual services.
16.71 Purchasing; powers.
16.72 Purchasing, duties.
16.73 Cooperative purchasing.
16.74 Legislative and judicial branch purchasing.
16.75 Buy on low bid, exceptions.
16.751 Information technology purchases by investment board.
16.752 Procurement from work centers for severely handicapped individuals.
16.754 Preference for American−made materials.
16.755 Council on small business, veteran−owned business and minority business opportunities.
16.76 Form of contracts; continuing contracts.
16.765 Nondiscriminatory contracts.
16.767 Setoffs.
16.77 Audit of bills; illegal contracts; actions to recover.
16.78 Purchases from department relating to information technology or telecommunications.
16.79 Duties of department of administration.
16.82 Powers of department of administration.
16.83 State capitol and executive residence board.
16.835 Offices and rooms in capitol.
16.838 Historically significant furnishings.
16.84 Real estate and physical plant management; protection of persons.
16.841 Madison child care facilities and services.
16.842 State capitol view preservation.
16.843 Capitol and state office buildings parking regulations.
16.844 Burning bituminous coal near capitol.
16.845 Use of state facilities.
16.846 Rules relating to use, care and preservation of property under department control.
16.847 Energy efficiency program.

SUBCHAPTER V
ENGINEERING

16.85 Department of administration; powers, duties.
16.851 Plans for state buildings, structures or facilities.
16.854 Services provided to professional baseball park districts.
16.855 Construction project contracts.
16.858 Energy conservation audits and construction projects.
16.865 Department of administration; statewide risk management coordination.
16.87 Approval of contracts by secretary and governor; audit.
16.875 Setoffs.
16.88 Charges against projects.
16.89 Construction and services controlled by this chapter.
16.895 State−owned or operated heating, cooling or power plants.
16.90 Fuel for state heating, cooling or power plants.
16.91 Contracts for fuel.
16.92 Purchase of fuel, electricity, heat and chilled water.
16.93 Sale of fuel or utility service.

SUBCHAPTER VI
STATE PLANNING AND ENERGY

16.95 Powers and duties.
16.955 Energy administration.
16.957 Utility public benefits.
16.958 Air quality improvement program.
16.959 Wind energy.
16.96 Population estimates.
16.964 Office of justice assistance.
16.965 Planning grants to local governmental units.
16.9651 Transportation planning grants to local governmental units.

16.966 Land information support.
16.967 Land information program.
16.968 Groundwater survey and analysis.
16.969 Fees for certain high−voltage transmission lines.
SUBCHAPTER VII
INFORMATION TECHNOLOGY
16.97 Definitions.
16.971 Responsibilities of department.
16.972 Powers of the department.
16.973 Duties of the department.
16.974 Powers of the department.
16.975 Access to information.
16.976 Strategic plans for executive branch agencies.
16.977 Information technology portfolio management.
16.978 Information technology management board.
16.9785 Purchases of computers by teachers.
16.979 Telecommunications operations and planning.
SUBCHAPTER VIII
FEDERAL RESOURCE ACQUISITION
16.98 Federal resource acquisition.
16.981 Transfer of appropriations.
SUBCHAPTER IX
TECHNOLOGY FOR EDUCATIONAL ACHIEVEMENT
16.99 Definitions.
16.993 Technology for educational achievement in Wisconsin; departmental duties.
16.995 Educational technology infrastructure financial assistance.
16.997 Educational telecommunications access program.

SUBCHAPTER I

GENERAL ADMINISTRATION

16.001 Organization of department. (1) PURPOSES. The purposes of this chapter are to conserve the state's resources by coordinating management services and providing effective aid to agencies of the state government; to present clearly defined alternatives and objectives of state programs and policies so that the state's agencies, the governor and the legislature may plan cooperatively and finance the services which the state will provide for its citizens; to help the state's agencies furnish the agreed upon services as efficiently and effectively as possible, avoiding any duplication of effort or waste of money; to assure the legislature and the governor that the services are being provided to the public at the agreed upon quantity, quality and cost; and to anticipate and resolve administrative and financial problems faced by the agencies, governor and legislature of the state.

(2) LIBERAL CONSTRUCTION OF STATUTES. Statutes applicable to the department of administration shall be construed liberally in aid of the purposes declared in sub. (1).

16.002 Definitions. In this chapter:

(1) "Department" means the department of administration.

(2) "Departments" means constitutional offices, departments and independent agencies and includes all societies, associations and other agencies of state government for which appropriations are made by law, but not including authorities created in chs. 231, 232, 233, 234, 235, and 237.

(3) "Position" means a group of duties and responsibilities in either the classified or the unclassified divisions of the civil service, which require the services of an employee on a part−time or full−time basis.

(4) "Secretary" means the secretary of administration.

History: 1977 c. 196; 1983 a. 27, 189; 2001 a. 16.

16.003 Department of administration. (1) PURPOSE. The department shall carry out the purposes of this chapter by improving the techniques used for such management specialties, not limited by enumeration, as budgeting, accounting, engineering, purchasing, records management and fleet management; by coordinating and providing services which are used by more than one agency, and by reviewing agencies' programs and management to identify problems and suggest improvements.

(2) STAFF. Except as provided in ss. 16.548, 16.57, 978.03 (1), (1m) and (2), 978.04 and 978.05 (8) (b), the secretary shall appoint the staff necessary for performing the duties of the department. All staff shall be appointed under the classified service except as otherwise provided by law.

History: 1971 c. 270; 1977 c. 196; 1979 c. 34; 1983 a. 27; 1989 a. 31, 117; 1991 a. 39.

16.004 Secretary, powers and duties. (1) RULES. The secretary shall promulgate rules for administering the department and performing the duties assigned to it.

(2) INFORMATION; REPORTS; RECOMMENDATIONS. The secretary shall furnish all information requested by the governor or by any member of the legislature.

(3) INVESTIGATIONS AND HEARINGS. (a) The department, when directed by the governor, shall investigate any irregularities, and all phases of operating cost and functions, of executive or administrative agencies so as to determine the feasibility of consolidating, creating or rearranging agencies for the purpose of effecting the elimination of unnecessary state functions, avoiding duplication, reducing the cost of administration and increasing efficiency.

(b) The secretary may hold either public or private hearings to inform the secretary of any matters relating to the secretary's functions and for that purpose shall be clothed with the powers relating to witnesses given by s. 885.01 (4) and s. 885.12 shall apply.

(4) FREEDOM OF ACCESS. The secretary and such employees of the department as the secretary designates may enter into the offices of state agencies and authorities created under chs. 231, 233, 234, and 237, and may examine their books and accounts and any other matter which in the secretary's judgment should be examined and may interrogate the agency's employees publicly or privately relative thereto.

(5) AGENCIES AND EMPLOYEES TO COOPERATE. All state agencies and authorities created under chs. 231, 233, 234, and 237, and their officers and employees, shall cooperate with the secretary and shall comply with every request of the secretary relating to his or her functions.

(6) MANAGEMENT AUDITS. The secretary shall periodically make management audits of agencies, utilizing teams of specialists in the fields of purchasing, personnel, accounting, budgeting, space utilization, forms design and control, records management, and any other specialties necessary to effectively appraise all management practices, operating procedures and organizational structures.

(7) PERSONNEL MANAGEMENT INFORMATION SYSTEM. (a) The secretary shall establish and maintain a personnel management information system which shall be used to furnish the governor, the legislature and the office of state employment relations with current information pertaining to authorized positions, payroll and related items for all civil service employees, except employees of the office of the governor, the courts and judicial branch agencies, and the legislature and legislative service agencies. It is the intent of the legislature that the University of Wisconsin System provide position and other information to the department and the legislature, which includes appropriate data on each position, facilitates accountability for each authorized position and traces each position over time. Nothing in this paragraph may be interpreted as limiting the authority of the board of regents of the University of Wisconsin System to allocate and reallocate positions by funding source within the legally authorized levels.

(b) When requested by the joint committee on finance, the secretary shall report to the committee on the compliance of each agency in the executive branch in providing the data necessary for operation of the personnel management information system.

(8) STATE−OWNED HOUSING RENTALS. (a) In this subsection, "agency" has the meaning given in s. 16.52 (7).

(am) The secretary shall maintain a system of rental policies for state−owned housing administered by all agencies and shall periodically review the system for possible changes. Whenever the secretary proposes to change rental policies other than rental rates, the secretary shall submit a report relating to the system to the joint committee on finance. The report shall include any changes in rental policies recommended by the secretary.

(b) The joint committee on finance, following its review, may approve or disapprove rental policies submitted under par. (am). Any changes in rental policies shall be effective upon approval or at such time following approval as may be specified in the secretary's submittal.

(c) Notwithstanding par. (b), if the cochairpersons of the joint committee on finance do not notify the secretary that the committee has scheduled a meeting for the purpose of reviewing the recommended changes in rental policies contained in the report submitted under par. (am) within 14 working days after the date of the secretary's submittal, the secretary may implement any recommended changes in rental policies contained in the report. If, within 14 working days after the date of the secretary's submittal, the cochairpersons of the committee notify the secretary that the committee has scheduled a meeting for the purpose of reviewing the recommended changes in rental policies contained in the report, the secretary may implement the recommended changes only with the approval of the committee.

(d) The system established under par. (am) shall include a procedure for review of the need to retain state−owned housing units and possible disposition of such units. The secretary shall submit recommendations regarding the disposition of any housing units to the building commission.

(e) 1. In this paragraph, "consumer price index" means the average of the consumer price index over each 12−month period, all items, U.S. city average, as determined by the bureau of labor statistics of the U.S. department of labor.

2. No later than July 1 of the 2nd year following each federal decennial census, the secretary shall obtain appraisals of the fair market value of all state−owned housing rental units administered by agencies. The secretary shall determine and fix rental rates for such units based on the appraisals, which shall take effect on the following August 15.

3. If the secretary determines that a state−owned housing rental unit has been affected by a major renovation, the secretary may order a reappraisal of the fair market value of the unit. Whenever a reappraisal of the fair market value of a unit is obtained, the secretary shall determine and fix a new rental rate for that unit based on the reappraisal. If the reappraisal is obtained prior to July 1 of any year, the rate shall take effect on August 15 of that year; otherwise it shall take effect on August 15 of the following year.

4. If no appraisal of a state−owned housing rental unit is made during the 24−month period ending on July 1 of any even−numbered year, the current rental rate for the unit shall be subject to a biennial cost−of−living adjustment. To determine the adjustment, the secretary shall calculate the percentage difference between the consumer price index for the 12−month period ending on December 31 of the preceding year and the consumer price index for the base period, calendar year 1991. The secretary shall increase the rental rate by that percentage, rounded to the nearest whole dollar, which amount shall take effect on August 15.

5. The secretary shall charge the cost of the appraisal of each state−owned housing rental unit to the appropriation specified in s. 16.40 (19) or, if there is no such appropriation, to the appropriation or appropriations which fund the program in connection with which the housing is utilized.

(9) AGREEMENTS TO MAINTAIN AN ACCOUNTING FOR OPERATING NOTES. The secretary may enter into agreements to maintain an accounting of, forecast and administer those moneys that are in the process of collection by the state and that are pledged for the repayment of operating notes issued under subch. III of ch. 18, in accordance with resolutions of the building commission authorizing the issuance of the operating notes.

(10) RECYCLING PROPOSAL. The secretary shall develop a proposal for funding recycling in this state. That proposal shall distribute the burden of funding so that the portion paid by business, industry and citizens reflects their contribution to the waste stream. The secretary shall submit its proposal to the joint committee on finance on or before January 31, 1991.

(11) RISK MANAGEMENT PROGRAM SUPPLEMENTATION. Prior to transferring moneys from the appropriation under s. 20.505 (2) (a) to the appropriation under s. 20.505 (2) (k), the secretary shall notify in writing the cochairpersons of the joint committee on finance of his or her proposed action.

(12) RULES ON SURVEILLANCE OF STATE EMPLOYEES. (a) In this subsection, "state agency" means an association, authority, board, department, commission, independent agency, institution, office, society or other body in state government created or authorized to be created by the constitution or any law, including the legislature, the office of the governor and the courts, but excluding the University of Wisconsin Hospitals and Clinics Authority and the Fox River Navigational System Authority.

(b) The department shall promulgate rules that apply to all state agencies governing surveillance by a state agency of the state agency's employees.

(13) UNFUNDED PRIOR SERVICE FOR ASSISTANT DISTRICT ATTORNEYS. Beginning in the 1999−2000 fiscal year and ending in the 2003−04 fiscal year, the department shall pay $80,000 in each fiscal year from the appropriation account under s. 20.475 (1) (d) toward the department's unfunded prior service liability under the Wisconsin retirement system that results from granting the creditable service under s. 40.02 (17) (gm).

(16) OFFICE OF STATE EMPLOYMENT RELATIONS DIVISION ADMINISTRATOR POSITIONS. The secretary shall assign 3 of the unclassified division administrator positions authorized for the department to the office of state employment relations.

(17) BUSINESS INTELLIGENCE AND DATA WAREHOUSING SYSTEM. The department may implement an enterprise−wide reporting, data warehousing, and data analysis system applicable to every agency, as defined in s. 16.70 (1e), other than the legislative and judicial branches of state government.

History: 1971 c. 270; 1973 c. 333; 1975 c. 39 s. 732 (1); 1975 c. 224; 1977 c. 196 ss. 21, 130 (3); 1977 c. 272; 1979 c. 34, 221, 357; 1981 c. 20 ss. 3v, 55d, 55m; 1983 a. 27 ss. 58, 2202 (49) (a); 1983 a. 524; 1985 a. 29; 1985 a. 332 s. 251 (3); 1987 a. 27; 1989 a. 335; 1991 a. 39, 316; 1993 a. 496; 1995 a. 27; 1999 a. 9; 2001 a. 16; 2003 a. 33 ss. 140 to 141f, 9160.

Cross Reference: See also Adm, Wis. adm. code.

16.005 Bradley Center Sports and Entertainment Corporation. This chapter does not apply to the Bradley Center Sports and Entertainment Corporation except where expressly otherwise provided.

History: 1985 a. 26; 1991 a. 39.

16.006 Treatment of classified employees. Those individuals holding positions in the classified service in the department who are engaged in legislative text processing functions and who achieved permanent status in class on August 9, 1989, shall retain, while serving in the unclassified service in the legislature or any legislative branch agency, those protections afforded employees in the classified service under ss. 230.34 (1) (a) and 230.44 (1) (c) relating to demotion, suspension, discharge, layoff, or reduction in base pay except that the applicability of any reduction in base pay of such an employee shall be determined on the basis of the base pay received by the employee on August 9, 1989, plus the total amount of any subsequent general economic increases provided in the compensation plan under s. 230.12 for nonrepresented employees in the classified service. Such employees shall also have reinstatement privileges to the classified service as provided under s. 230.33 (1). Employees of the department holding positions in the classified service on August

9, 1989, who are engaged in legislative text processing functions and who have not achieved permanent status in class in any position in the department on that date are eligible to receive the protections and privileges preserved under this section if they successfully complete service equivalent to the probationary period required in the classified service for the positions which they hold.

History: 1989 a. 31; 1997 a. 27; 2001 a. 16 s. 373; Stats. 2001 s. 16.006.

16.007 Claims board. (1) PURPOSE. The claims board shall receive, investigate and make recommendations on all claims of $10 or more presented against the state which are referred to the board by the department. No claim or bill relating to such a claim shall be considered by the legislature until a recommendation thereon has been made by the claims board.

(2) RULES. Except as provided in s. 901.05, the board shall not be bound by common law or statutory rules of evidence, but shall admit all testimony having reasonable probative value, excluding that which is immaterial, irrelevant or unduly repetitious. The board may take official notice of any generally recognized fact or established technical or scientific fact, but parties shall be notified either before or during hearing or by full reference in preliminary reports, or otherwise, of the facts so noticed, and the parties shall be afforded an opportunity to contest the validity of the official notice.

(3) PROCEDURE. When a claim has been referred to the claims board, the board may upon its own motion and shall upon request of the claimant, schedule such claim for hearing, giving the claimant at least 10 days' written notice of the date, time and place thereof. Those claims described under sub. (6) (b) shall not be heard or decided by the claims board. The board shall keep a record of its proceedings, but such proceedings may be recorded by a permanent recording device without transcription. It may require sworn testimony and may summon and compel attendance of witnesses and the production of documents and records. Any member of the board may sign and issue a subpoena.

(4) AGENCIES TO COOPERATE. The several agencies shall cooperate with the board and shall make their personnel and records available upon request when such request is not inconsistent with other statutes.

(5) FINDINGS. The board shall report its findings and recommendations, on all claims referred to it, to the legislature. Except as provided in sub. (6), if from its findings of fact the board concludes that any such claim is one on which the state is legally liable, or one which involves the causal negligence of any officer, agent or employee of the state, or one which on equitable principles the state should in good conscience assume and pay, it shall cause a bill to be drafted covering its recommendations and shall report its findings and conclusions and submit the drafted bill to the joint committee on finance at the earliest available time. If the claims board determines to pay or recommends that a claim be paid from a specific appropriation or appropriations, it shall include that determination or recommendation in its conclusions. A copy of its findings and conclusions shall be submitted to the claimant within 20 days after the board makes its determination. Findings and conclusions are not required for claims processed under sub. (6) (b).

(6) SETTLEMENT. (a) Except as provided in par. (b), whenever the claims board by unanimous vote finds that payment to a claimant of not more than the amount specified in s. 799.01 (1) is justified, it may order the amount that it finds justified to be paid on its own motion without submission of the claim in bill form to the legislature. The claim shall be paid on a voucher upon the certification of the chairperson and secretary of the board, and shall be charged as provided in sub. (6m).

(b) Whenever the representative of the department designated by the secretary pursuant to s. 15.105 (2) finds that payment of a claim described in this paragraph to a claimant is justified, the representative of the department may order the amount so found to be justified paid without approval of the claims board and without submission of the claim in the form of a bill to the legislature. Such claims shall be paid on vouchers upon the certification of the representative of the department, and shall be charged as provided in sub. (6m). The representative of the department shall annually report to the board all claims paid under this paragraph. Claims which may be paid directly by the department are:

1. Payment of the amount owed by the state under any check, share draft or other draft issued by it which has been voided for failure to present the check, share draft or other draft for payment within the prescribed period from the date of issuance.

3. Payment of a refund due as the result of an overpayment made by mistake of the applicant in filing articles of incorporation or amendments thereto, or a certificate of authority for a foreign corporation to transact business in this state pursuant to s. 180.0122.

4. Payment of any claim of less than $10.

(6m) PAYMENT CHARGES. The claims board, for claims authorized to be paid under sub. (6) (a), or the representative of the department, for claims authorized to be paid under sub. (6) (b), may specify that a claim shall be paid from a specific appropriation or appropriations. If a claim requires legislative action, the board may recommend that the claim be paid from a specific appropriation or appropriations. If no determination is made as to the appropriation or appropriations from which a claim shall be paid, the claim shall be paid from the appropriation under s. 20.505 (4) (d).

(7) EXCEPTION. This section shall not be construed as relieving any 3rd party liability or releasing any joint tort−feasor.

(8) EXPENSES. The board may pay the actual and necessary expenses of employees of the department of justice or the department of administration authorized by the board to secure material information necessary to the disposition of a claim.

History: 1975 c. 397; 1977 c. 196 s. 130 (3); 1979 c. 34 s. 2102 (1) (c); 1981 c. 20; 1983 a. 368; 1985 a. 29; 1987 a. 27, 142; 1989 a. 31, 303; 1991 a. 269.

Upon completion of arbitration involving the state, any claim resulting from the award must be submitted to the claims board for processing. State v. P.G. Miron Const. Co. Inc. 181 Wis. 2d 1045, 512 N.W.2d 499 (1994).

16.008 Payment of special charges for extraordinary police service to state facilities. (1) In this section "extraordinary police services" means those police services which are in addition to those being maintained for normal police service functions by a municipality or county and are required because of an assemblage or activity which is or threatens to become a riot, civil disturbance or other similar circumstance, or in which mob violence occurs or is threatened.

(2) The state shall pay for extraordinary police services provided directly to state facilities, as defined in s. 70.119 (3) (e), in response to a request of a state officer or agency responsible for the operation and preservation of such facilities. The University of Wisconsin Hospitals and Clinics Authority shall pay for extraordinary police services provided to facilities of the authority described in s. 70.11 (38). The Fox River Navigational System Authority shall pay for extraordinary police services provided to the navigational system, as defined in s. 237.01 (5). Municipalities or counties that provide extraordinary police services to state facilities may submit claims to the claims board for actual additional costs related to wage and disability payments, pensions and worker's compensation payments, damage to equipment and clothing, replacement of expendable supplies, medical and transportation expense, and other necessary expenses. The clerk of the municipality or county submitting a claim shall also transmit an itemized statement of charges and a statement that identifies the facility served and the person who requested the services. The board shall obtain a review of the claim and recommendations from the agency responsible for the facility prior to proceeding under s. 16.007 (3), (5), and (6).

History: 1977 c. 418; 1995 a. 27; 2001 a. 16, 104.

16.009 Board on aging and long−term care. (1) In this section:

(a) "Beneficiary" means an individual who is eligible for coverage.

(ag) "Board" means the board on aging and long−term care.

(ar) "Client" means an individual who requests services of the office, or a resident on whose behalf a request is made.

(b) "Homestead credit program" means the program under ss. 71.51 to 71.55.

(c) "Household" has the meaning given in s. 71.52 (4).

(d) "Household income" has the meaning given in s. 71.52 (5).

(e) "Income" has the meaning given in s. 71.52 (6).

(em) "Long−term care facility" includes any of the following:

1. A nursing home, as defined in s. 50.01 (3).

2. A community−based residential facility, as defined in s. 50.01 (1g).

3. A facility, as defined in s. 647.01 (4).

4. A swing bed in an acute care facility or extended care facility, as specified under 42 USC 1395tt.

5. A hospice, as defined in s. 50.90 (1) (c).

6. An adult family home, as defined in s. 50.01 (1).

(f) "Long−term care insurance" means insurance that provides coverage both for an extended stay in a nursing home and home health services for a person with a chronic condition. The insurance may also provide coverage for other services that assist the insured person in living outside a nursing home, including but not limited to adult day care and continuing care retirement communities.

(gm) "Office" means the office of the long−term care ombudsman.

(gr) "Ombudsman" means the long−term care ombudsman, as specified in sub. (4) (a).

(h) "Physician" has the meaning given in s. 448.01 (5).

(i) "Program" means the long−term care ombudsman program.

(j) "Resident" means a person cared for or treated in a long−term care facility.

(2) The board shall:

(a) Appoint an executive director within the classified service who shall employ staff within the classified service.

(b) Implement a long−term care ombudsman program, to do all of the following:

1. Investigate complaints from any person concerning improper conditions or treatment of aged or disabled persons who receive long−term care or concerning noncompliance with or improper administration of federal statutes or regulations or state statutes or rules related to long−term care for the aged or disabled.

2. Serve as mediator or advocate to resolve any problem or dispute relating to long−term care for the aged or disabled.

(d) Promote public education, planning and voluntary acts to resolve problems and improve conditions involving long−term care for the aged or disabled.

(e) Monitor the development and implementation of federal, state and local laws, regulations, rules, ordinances and policies that relate to long−term care facilities for the aged or disabled.

(em) Monitor, evaluate and make recommendations concerning long−term community support services received by clients of the long−term support community options program under s. 46.27.

(f) As a result of information received while investigating complaints and resolving problems or disputes, publish material that assesses existing inadequacies in federal and state laws, regulations and rules concerning long−term care for the aged or disabled. The board shall initiate legislation as a means of correcting these inadequacies.

(g) Stimulate resident, client and provider participation in the development of programs and procedures involving resident rights and facility responsibilities, by establishing resident councils and by other means.

(h) Conduct statewide hearings on issues of concern to aged or disabled persons who are receiving or who may receive long−term care.

(i) Report annually to the governor and the chief clerk of each house of the legislature for distribution to the appropriate standing committees under s. 13.172 (3). The report shall set forth the scope of the programs for providing long−term care for the aged or disabled developed in the state, findings regarding the state's activities in the field of long−term care for the aged and disabled, recommendations for a more effective and efficient total program and the actions taken by the agencies of the state to carry out the board's recommendations.

(j) Provide information and counseling to consumers regarding insurance policies available to supplement federal medicare insurance coverage, including long−term care insurance, and the eligibility requirements for medical assistance under s. 49.46 (1), 49.468 or 49.47 (4). To implement this responsibility, the board shall provide training, educational materials and technical assistance to volunteer organizations and private businesses willing and able to provide insurance and medical assistance eligibility information and counseling, in order that these organizations and businesses may provide the information and counseling to consumers.

(p) Contract with one or more organizations to provide advocacy services to potential or actual recipients of the family care benefit, as defined in s. 46.2805 (4), or their families or guardians. The board and contract organizations under this paragraph shall assist these persons in protecting their rights under all applicable federal statutes and regulations and state statutes and rules. An organization with which the board contracts for these services may not be a provider, nor an affiliate of a provider, of long−term care services, a resource center under s. 46.283 or a care management organization under s. 46.284. For potential or actual recipients of the family care benefit, advocacy services required under this paragraph shall include all of the following:

1. Providing information, technical assistance and training about how to obtain needed services or support items.

2. Providing advice and assistance in preparing and filing complaints, grievances and appeals of complaints or grievances.

3. Providing negotiation and mediation.

4. Providing individual case advocacy assistance regarding the appropriate interpretation of statutes, rules or regulations.

5. Providing individual case advocacy services in administrative hearings and legal representation for judicial proceedings regarding family care services or benefits.

(3) The board may:

(a) Contract with any state agency to carry out the board's activities.

(bm) Employ an attorney for provision of legal services in accordance with requirements of the long−term care ombudsman program under 42 USC 3027 (a) (12) and 42 USC 3058g (g).

(4) (a) The board shall operate the office in order to carry out the requirements of the long−term care ombudsman program under 42 USC 3027 (a) (12) (A) and 42 USC 3058f to 3058h. The executive director of the board shall serve as ombudsman under the office. The executive director of the board may delegate operation of the office to the staff employed under sub. (2) (a), as designated representatives of the ombudsman.

(b) The ombudsman or his or her designated representative may have the following access to clients, residents and long−term care facilities:

1. The ombudsman or designated representative may:

a. At any time without notice, enter, and have immediate access to a client or resident in, a long−term care facility.

b. Communicate in private, without restriction, with a client or resident.

c. Except as provided in subd. 1. d., have access to and review records that pertain to the care of the resident if the resident or his or her guardian has consented or if the resident has no guardian and is unable to consent.

d. With the consent of a resident or his or her legal counsel, have access to and review records that pertain to the care of the resident, as specified in s. 49.498 (5) (e).

e. Have access to and review records of a long−term care facility as necessary to investigate a complaint if the resident's guardian refuses to consent; if the ombudsman or designated representative has reason to believe that the guardian is not acting in the best interests of the resident; and, for investigation only by a designated representative, if the designated representative obtains the approval of the ombudsman.

f. Have access to those administrative records, policies and documents of a long−term care facility to which the resident or public has access.

g. Have access to and, on request, be furnished copies of all licensing or certification records maintained by the department of health and family services with respect to regulation of a long−term care facility.

2. The ombudsman shall receive, upon request to a long−term care facility, the name, address and telephone number of the guardian, legal counsel or immediate family member of any resident.

(d) A long−term care facility or personnel of a long−term care facility that disclose information as authorized under this subsection are not liable for that disclosure.

(e) Information of the office relating to a client, complaints or investigations under the program may be disclosed only at the discretion of the ombudsman or his or her designated representative. The identity of a client or named witness or of a resident who is not a client may be revealed under this paragraph only if one of the following conditions is met:

1. Under written authorization by the client, witness or resident or his or her guardian, if any.

2. Under the lawful order of a court of competent jurisdiction.

(5) (a) No person may do any of the following:

1. Discharge or otherwise retaliate or discriminate against any person for contacting, providing information to or otherwise cooperating with any representative of the board.

2. Discharge or otherwise retaliate or discriminate against any person on whose behalf another person has contacted, provided information to or otherwise cooperated with any representative of the board.

(b) Any person who violates par. (a) may be fined not more than $1,000 or imprisoned for not more than 6 months or both.

(d) Any employee who is discharged or otherwise retaliated or discriminated against in violation of par. (a) may file a complaint with the department of workforce development under s. 106.54 (5).

(e) Any person not described in par. (d) who is retaliated or discriminated against in violation of par. (a) may commence an action in circuit court for damages incurred as a result of the violation.

History: 1981 c. 20; 1983 a. 524; 1985 a. 29; 1987 a. 27; 1989 a. 31, 294; 1991 a. 39, 232; 1993 a. 16, 205; 1995 a. 27 s. 9126 (19); 1997 a. 131; 1999 a. 9, 82, 86, 186; 2003 a. 33.

16.01 Women's council. (1) In this section, "agency" means any office, department, agency, institution of higher education, association, society or other body in state government created or authorized to be created by the constitution or any law which is entitled to expend moneys appropriated by law, including the legislature and the courts, and any authority created under ch. 231, 233 or 234.

(2) The women's council shall:

(a) Identify the barriers that prevent women in this state from participating fully and equally in all aspects of life.

(b) Conduct statewide hearings on issues of concern to women.

(c) Review, monitor and advise all state agencies regarding the impact upon women of current and emerging state policies, procedures, practices, laws and administrative rules.

(d) Work closely with all state agencies, including the University of Wisconsin System and the technical college system, with the private sector and with groups concerned with women's issues to develop long−term solutions to women's economic and social inequality in this state.

(e) Recommend changes to the public and private sectors and initiate legislation to further women's economic and social equality and improve this state's tax base and economy.

(f) Disseminate information on the status of women in this state.

(g) Submit a biennial report on the women's council's activities to the governor and to the chief clerk of each house of the legislature, for distribution to the appropriate standing committees under s. 13.172 (3).

(3) All state agencies, including the University of Wisconsin System and the technical college system, shall fully cooperate with and assist the women's council. To that end, a representative of a state agency shall, upon request by the women's council:

(a) Provide information on program policies, procedures, practices and services affecting women.

(b) Present recommendations to the women's council.

(c) Attend meetings and provide staff assistance needed by the women's council.

(d) Inform the agency's appointing authority of issues concerning the women's council.

History: 1983 a. 27; 1987 a. 27, 186, 399; 1989 a. 31; 1993 a. 399; 1995 a. 27.

16.02 Acid deposition research council. (1) The acid deposition research council shall perform all of the following functions:

(a) Recommend objectives for acid deposition research in this state.

(b) Recommend the types of and priorities for acid deposition research.

(c) Evaluate mechanisms for funding and recommend funding levels for acid deposition research.

(d) Review all research reports relating to acid deposition requested by or submitted to the council.

(2) The acid deposition research council shall, by July 1 of each even−numbered year, submit a report of its work summarizing its recommendations under sub. (1) (a) to (c) and the results of the research reviewed under sub. (1) (d) and shall file the report with the governor, the secretary, the chairperson of the natural resources board and the chief clerk of each house of the legislature for distribution to the appropriate standing committees under s. 13.172 (2).

History: 1985 a. 296; 1987 a. 403 s. 256.

16.023 Wisconsin land council. (1) The Wisconsin land council shall conduct the following functions:

(a) Identify state land use goals and recommend these goals to the governor.

(b) Identify state land use priorities to further the state's land use goals and recommend to the governor legislation to implement these priorities.

(c) Study areas of cooperation and coordination in the state's land use statutes and recommend to the governor legislation to harmonize these statutes to further the state's land use goals.

(d) Study areas of the state's land use statutes that conflict with each other and recommend to the governor legislation to resolve these conflicts to further the state's land use goals.

(e) Identify areas of the state's land use statutes that conflict with county or municipal land use ordinances, and areas of county or municipal land use ordinances that conflict with each other, and recommend to the governor legislation to resolve these conflicts.

(f) Establish a technical working group that is composed of the state cartographer, a representative of the University of Wisconsin System who has expertise in land use issues and any other land use experts designated by the council's chairperson, to study the development of a computer−based Wisconsin land information system and recommend to the governor legislation to implement such a computer system.

(g) Establish a state agency resource working group that is composed of representatives of the departments of administration, agriculture, trade and consumer protection, commerce, natural resources, revenue, transportation and other appropriate agencies to discuss, analyze and address land use issues and related policy issues, including the following:

1. Gathering information about the land use plans of state agencies.

2. Establishing procedures for the distribution of the information gathered under subd. 1. to other state agencies, local units of government and private persons.

3. The creation of a system to facilitate, and to provide training and technical assistance for the development of, local intergovernmental land use planning.

(h) Study the activities of local units of government in the land use area to determine how these activities impact on state land use goals, and recommend to the governor legislation that fosters coordination between local land use activities and state land use goals.

(i) Identify procedures for facilitating local land use planning efforts, including training and technical assistance for local units of government, and recommend to the governor legislation to implement such procedures.

(j) Gather and analyze information about the land use activities in this state of the federal government and American Indian governments and inform the governor of the impact of these activities on state land use goals.

(k) Study any other issues that are reasonably related to the state's land use goals, including methods for alternative dispute resolution for disputes involving land use issues, and recommend to the governor legislation in the areas studied by the council that would further the state's land use goals.

(L) Gather information about land use issues, at its discretion, in any reasonable way, including the following:

1. Establishing a state−local government−private sector working group to study and advise the council on land use issues.

2. Holding public hearings or information meetings on land use issues.

3. Conducting surveys on land use issues.

4. Consulting with any person who is interested in land use issues.

(m) Enter into a memorandum of understanding with the land information board to ensure cooperation between the council and the board and to avoid duplication of activities.

(2) In conjunction with the working group established under sub. (1) (L) 1., the council shall, not later than one year after October 14, 1997, develop evaluation criteria for its functions under sub. (1). The council shall complete a report that contains an evaluation of its functions and activities not later than September 1, 2004, and shall submit the report to the chief clerk of each house of the legislature, for distribution to the legislature under s. 13.172 (2), and to the governor. The report shall also include a recommendation as to whether the council should continue in existence past its sunset date specified in s. 15.107 (16) (e) and, if so, a recommendation as to whether any structural modifications should be made to the council's functions or to the state's land use programs.

(3) Subsections (1) and (2) do not apply after August 31, 2005.

History: 1997 a. 27; 2003 a. 33.

16.03 Interagency coordinating council. (1) GENERAL FUNCTIONS. The interagency coordinating council shall serve as a means of increasing the efficiency and utility and facilitating the effective functioning of state agencies in activities related to health care data collection. The interagency coordinating council shall advise and assist state agencies in the coordination of health care data collection programs and the exchange of information related to health care data collection and dissemination, including agency budgets for health care data collection programs, health care data monitoring and management, public information and education, health care data analysis and facilities, research activities and the appropriation and allocation of state funds for health care data collection. The interagency coordinating council shall establish methods and criteria for analyzing and comparing complaints filed against health care plans, as defined under s. 628.36 (2) (a) 1., and grievances filed with health maintenance organizations, as defined under s. 609.01 (2), without requiring the collection of information in addition to the information already collected by state agencies.

(2) SUBCOMMITTEES. The interagency coordinating council may create subcommittees to assist in its work. The subcommittee members may include members of the council, employees of the agencies with members on the council, employees of other state agencies, representatives of counties and municipalities, representatives of the health care industry and public members. The council shall consider the need for subcommittees on the subjects within the scope of its general duties under sub. (1) and other subjects that are determined to be appropriate by the council.

(3) REPORT. The interagency coordinating council shall report at least twice annually to the board on health care information in the department of health and family services, concerning the council's activities under this section.

History: 1995 a. 433; 1997 a. 27, 231.

16.04 Fleet management and maintenance. (1) The department shall ensure optimum efficiency and economy in the fleet management and maintenance activities of all agencies as defined in s. 16.52 (7). The department may:

(a) Develop uniform state policies and guidelines for vehicle and aircraft acquisition, use, maintenance, recording of operational and other costs, performance evaluation and replacement of vehicles and aircraft.

(am) Establish guidelines for the use by agencies of charter air travel or travel by private aircraft.

(b) Screen all requests for additional or replacement vehicle or aircraft acquisitions prior to forwarding the requests to the governor in accordance with s. 20.915 (1).

(c) Maintain a current inventory of all state−owned or leased motor vehicles and aircraft.

(1m) When requested by the governor or the joint committee on finance, the department shall submit a report to the governor and the joint committee on finance on the details of all costs associated with fleet operations, based upon a statewide uniform cost accounting system.

(2) Each agency which is authorized by the department may operate a vehicle or aircraft fleet. Each such agency shall assign a fleet manager who shall operate the agency's fleet in accordance with policies, guidelines and rules adopted by the department to implement this section.

(3) Each fleet manager shall review the use of state−owned or leased vehicles or aircraft within his or her agency at least semiannually to determine whether usage criteria are being met. The department shall periodically audit the agencies' records relating

to fleet operations and the use of state−owned or leased vehicles or aircraft.

(4) The department shall provide central scheduling and dispatching of all air transportation on state−owned aircraft.

(5) The department shall develop operational policies for all state employees who act as pilots−in−command of any state−owned aircraft, including, but not limited to, crew rest requirements, current flight training, flight checks and flight physical examinations.

History: 1979 c. 34; 1983 a. 524; 1987 a. 27.

16.045 Storage and use of gasohol and alternative fuels. (1) In this section:

(a) "Agency" means an office, department, independent agency, institution of higher education, association, society or other body in state government created or authorized to be created by the constitution or any law, which is entitled to expend moneys appropriated by law, including the legislature and the courts, but not including an authority created in ch. 231, 232, 233, 234, 235, or 237.

(b) "Alternative fuel" means any of the following fuels the use of which the department of natural resources finds would improve air quality as compared to the use of gasoline or petroleum−based diesel fuel:

1. Bio−diesel fuel.
2. Methanol.
3. Ethanol.
4. Natural gas.
5. Propane.
6. Hydrogen.
7. Coal−derived liquid.
8. Electricity.
8m. Solar energy.
9. Fuel derived from biological material.
10. Any other fuel except gasohol that the department of natural resources finds to be composed substantially of material other than petroleum, the use of which would yield substantial environmental benefits.

(c) "Bio−diesel fuel" means fuel derived from soybean oil with glycerine extracted from the oil, either in pure form or mixed in any combination with petroleum−based diesel fuel.

(d) "Gasohol" means any motor fuel containing at least 10% alcohol the use of which the department of natural resources finds would improve air quality as compared to the use of gasoline or petroleum−based diesel fuel.

(2) The department shall, whenever feasible, require agencies to store no motor fuel except gasohol or alternative fuel in facilities maintained by the agencies for the storage of fuel for and the refueling of state−owned or state−leased vehicles. This subsection does not authorize construction or operation of such facilities.

(3) The department shall, by the most economical means feasible, place a copy of the current list of gasohol and alternative fuel refueling facilities received from the department of agriculture, trade and consumer protection under s. 100.265 in each state−leased motor vehicle that is stored on state property for more than 7 days and in each state−owned motor vehicle. The department shall also make reasonable efforts to inform state officers and employees whose responsibilities make them likely to be using motor vehicles in connection with state business of the existence and contents of the list maintained under s. 100.265 and of any revisions thereto. The department may distribute the list or information relating to the list with salary payments or expense reimbursements to state officers and employees.

(4) The department shall require all state employees to utilize gasohol or alternative fuel for the operation of all state−owned or state−leased motor vehicles whenever such utilization is feasible.

(5) The department shall encourage distribution of gasohol and alternative fuels and usage of gasohol and alternative fuels by officers and employees who use personal motor vehicles on state business and by residents of this state generally. The department shall report to the appropriate standing committees under s. 13.172 (3) concerning distribution and usage of gasohol and alternative fuels in this state, no later than April 30 of each year.

History: 1993 a. 351; 1995 a. 27; 1997 a. 73; 2001 a. 16.

16.05 Interstate agreements. Each administrator, official or chairperson of the state delegation appointed to represent this state in the administration of any interstate agreement shall file with the law revision committee of the joint legislative council a copy of all minutes, reports, publications and other papers prepared in the administration of the agreement.

History: 1983 a. 308; 1993 a. 52.

16.06 American Indian assistance. The department shall provide information and assistance to American Indians in this state with respect to problems or issues of concern to the American Indian community.

History: 1989 a. 336.

16.10 Ratification of the midwest interstate low−level radioactive waste compact. The midwest interstate low−level radioactive waste compact contained in s. 16.11, by and between this state and any other state which ratifies or joins this compact, is ratified and approved.

History: 1983 a. 393.

16.11 Midwest interstate low−level radioactive waste compact. (1) ARTICLE I—POLICY AND PURPOSE. (a) There is created the midwest interstate low−level radioactive waste compact. The states party to this compact recognize that the congress of the United States, by enacting "The Low−Level Radioactive Waste Policy Act", as amended by the "Low−Level Radioactive Waste Policy Amendments Act of 1985", 42 USC 2021b to 2021j, has provided for and encouraged the development of low−level radioactive waste compacts as a tool for disposing of such waste. The party states acknowledge that the congress declared that each state is responsible for providing for the availability of capacity either within or outside the state for the disposal of low−level radioactive waste generated within its borders, except for waste generated as a result of certain defense activities of the federal government or federal research and development activities. The party states also recognize that the disposal of low−level radioactive waste is handled most efficiently on a regional basis and that the safe and efficient management of low−level radioactive waste generated within the region requires that sufficient capacity to dispose of such waste be properly provided. It is the policy of the party states to enter into a regional low−level radioactive waste disposal compact for the purpose of:

1. Providing the instrument and framework for a cooperative effort;

2. Providing sufficient facilities for the proper disposal of low−level radioactive waste generated in the region;

3. Protecting the health and safety of the citizens of the region;

4. Limiting the number of facilities required to effectively and efficiently dispose of low−level radioactive waste generated in the region;

5. Encouraging source reduction and the environmentally sound treatment of waste that is generated to minimize the amount of waste to be disposed of;

6. Ensuring that the costs, expenses, liabilities and obligations of low−level radioactive waste disposal are paid by generators and other persons who use compact facilities to dispose of their waste;

7. Ensuring that the obligations of low−level radioactive waste disposal that are the responsibility of the party states are shared equitably among them;

8. Ensuring that the party states that comply with the terms of this compact and fulfill their obligations under it share equitably in the benefits of the successful disposal of low−level radioactive waste; and

9. Ensuring the environmentally sound, economical and secure disposal of low−level radioactive wastes.

(b) Implicit in the congressional consent to this compact is the expectation by the congress and the party states that the appropriate federal agencies will actively assist the compact commission and the individual party states to this compact by:

1. Expeditious enforcement of federal rules, regulations and laws;

2. Imposition of sanctions against those found to be in violation of federal rules, regulations and laws; and

3. Timely inspection of their licensees to determine the compliance with these rules, regulations and laws.

(2) ARTICLE II—DEFINITIONS. As used in this compact, unless the context clearly requires a different construction:

(a) "Care" means the continued observation of a facility after closing for the purposes of detecting a need for maintenance, ensuring environmental safety and determining compliance with applicable licensure and regulatory requirements and includes the correction of problems which are detected as a result of that observation.

(b) "Close", "closed" or "closing" means that the compact facility with respect to which any of those terms is used has ceased to accept waste for disposal. "Permanently closed" means that the compact facility with respect to which the term is used has ceased to accept waste because it has operated for 20 years or a longer period of time as authorized by sub. (6) (i), its capacity has been reached, the commission has authorized it to close pursuant to sub. (3) (h) 7., the host state of such facility has withdrawn from the compact or had its membership revoked or this compact has been dissolved.

(c) "Commission" means the midwest interstate low−level radioactive waste commission.

(d) "Compact facility" means a waste disposal facility that is located within the region and that is established by a party state pursuant to the designation of that state as a host state by the commission.

(e) "Development" includes the characterization of potential sites for a waste disposal facility, siting of such a facility, licensing of such a facility, and other actions taken by a host state prior to the commencement of construction of such a facility to fulfill its obligations as a host state.

(f) "Disposal", with regard to low−level radioactive waste, means the permanent isolation of that waste in accordance with the requirements established by the U.S. nuclear regulatory commission or the licensing agreement state.

(g) "Disposal plan" means the plan adopted by the commission for the disposal of waste within the region.

(h) "Facility" means a parcel of land or site, together with the structures, equipment and improvements on or appurtenant to the land or site, which is or has been used for the disposal of low−level radioactive waste, which is being developed for that purpose or upon which the construction of improvements or installation of equipment is occurring for that purpose.

(i) "Final decision" means a final action of the commission determining the legal rights, duties or privileges of any person. "Final decision" does not include preliminary, procedural or intermediate actions by the commission, actions regulating the internal administration of the commission or actions of the commission to enter into or refrain from entering into contracts or agreements with vendors to provide goods or services to the commission.

(j) "Generator" means a person who first produces low−level radioactive waste, including, without limitation, any person who does so in the course of or incident to manufacturing, power generation, processing, waste treatment, waste storage, medical diagnosis and treatment, research or other industrial or commercial activity. If the person who first produced an item or quantity of waste cannot be identified, "generator" means the person first possessing the waste who can be identified.

(k) "Host state" means any state which is designated by the commission to host a compact facility or has hosted a compact facility.

(L) "Long−term care" means those activities taken by a host state after a compact facility is permanently closed to ensure the protection of air, land and water resources and the health and safety of all people who may be affected by the facility.

(m) "Low−level radioactive waste" or "waste" means radioactive waste that is not classified as high−level radioactive waste and that is class A, B or C low−level radioactive waste as defined in 10 CFR 61.55, as that section existed on January 26, 1983. "Low−level radioactive waste" or "waste" does not include any such radioactive waste that is owned or generated by the U.S. department of energy or by the U.S. navy as a result of the decommissioning of its vessels; or as a result of any research, development, testing or production of any atomic weapon.

(n) "Operates", "operational" or "operating" means that the compact facility with respect to which any of those terms is used accepts waste for disposal.

(o) "Party state" means any eligible state that enacts this compact into law, pays any eligibility fee established by the commission, and has not withdrawn from this compact or had its membership in this compact revoked, provided that a state that has withdrawn from this compact or had its membership revoked again becomes a party state if it is readmitted to membership in this compact pursuant to sub. (8) (a). "Party state" includes any host state. "Party state" also includes any statutorily created administrative departments, agencies or instrumentalities of a party state, but does not include municipal corporations, regional or local units of government or other political subdivisions of a party state that are responsible for governmental activities on less than a statewide basis.

(p) "Person" means any individual, corporation, association, business enterprise or other legal entity either public or private and any legal successor, representative, agent or agency of that individual, corporation, association, business enterprise or other legal entity. "Person" also includes the United States, states, political subdivisions of states and any department, agency or instrumentality of the United States or a state.

(q) "Region" means the area of the party states.

(r) "Site" means the geographic location of a facility.

(s) "State" means a state of the United States, the District of Columbia, the commonwealth of Puerto Rico, the Virgin Islands or any other territorial possession of the United States.

(t) "Storage" means the temporary holding of waste.

(u) "Treatment" means any method, technique or process, including storage for radioactive decay, designed to change the physical, chemical or biological characteristics or composition of any waste in order to render the waste safer for transport or management, amenable to recovery, convertible to another usable material or reduced in volume.

(v) "Waste management", "manage waste", "management of waste", "management" or "managed" means the storage, treatment or disposal of waste.

(3) ARTICLE III—THE COMMISSION. (a) There is created the midwest interstate low−level radioactive waste commission. The commission consists of one voting member from each party state. The governor of each party state shall notify the commission in writing of its member and any alternates. An alternate may act on behalf of the member only in that member's absence. The method for selection and the expenses of each commission member shall be the responsibility of the member's respective state.

(b) Each commission member is entitled to one vote. Except as otherwise specifically provided in this compact, an action of the

commission is binding if a majority of the total membership casts its vote in the affirmative. A party state may direct its member or alternate member of the commission how to vote or not to vote on matters before the commission.

(c) The commission shall elect annually from among its members a chairperson. The commission shall adopt and publish, in convenient form, bylaws and policies which are not inconsistent with this compact, including procedures for the use of binding arbitration under sub. (6) (o) and procedures which substantially conform with the provisions of "The Federal Administrative Procedure Act", 5 USC 500 to 559, in regard to notice, conduct and recording of meetings; access by the public to records; provision of information to the public; conduct of adjudicatory hearings; and issuance of decisions.

(d) The commission shall meet at least once annually and shall also meet upon the call of the chairperson or any other commission member.

(e) All meetings of the commission shall be open to the public with reasonable advance notice. The commission may, by majority vote, close a meeting to the public for the purpose of considering sensitive personnel or legal strategy matters. However, all commission actions and decisions shall be made in open meetings and appropriately recorded.

(f) The commission may establish advisory committees for the purpose of advising the commission on any matters pertaining to waste management.

(g) The office of the commission shall be in a party state. The commission may appoint or contract for and compensate such limited staff necessary to carry out its duties and functions. The staff shall have the responsibilities and authority delegated to it by the commission in its bylaws. The staff shall serve at the commission's pleasure with the exception that staff hired as the result of securing federal funds shall be hired and governed under applicable federal statutes and regulations. In selecting any staff, the commission shall assure that the staff has adequate experience and formal training to carry out the functions assigned to it by the commission.

(h) The commission may do any or all of the following:

1. Appear as an intervenor or party in interest before any court of law or any federal, state or local agency, board or commission in any matter related to waste management. In order to represent its views, the commission may arrange for any expert testimony, reports, evidence or other participation.

2. Review any emergency closing of a compact facility, determine the appropriateness of that closing and take whatever lawful actions are necessary to ensure that the interests of the region are protected.

3. Take any action which is appropriate and necessary to perform its duties and functions as provided in this compact.

4. Approve the disposal of naturally occurring and accelerator produced radioactive material at a compact facility. The commission shall not approve the acceptance of such material without first making an explicit determination of the effect of the new waste stream on the compact facility's maximum capacity. Such approval requires the affirmative vote of a majority of the commission, including the affirmative vote of the member from the host state of the compact facility that would accept the material for disposal. Any such host state may, at any time, rescind its vote granting the approval and, thereafter, additional naturally occurring and accelerator produced radioactive material shall not be disposed of at a compact facility unless the disposal is again approved. All provisions of this compact apply to the disposal of naturally occurring and accelerator produced radioactive material that has been approved for disposal at a compact waste facility pursuant to this subdivision.

5. Enter into contracts in order to perform its duties and functions as provided in this compact.

6. When approved by the commission, with the member from each host state in which an affected compact facility is operating or being developed or constructed voting in the affirmative, enter into agreements to do any of the following:

a. Import, for disposal within the region, waste generated outside the region.

b. Export, for disposal outside the region, waste generated inside the region.

c. Dispose of waste generated within the region at a facility within the region that is not a compact facility.

7. Authorize a host state to permanently close a compact facility located within its borders earlier than otherwise would be required by sub. (6) (i). Such a closing requires the affirmative vote of a majority of the commission, including the affirmative vote of the member from the state in which the affected compact facility is located.

(i) The commission shall do all of the following:

1. Submit an annual report to, and otherwise communicate with, the governors and the appropriate officers of the legislative bodies of the party states regarding the activities of the commission.

2. Adopt and amend, by a two−thirds vote of the membership, in accordance with the procedures and criteria developed pursuant to sub. (4), a regional disposal plan which designates host states for the establishment of needed compact facilities.

3. Adopt an annual budget.

4. Establish and implement a procedure for determining the capacity of a compact facility. The capacity of a compact facility shall be established as soon as reasonably practical after the host state of the facility is designated and shall not be changed thereafter without the consent of the host state. The capacity of a compact facility shall be based on the projected volume or radioactive characteristics, or both, of the waste to be disposed of at the facility during the period set forth in sub. (6) (i).

5. Provide a host state with funds necessary to pay reasonable development expenses incurred by the host state after it is designated to host a compact facility.

6. Establish and implement procedures for making payments from the remedial action fund provided for in par. (p).

7. Establish and implement procedures to investigate any complaint joined in by 2 or more party states regarding another party state's performance of its obligations under this compact.

8. Adopt policies promoting source reduction and the environmentally sound treatment of waste in order to minimize the amount of waste to be disposed of at compact facilities.

9. Establish and implement procedures for obtaining information from generators regarding the volume and characteristics of waste projected to be disposed of at compact facilities and regarding generator activities with respect to source reduction, recycling and treatment of waste.

10. Prepare annual reports regarding the volume and characteristics of waste projected to be disposed of at compact facilities.

(j) Funding for the commission shall be provided as follows:

1. When no compact facility is operating, the commission may assess fees to be collected from generators of waste in the region. The fees shall be reasonable and equitable. The commission shall establish and implement procedures for assessing and collecting the fees. The procedures may allow the assessing of fees against less than all generators of waste in the region; provided that if fees are assessed against less than all generators of waste in the region, generators paying the fees shall be reimbursed the amount of the fees, with reasonable interest, out of the revenues of operating compact facilities.

2. When a compact facility is operating, funding for the commission shall be provided through a surcharge collected by the host state as part of the fee system provided for in sub. (6) (j). The surcharge to be collected by the host state shall be determined by the commission and shall be reasonable and equitable.

3. In the aggregate, the fees or surcharges, as the case may be, shall be no more than is necessary to:

a. Cover the annual budget of the commission.

b. Provide a host state with the funds necessary to pay reasonable development expenses incurred by the host state after it is designated to host a compact facility.

c. Provide moneys for deposit in the remedial action fund established pursuant to par. (p).

d. Provide moneys to be added to an inadequately funded long−term care fund as provided in sub. (6) (o).

(k) Financial statements of the commission shall be prepared according to generally accepted accounting principles. The commission shall contract with an independent certified public accountant to annually audit its financial statements and to submit an audit report to the commission. The audit report shall be made a part of the annual report of the commission required by this subsection.

(L) The commission may accept for any of its purposes and functions and may utilize and dispose of any donations, grants of money, equipment, supplies, materials and services from any state or the United States, or any subdivision or agency thereof, or interstate agency or from any institution, person, firm or corporation. The nature, amount and condition, if any, attendant upon any donation or grant accepted or received by the commission together with the identity of the donor, grantor or lender, shall be detailed in the annual report of the commission.

(m) The commission is a legal entity separate and distinct from the party states. Members of the commission and its employees are not personally liable for actions taken by them in their official capacity. The commission is not liable or otherwise responsible for any costs, expenses or liabilities resulting from the development, construction, operation, regulation, closing or long−term care of any compact facility or any noncompact facility made available to the region by any contract or agreement entered into by the commission under par. (h) 6. Nothing in this paragraph relieves the commission of its obligations under this subsection or under contracts to which it is a party. Any liabilities of the commission are not liabilities of the party states.

(n) Final decisions of the commission shall be made, and shall be subject to judicial review, in accordance with all of the following conditions:

1. Every final decision shall be made at an open meeting of the commission. Before making a final decision, the commission shall provide an opportunity for public comment on the matter to be decided. Each final decision shall be reduced to writing and shall set forth the commission's reasons for making the decision.

2. Before making a final decision, the commission may conduct an adjudicatory hearing on the proposed decision.

3. Judicial review of a final decision shall be initiated by filing a petition in the U.S. district court for the district in which the person seeking the review resides or in which the commission's office is located not later than 60 days after issuance of the commission's written decision. Concurrently with filing the petition for review with the court, the petitioner shall serve a copy of the petition on the commission. Within 5 days after receiving a copy of the petition, the commission shall mail a copy of it to each party state and to all other persons who have notified the commission of their desire to receive copies of such petitions. Any failure of the commission to so mail copies of the petition does not affect the jurisdiction of the reviewing court. Except as otherwise provided in this subdivision, standing to obtain judicial review of final decisions of the commission and the form and scope of the review are subject to and governed by 5 USC 706.

4. If a party state seeks judicial review of a final decision of the commission that does any of the following, the facts shall be subject to trial de novo by the reviewing court unless trial de novo of the facts is affirmatively waived in writing by the party state:

a. Imposes financial penalties on a party state.

b. Suspends the right of a party state to have waste generated within its borders disposed of at a compact facility or at a noncompact facility made available to the region by an agreement entered into by the commission under par. (h) 6.

c. Terminates the designation of a party state as a host state.

d. Revokes the membership of a party state in this compact.

e. Establishes the amounts of money that a party state that has withdrawn from this compact or had its membership in this compact revoked is required to pay under sub. (8) (e).

4m. Any trial de novo under subd. 4. of the facts shall be governed by the federal rules of civil procedure and the federal rules of evidence.

5. Preliminary, procedural or intermediate actions by the commission that precede a final decision are subject to review only in conjunction with review of the final decision.

6. Except as provided in subd. 5., actions of the commission that are not final decisions are not subject to judicial review.

(o) Unless approved by a majority of the commission, with the member from each host state in which an affected compact facility is operating or is being developed or constructed voting in the affirmative, no person shall do any of the following:

1. Import waste generated outside the region for management within the region.

2. Export waste generated within the region for disposal outside the region.

3. Manage waste generated outside the region at a facility within the region.

4. Dispose of waste generated within the region at a facility within the region that is not a compact facility.

(p) The commission shall establish a remedial action fund to pay the costs of reasonable remedial actions taken by a party state if an event results from the development, construction, operation, closing or long−term care of a compact facility that poses a threat to human health, safety or welfare or to the environment. The amount of the remedial action fund shall be adequate to pay the costs of all reasonably foreseeable remedial actions. A party state shall notify the commission as soon as reasonably practical after the occurrence of any event that may require the party state to take a remedial action. The failure of a party state to so notify the commission does not limit the rights of the party state under this paragraph. If the moneys in the remedial action fund are inadequate to pay the costs of reasonable remedial actions, the amount of the deficiency is a liability with respect to which generators shall provide indemnification under sub. (7) (g). Generators who provide the required indemnification have the rights of contribution provided in sub. (7) (g). This paragraph applies to any remedial action taken by a party state regardless of whether the party state takes the remedial action on its own initiative or because it is required to do so by a court or regulatory agency of competent jurisdiction.

(q) If the commission makes payment from the remedial action fund provided for in par. (p), the commission is entitled to obtain reimbursement under applicable rules of law from any person who is responsible for the event giving rise to the remedial action. Such reimbursement may be obtained from a party state only if the event giving rise to the remedial action resulted from the activities of that party state as a generator of waste.

(r) If this compact is dissolved, all moneys held by the commission shall be used first to pay for any ongoing or reasonably anticipated remedial actions. Any remaining moneys shall be distributed in a fair and equitable manner to those party states that have operating or closed compact facilities within their borders and shall be added to the long−term care funds maintained by those party states.

(4) ARTICLE IV—REGIONAL DISPOSAL PLAN. The commission shall adopt and periodically update a regional disposal plan designed to ensure the safe and efficient disposal of waste generated within the region. In adopting a regional waste disposal plan the commission shall do all of the following:

(a) Adopt procedures for determining, consistent with considerations for public health and safety, the type and number of compact facilities which are presently necessary and which are projected to be necessary to dispose of waste generated within the region;

(b) Develop and adopt procedures and criteria for identifying a party state as a host state for a compact facility. In developing these criteria, the commission shall consider all of the following:

1. The health, safety and welfare of the citizens of the party states.

2. The existence of compact facilities within each party state.

3. The minimization of waste transportation.

4. The volumes and types of wastes projected to be generated within each party state.

5. The environmental impacts on the air, land and water resources of the party states.

6. The economic impacts on the party states.

(c) Conduct such hearings and obtain such reports, studies, evidence and testimony required by its approved procedures prior to identifying a party state as a host state for a needed compact facility;

(d) Prepare a draft disposal plan and any update thereof, including procedures, criteria and host states, which shall be made available in a convenient form to the public for comment. Upon the request of a party state, the commission shall conduct a public hearing in that state prior to the adoption or update of the disposal plan. The disposal plan and any update thereof shall include the commission's response to public and party state comment.

(5) ARTICLE V—RIGHTS AND OBLIGATIONS OF PARTY STATES. (a) Each party state shall act in good faith in the performance of acts and courses of conduct which are intended to ensure the provision of facilities for regional availability and usage in a manner consistent with this compact.

(b) Except for waste attributable to radioactive material or waste imported into the region in order to render the material or waste amenable to transportation, storage, disposal or recovery, or in order to convert the waste or material to another usable material, or to reduce it in volume or otherwise treat it, each party state has the right to have all wastes generated within its borders disposed of at compact facilities subject to the payment of all fees established by the host state under sub. (6) (j) and to the provisions contained in subs. (6) (L) and (s), (8) (d), (9) (d) and (10). All party states have an equal right of access to any facility made available to the region by any agreement entered into by the commission pursuant to sub. (3) (h) 6., subject to the provisions of subs. (6) (L) and (s), (8) (d) and (10).

(c) If a party state's right to have waste generated within its borders disposed of at compact facilities, or at any noncompact facility made available to the region by an agreement entered into by the commission under sub. (3) (h) 6., is suspended, no waste generated within its borders by any person shall be disposed of at any such facility during the period of the suspension.

(d) To the extent permitted by federal law, each party state may enforce any applicable federal and state laws, regulations and rules pertaining to the packaging and transportation of waste generated within or passing through its borders. Nothing in this paragraph shall be construed to require a party state to enter into any agreement with the U.S. nuclear regulatory commission.

(e) Each party state shall provide to the commission any data and information the commission requires to implement its responsibilities. Each party state shall establish the capability to obtain any data and information required by the commission.

(f) If, notwithstanding the sovereign immunity provision in sub. (7) (f) 1. and the indemnification provided for in subs. (3) (p), (6) (o) and (7) (g), a party state incurs a cost as a result of an inadequate remedial action fund or an exhausted long−term care fund, or incurs a liability as a result of an action described in sub. (7) (f) 1. and not described in sub. (7) (f) 2., the cost or liability shall be the pro rata obligation of each party state and each state that has withdrawn from this compact or had its membership in this compact revoked. The commission shall determine each state's pro rata obligation in a fair and equitable manner based on the amount of waste from each such state that has been or is projected to be disposed of at the compact facility with respect to which the cost or liability to be shared was incurred. No state shall be obligated to pay the pro rata obligation of any other state. The pro rata obligations provided for in this paragraph do not result in the creation of state debt. Rather, the pro rata obligations are contractual obligations that shall be enforced by only the commission or an affected party state.

(g) If the party states make payment pursuant to par. (f), the surcharge or fee provided for in sub. (3) (j) shall be used to collect the funds necessary to reimburse the party states for those payments. The commission shall determine the time period over which reimbursement shall take place.

(6) ARTICLE VI—DEVELOPMENT, OPERATION AND CLOSING OF COMPACT FACILITIES. (a) Any party state may volunteer to become a host state and the commission may designate that state as a host state.

(b) If not all compact facilities required by the regional disposal plan are developed pursuant to par. (a), the commission may designate a host state.

(c) After a state is designated a host state by the commission, the state is responsible for the timely development and operation of the compact facility it is designated to host. The development and operation of the compact facility shall not conflict with applicable federal and host state laws, rules and regulations, provided that the laws, rules and regulations of a host state and its political subdivisions shall not prevent, nor shall they be applied so as to prevent, the host state's discharge of the obligation set forth in this paragraph. The obligation set forth in this paragraph is contingent upon the discharge by the commission of its obligation set forth in sub. (3) (i) 5.

(d) If a party state designated as a host state fails to discharge the obligations imposed upon it by par. (c), its host state designation may be terminated by a two−thirds vote of the commission with the member from the host state of any then−operating compact facility voting in the affirmative. A party state whose host state designation has been terminated has failed to fulfill its obligations as a host state and is subject to the provisions of sub. (8) (d).

(e) Any party state designated as a host state may request the commission to relieve that state of the responsibility to serve as a host state. Except as set forth in par. (d), the commission may relieve a party state of its responsibility only upon a showing by the requesting party state that, based upon criteria established by the commission that are consistent with any applicable federal criteria, no feasible potential compact facility site exists within its borders. A party state relieved of its host state responsibility shall repay to the commission any funds provided to that state by the commission for the development of a compact facility and also shall pay to the commission the amount the commission determines is necessary to ensure that the commission and the other party states do not incur financial loss as a result of the state being relieved of its host state responsibility. Any funds so paid to the commission with respect to the financial loss of the other party states shall be distributed forthwith by the commission to the party states that would otherwise incur the loss. In addition, until the state relieved of its responsibility is again designated as a host state and a compact facility is located in that state begins operating, it shall annually pay to the commission, for deposit in the remedial action fund, an amount the commission determines is fair and equitable in light of the fact the state has been relieved of the responsibility to host a compact facility but continues to enjoy the benefits of being a member of this compact.

(f) The host state shall select the technology for the compact facility. If requested by the commission, information regarding

the technology selected by the host state shall be submitted to the commission for its review. The commission may require the host state to make changes in the technology selected by the host state if the commission demonstrates that the changes do not decrease the protection of air, land and water resources and the health and safety of all people who may be affected by the facility. If requested by the host state, any commission decision requiring the host state to make changes in the technology shall be preceded by an adjudicatory hearing in which the commission shall have the burden of proof.

(g) A host state may assign to a private contractor the responsibility, in whole or in part, to develop, construct, operate, close or provide long−term care for a compact facility. Assignment of such responsibility by a host state to a private contractor does not relieve the host state of any responsibility imposed upon it by this compact. A host state may secure indemnification from the contractor for any costs, liabilities and expenses incurred by the host state resulting from the development, construction, operation, closing or long−term care of a compact facility.

(h) To the extent permitted by federal and state law, a host state shall regulate and license any facility within its borders and ensure the long−term care of that facility.

(i) A host state shall accept waste for disposal for a period of 20 years from the date on which the compact facility in the host state becomes operational or until its capacity has been reached, whichever occurs first. At any time before the compact facility closes, the host state and the commission may enter into an agreement to extend the period during which the host state is required to accept such waste or to increase the capacity of the compact facility. Except as specifically authorized by par. (L) 4., the 20−year period shall not be extended, and the capacity of the facility shall not be increased, without the consent of the affected host state and the commission.

(j) A host state shall establish a system of fees to be collected from the users of any compact facility within its borders. The fee system, and the costs paid through the system, shall be reasonable and equitable. The fee system shall be subject to the commission's approval. The fee system shall provide the host state with sufficient revenue to pay costs associated with the compact facility including, but not limited to, operation, closing, long−term care, debt service, legal costs, local impact assistance and local financial incentives. The fee system also shall be used to collect the surcharge provided in sub. (3) (j) 2. The fee system shall include incentives for source reduction and shall be based on the hazard of the waste as well as the volume.

(k) A host state shall ensure that a compact facility located within its borders that is permanently closed is properly cared for so as to ensure protection of air, land and water resources and the health and safety of all people who may be affected by the facility.

(L) The development of subsequent compact facilities shall be as follows:

1. No compact facility shall begin operating until the commission designates the host state of the next compact facility.

2. The following actions shall be taken by the state designated to host the next compact facility within the specified number of years after the compact facility it is intended to replace begins operation:

a. Within 3 years, enact legislation providing for the development of the next compact facility.

b. Within 7 years, initiate site characterization investigations and tests to determine licensing suitability for the next compact facility.

c. Within 11 years, submit a license application for the next compact facility that the responsible licensing authority deems complete.

2m. If a host state fails to take any of the actions under subd. 2. within the specified time, all waste generated by any person within that state shall be denied access to the then−operating compact facility, and to any noncompact facility made available to the region by any agreement entered into by the commission pursuant to sub. (3) (h) 6., until the action is taken. Denial of access may be rescinded by the commission, with the member from the host state of the then−operating compact facility voting in the affirmative. A host state that fails to take any of these actions within the specified time has failed to fulfill its obligations as a host state and is subject to the provisions of par. (d) and sub. (8) (d).

3. Within 14 years after any compact facility begins operating, the state designated to host the next compact facility shall have obtained a license from the responsible licensing authority to construct and operate the compact facility that the state has been designated to host. If the license is not obtained within the specified time, all waste generated by any person within the state designated to host the next compact facility shall be denied access to the then−operating compact facility, and to any noncompact facility made available to the region by any agreement entered into by the commission pursuant to sub. (3) (h) 6., until the license is obtained. The state designated to host the next compact facility shall have failed in its obligations as a host state and shall be subject to par. (d) and sub. (8) (d). In addition, at the sole option of the host state of the then−operating compact facility, all waste generated by any person within any party state that has not fully discharged its obligations under par. (i) shall be denied access to the then−operating compact facility, and to any noncompact facility made available to the region by any agreement entered into by the commission pursuant to sub. (3) (h) 6., until the license is obtained. Denial of access may be rescinded by the commission, with the member from the host state of the then−operating compact facility voting in the affirmative.

4. If 20 years after a compact facility begins operating the next compact facility is not ready to begin operating, the state designated to host the next compact facility shall have failed in its obligation as a host state and shall be subject to par. (d) and sub. (8) (d). If at the time the capacity of the then−operating compact facility has been reached, or 20 years after the facility began operating, whichever occurs first, the next compact facility is not ready to begin operating, the host state of the then−operating compact facility, without the consent of any other party state or the commission, may continue to operate the facility until a compact facility in the next host state is ready to begin operating. During any such period of continued operation of a compact facility, all waste generated by any person within the state designated to host the next compact facility shall be denied access to the then−operating compact facility and to any noncompact facility made available to the region by any agreement entered into by the commission pursuant to sub. (3) (h) 6. In addition, during such period, at the sole option of the host state of the then−operating compact facility, all waste generated by any person within any party state that has not fully discharged its obligations under par. (i) shall be denied access to the then−operating compact facility and to any noncompact facility made available to the region by any agreement entered into by the commission pursuant to sub. (3) (h) 6. Denial of access may be rescinded by the commission, with the member from the host state of the then−operating compact facility voting in the affirmative. The provisions of this subdivision shall not apply if their application is inconsistent with an agreement between the host state of the then−operating compact facility and the commission as authorized in par. (i) or inconsistent with par. (p) or (q).

5. During any period that access is denied for waste disposal pursuant to subd. 2m., 3. or 4., the party state designated to host the next compact disposal facility shall pay to the host state of the then−operating compact facility an amount the commission determines is reasonably necessary to ensure that the host state, or any agency or political subdivision thereof, does not incur financial loss as a result of the denial of access.

6. The commission may modify any of the requirements contained in subds. 2., 2m. and 3. if it finds that circumstances have changed so that the requirements are unworkable or unnecessarily rigid or no longer serve to ensure the timely development of a compact facility. The commission may adopt such a finding by a

two−thirds vote, with the member from the host state of the then−operating compact facility voting in the affirmative.

(m) This compact shall not prevent an emergency closing of a compact facility by a host state to protect air, land and water resources and the health and safety of all people who may be affected by the facility. A host state that has an emergency closing of a compact facility shall notify the commission in writing within 3 working days of its action and shall, within 30 working days of its action, demonstrate justification for the closing.

(n) A party state that has fully discharged its obligations under par. (i) shall not again be designated a host state of a compact facility without its consent until each party state has been designated to host a compact facility and has fully discharged its obligations under par. (i) or has been relieved under par. (e) of its responsibility to serve as a host state.

(o) Each host state of a compact facility shall establish a long−term care fund to pay for monitoring, security, maintenance and repair of the facility after it is permanently closed. The expenses of administering the long−term care fund shall be paid out of the fund. The fee system established by the host state that establishes a long−term care fund shall be used to collect moneys in amounts that are adequate to pay for all long−term care of the compact facility. The moneys shall be deposited into the long−term care fund. Except where the matter is resolved through arbitration, the amount to be collected through the fee system for deposit into the fund shall be determined through an agreement between the commission and the host state establishing the fund. Not less than 3 years, nor more than 5 years, before the compact facility it is designated to host is scheduled to begin operating, the host state shall propose to the commission the amount to be collected through the fee system for deposit into the fund. If, 180 days after such proposal is made to the commission, the host state and the commission have not agreed, either the commission or the host state may require the matter to be decided through binding arbitration. The method of administration of the fund shall be determined by the host state establishing the long−term care fund, provided that moneys in the fund shall be used only for the purposes set forth in this paragraph and shall be invested in accordance with the standards applicable to trustees under the laws of the host state establishing the fund. If, after a compact facility is closed, the commission determines the long−term care fund established with respect to that facility is not adequate to pay for all long−term care for that facility, the commission shall collect and pay over to the host state of the closed facility, for deposit into the long−term care fund, an amount determined by the commission to be necessary to make the amount in the fund adequate to pay for all long−term care of the facility. If a long−term care fund is exhausted and long−term care expenses for the facility with respect to which the fund was created have been reasonably incurred by the host state of the facility, those expenses are a liability with respect to which generators shall provide indemnification as provided in sub. (7) (g). Generators that provide indemnification shall have contribution rights as provided in sub. (7) (g).

(p) A host state that withdraws from the compact or has its membership revoked shall immediately and permanently close any compact facility located within its borders, except that the commission and a host state may enter into an agreement under which the host state may continue to operate, as a noncompact facility, a facility within its borders that, before the host state withdrew or had its membership revoked, was a compact facility.

(q) If this compact is dissolved, the host state of any then−operating compact facility shall immediately and permanently close the facility, provided that a host state may continue to operate a compact facility or resume operating a previously closed compact facility, as a noncompact facility, subject to all of the following requirements:

1. The host state shall pay to the other party states the portion of the funds provided to that state by the commission for the development, construction, operation, closing or long−term care of a compact facility that is fair and equitable, taking into consideration the period of time the compact facility located in that state was in operation and the amount of waste disposed of at the facility, provided that a host state that has fully discharged its obligations under par. (i) shall not be required to make such payment.

2. The host state shall physically segregate waste disposed of at the facility after this compact is dissolved from waste disposed of at the facility before this compact is dissolved.

3. The host state shall indemnify and hold harmless the other party states from all costs, liabilities and expenses, including reasonable attorney fees and expenses, caused by operating the facility after this compact is dissolved, provided that this indemnification and hold−harmless obligation shall not apply to costs, liabilities and expenses resulting from the activities of a host state as a generator of waste.

4. Moneys in the long−term care fund established by the host state that are attributable to the operation of the facility before this compact is dissolved, and investment earnings thereon, shall be used only to pay the cost of monitoring, securing, maintaining or repairing that portion of the facility used for the disposal of waste before this compact is dissolved. Such moneys and investment earnings, and any moneys added to the long−term care fund through a distribution authorized by sub. (3) (r), also may be used to pay the cost of any remedial action made necessary by an event resulting from the disposal of waste at the facility before this compact is dissolved.

(r) Financial statements of a compact facility shall be prepared according to generally accepted accounting principles. The commission may require the financial statements to be audited on an annual basis by a firm of certified public accountants selected and paid by the commission.

(s) Waste may be accepted for disposal at a compact facility only if the generator of the waste has signed, and there is on file with the commission, an agreement to provide indemnification to a party state, or employee of that state, for all of the following:

1. Any cost of a remedial action described in sub. (3) (p) that, due to inadequacy of the remedial action fund, is not paid as set forth in that provision.

2. Any expense for long−term care described in par. (o) that, due to exhaustion of the long−term care fund, is not paid as set forth in that provision.

3. Any liability for damages to persons, property or the environment incurred by a party state, or employee of that state while acting within the scope of employment, resulting from the development, construction, operation, regulation, closing or long−term care of a compact facility, or any noncompact facility made available to the region by any agreement entered into by the commission pursuant to sub. (3) (h) 6., or any other matter arising from this compact. The agreement also shall require generators to indemnify the party state or employee against all reasonable attorney fees and expenses incurred in defending any action for such damages. This indemnification shall not extend to liability based on any of the following:

a. The activities of the party states as generators of waste.

b. The obligations of the party states to each other and the commission imposed by this compact or other contracts related to the disposal of waste under this compact.

c. Activities of a host state or employees thereof that are grossly negligent or willful and wanton.

(t) The agreement under par. (s) shall provide that the indemnification obligation of generators shall be joint and several, except that the indemnification obligation of the party states with respect to their activities as generators of waste shall not be joint and several, but instead shall be prorated according to the amount of waste that each state had disposed of at the compact facility giving rise to the liability. Such proration shall be calculated as of the date of the event giving rise to the liability. The agreement shall be in a form approved by the commission with the member from the host state of any then−operating compact facility voting in the affirmative. Among generators there shall be rights of contribution based

on equitable principles and generators shall have rights of contribution against any other person responsible for such damages under common law, statute, rule or regulation, provided that a party state that through its own activities did not generate any waste disposed of at the compact facility giving rise to the liability, an employee of such a party state and the commission shall have no such contribution obligation. The commission may waive the requirement that the party state sign and file such an indemnification agreement as a condition to being able to dispose of waste generated as a result of the party state's activities. Such a waiver shall not relieve a party state of the indemnification obligation imposed by sub. (7) (g).

(7) ARTICLE VII—OTHER LAWS AND REGULATIONS. (a) Nothing in this compact:

1. Abrogates or limits the applicability of any act of congress or diminishes or otherwise impairs the jurisdiction of any federal agency expressly conferred thereon by the congress;

2. Prevents the enforcement of any other law of a party state which is not inconsistent with this compact;

3. Prohibits any generator from storing or treating, on its own premises, waste generated by it within the region;

4. Affects any administrative or judicial proceeding pending on the effective date of this compact;

5. Alters the relations between and the respective internal responsibility of the government of a party state and its subdivisions;

6. Affects the generation, treatment, storage or disposal of waste generated by the atomic energy defense activities of the secretary of the U.S. department of energy or successor agencies or federal research and development activities as described in 42 USC 2021;

7. Affects the rights and powers of any party state or its political subdivisions, to the extent not inconsistent with this compact, to regulate and license any facility or the transportation of waste within its borders.

8. Requires a party state to enter into any agreement with the U.S. nuclear regulatory commission.

9. Limits, expands or otherwise affects the authority of a state to regulate low−level radioactive waste classified by any agency of the U.S. government as "below regulatory concern" or otherwise exempt from federal regulation.

(b) If a court of the United States finally determines that a law of a party state conflicts with this compact, this compact shall prevail to the extent of the conflict. The commission shall not commence an action seeking such a judicial determination unless commencement of the action is approved by a two−thirds vote of the membership of the commission.

(c) Except as authorized by this compact, no law, rule or regulation of a party state or of any of its subdivisions or instrumentalities may be applied in a manner which discriminates against the generators of another party state.

(d) Except as provided in par. (f) and sub. (3) (m), no provision of this compact shall be construed to eliminate or reduce in any way the liability or responsibility, whether arising under common law, statute, rule or regulation, of any person for penalties, fines or damages to persons, property or the environment resulting from the development, construction, operation, closing or long−term care of a compact facility, or any noncompact facility made available to the region by any agreement entered into by the commission pursuant to sub. (3) (h) 6., or any other matter arising from this compact. The provisions of this compact shall not alter otherwise applicable laws relating to compensation of employees for workplace injuries.

(e) Except as provided in 28 USC 1251 (a), the district courts of the United States have exclusive jurisdiction to decide cases arising under this compact. This paragraph does not apply to proceedings within the jurisdiction of state or federal regulatory agencies nor to judicial review of proceedings before state or federal regulatory agencies. This paragraph shall not be construed to diminish other laws of the United States conferring jurisdiction on the courts of the United States.

(f) For the purposes of activities pursuant to this compact, the sovereign immunity of party states and employees of party states shall be as follows:

1. A party state or employee thereof, while acting within the scope of employment, shall not be subject to suit or held liable for damages to persons, property or the environment resulting from the development, construction, operation, regulation, closing or long−term care of a compact facility, or any noncompact facility made available to the region by any agreement entered into by the commission pursuant to sub. (3) (h) 6. This applies whether the claimed liability of the party state or employee is based on common law, statute, rule or regulation.

2. The sovereign immunity granted in subd. 1. does not apply to any of the following:

a. Actions based upon the activities of the party states as generators of waste. With regard to those actions, the sovereign immunity of the party states shall not be affected by this compact.

b. Actions based on the obligations of the party states to each other and the commission imposed by this compact or other contracts related to the disposal of waste under this compact. With regard to those actions, the party states shall have no sovereign immunity.

c. Actions against a host state, or employee thereof, when the host state or employee acted in a grossly negligent or willful and wanton manner.

(g) If in any action described in par. (f) 1. and not described in par. (f) 2. it is determined that, notwithstanding par. (f) 1., a party state, or employee of that state who acted within the scope of employment, is liable for damages or has liability for other matters arising under this compact as described in sub. (6) (s) 3., the generators who caused waste to be placed at the compact facility with respect to which the liability was incurred shall indemnify the party state or employee against that liability. Those generators also shall indemnify the party state or employee against all reasonable attorney fees and expenses incurred in defending against any such action. The indemnification obligation of generators under this paragraph shall be joint and several, except that the indemnification obligation of party states with respect to their activities as generators of waste shall not be joint and several, but instead shall be prorated according to the amount of waste each state has disposed of at the compact facility giving rise to the liability. Among generators, there shall be rights of contribution based upon equitable principles and generators shall have rights of contribution against any other person responsible for such damages under common law, statute, rule or regulation. A party state that through its own activities did not generate any waste disposed of at the compact facility giving rise to the liability, an employee of such a party state and the commission shall have no contribution obligation under this paragraph. This paragraph shall not be construed as a waiver of the sovereign immunity provided for in par. (f) 1.

(h) The sovereign immunity of a party state provided for in par. (f) 1. shall not be extended to any private contractor assigned responsibilities as authorized in sub. (6) (g).

(8) ARTICLE VIII—ELIGIBLE PARTIES, WITHDRAWAL, REVOCATION, SUSPENSION OF ACCESS, ENTRY INTO FORCE AND TERMINATION. (a) Any state may petition the commission to be eligible for membership in the compact. The commission may establish appropriate eligibility requirements. These requirements may include, but are not limited to, an eligibility fee or designation as a host state. A petitioning state becomes eligible for membership in the compact upon the approval of the commission, including the affirmative vote of the member from each host state in which a compact facility is operating or being developed or constructed. Any state becoming eligible upon the approval of the commission becomes a member of the compact when the state enacts this com-

pact into law and pays the eligibility fee established by the commission.

(b) The commission is formed upon the appointment of commission members and the tender of the membership fee payable to the commission by 3 party states. The governor of the first state to enact this compact shall convene the initial meeting of the commission. The commission shall cause legislation to be introduced in the congress which grants the consent of the congress to this compact, and shall take action necessary to organize the commission and implement the provision of this compact.

(c) A party state that has fully discharged its obligations under sub. (6) (i), or has been relieved under sub. (6) (e) of its responsibilities to serve as a host state, may withdraw from this compact by repealing the authorizing legislation and by receiving the unanimous consent of the commission. Withdrawal takes effect on the date specified in the commission resolution consenting to withdrawal. All legal rights of the withdrawn state established under this compact, including, but not limited to, the right to have waste generated within its borders disposed of at compact facilities, cease upon the effective date of withdrawal, but any legal obligations of that party state under this compact, including, but not limited to, those set forth in par. (e) continue until they are fulfilled.

(d) Any party state that fails to comply with the terms of this compact or fails to fulfill its obligations may have reasonable financial penalties imposed against it, the right to have waste generated within its borders disposed of at compact facilities, or any noncompact facility made available to the region by any agreement entered into by the commission pursuant to sub. (3) (h) 6., suspended or its membership in the compact revoked by a two−thirds vote of the commission, provided that the membership of the party state designated to host the next compact facility shall not be revoked unless the member from the host state of any then−operating compact facility votes in the affirmative. Revocation takes effect on the date specified in the resolution revoking the party state's membership. All legal rights of the revoked party state established under this compact, including, but not limited to, the right to have waste generated within its borders disposed of at compact facilities, cease upon the effective date of revocation but any legal obligations of that party state under this compact, including, but not limited to, those set forth in par. (e), continue until they are fulfilled. The chairperson of the commission shall transmit written notice of a revocation of a party state's membership in the compact, suspension of a party state's waste disposal rights or imposition of financial penalties immediately following the vote of the commission to the governor of the affected party state, the governors of all the other party states and the congress of the United States.

(e) A party state that withdraws from this compact or has its membership in the compact revoked before it has fully discharged its obligations under sub. (6) forthwith shall repay to the commission the portion of the funds provided to that state by the commission for the development, construction, operation, closing or long−term care of a compact facility that the commission determines is fair and equitable, taking into consideration the period of time the compact facility located in that host state was in operation and the amount of waste disposed of at the facility. If at any time after a compact facility begins operating a party state withdraws from the compact or has its membership revoked, the withdrawing or revoked party state shall be obligated forthwith to pay to the commission the amount the commission determines would have been paid under the fee system established by the host state of the facility to dispose of at the facility the estimated volume of waste generated in the withdrawing or revoked party state that would have been disposed of at the facility from the time of withdrawal or revocation until the time the facility is closed. Any funds so paid to the commission shall be distributed by the commission to the persons who would have been entitled to receive the funds had they originally been paid to dispose of waste at the facility. Any person receiving such funds from the commission shall apply the funds to the purposes to which they would have been applied had they originally been paid to dispose of waste at the compact facility. In addition, a withdrawing or revoked party state forthwith shall pay to the commission an amount the commission determines to be necessary to cover all other costs and damages incurred by the commission and the remaining party states as a result of the withdrawal or revocation. This paragraph shall be construed and applied so as to eliminate any decrease in revenue resulting from withdrawal of a party state or revocation of a party state's membership, to eliminate financial harm to the remaining party states and to create an incentive for party states to continue as members of the compact and to fulfill their obligations.

(f) Any party state whose right to have waste generated within its borders disposed of at compact facilities is suspended by the commission shall pay to the host state of the compact facility to which access has been suspended the amount that the commission determines is reasonably necessary to ensure that the host state, or any political subdivision thereof, does not incur financial loss as a result of the suspension of access.

(g) This compact becomes effective upon enactment by at least 3 eligible states and consent to this compact by the congress. The consent given to this compact by the congress shall extend to any future admittance of new party states and to the power of the commission to regulate the shipment and disposal of waste and disposal of naturally occurring and accelerator−produced radioactive material pursuant to this compact. Amendments to this compact are effective when enacted by all party states and, if necessary, consented to by the congress. To the extent required by section (4) (d) of "The Low−Level Radioactive Waste Policy Amendments Act of 1985", every 5 years after this compact has taken effect, the congress by law may withdraw its consent.

(h) The withdrawal of a party state from this compact, the suspension of waste disposal rights, the termination of a party state's designation as a host state or the revocation of a state's membership in this compact does not affect the applicability of this compact to the remaining party states.

(i) This compact may be dissolved and the obligations arising under this compact may be terminated only as follows:

1. Through unanimous agreement of all party states expressed in duly enacted legislation.

2. Through withdrawal of consent to this compact by the congress under article 1, section 10, of the U.S. constitution, in which case dissolution shall take place 120 days after the effective date of the withdrawal of consent.

(j) Unless explicitly abrogated by the state legislation dissolving this compact, or if dissolution results from withdrawal of congressional consent, the limitations on the investment and use of long−term care funds in sub. (6) (o) and (q) 4., the contractual obligations in sub. (5) (f), the indemnification obligations and contribution rights in subs. (6) (o), (s) and (t) and (7) (g) and the operation rights and indemnification and hold−harmless obligations in sub. (6) (q) shall remain in force notwithstanding dissolution of this compact.

(9) ARTICLE IX—PENALTIES AND ENFORCEMENT. (a) Each party state shall prescribe and enforce penalties against any person who is not an official of another state for violation of any provision of this compact.

(b) The parties to this compact intend that the courts of the United States shall specifically enforce the obligations, including the obligations of party states and revoked or withdrawn party states, established by this compact.

(c) The commission or an affected party state or both may obtain injunctive relief or recover damages or both to prevent or remedy violations of this compact.

(d) Each party state acknowledges that the transport into a host state of waste packaged or transported in violation of applicable laws, rules and regulations may result in the imposition of sanctions by the host state which may include reasonable financial penalties assessed against any generator, transporter or collector responsible for the violation or may include suspension or revoca-

tion of access to the facility in the host state by any generator, transporter or collector responsible for the violation.

(e) Each party state has the right to seek legal recourse against any party state which acts in violation of this compact.

(f) This compact shall not be construed to create any cause of action for any person other than a party state or the commission. Nothing in this paragraph shall limit the right of judicial review set forth in sub. (3) (n) 3. or the rights of contribution set forth in subs. (3) (p), (6) (o), (s) and (t) and (7) (g).

(10) ARTICLE X—SEVERABILITY AND CONSTRUCTION. The provisions of this compact shall be severable and if any provision of this compact is finally determined by a court of competent jurisdiction to be contrary to the constitution of any participating state or of the United States or the application thereof to any person or circumstance is held invalid, the validity of the remainder of this compact to that person or circumstance and the applicability of the entire compact to any other person or circumstance shall not be affected thereby. If any provision of 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 state affected as to all severable matters. If any provision of this compact imposing a financial obligation upon a party state, or a state that has withdrawn from this compact or had its membership in this compact revoked, is finally determined by a court of competent jurisdiction to be unenforceable due to the state's constitutional limitations on its ability to pay the obligation, then that state shall use its best efforts to obtain an appropriation to pay the obligation, and, if the state is a party state, its right to have waste generated within its borders disposed of at compact facilities, or any noncompact facility made available to the region by any agreement entered into by the commission pursuant to sub. (3) (h) 6., shall be suspended until the appropriation is obtained.

History: 1983 a. 393; 1995 a. 115; 1997 a. 35.

16.115 Fees. (1) The department shall establish by rule a schedule of annual fees to be paid by nuclear power plant operators and shall collect the fees until a regional facility operated under s. 16.11 begins accepting waste for disposal. The fees shall be based on the number of nuclear reactors at each plant and shall cover 75% of the state's costs enumerated in sub. (3) incurred prior to the acceptance of waste at the facility.

(2) The department shall establish by rule a schedule of annual fees to be paid by generators, as defined under s. 16.11 (2) (j), who use a compact facility, as defined in s. 16.11 (2) (d), or a noncompact facility made available by an agreement entered into under s. 16.11 (3) (h) 6. for disposal, and, beginning with the operation of the facility, the department shall collect the fees. The fees shall be based on the volume and hazard of waste generated and shall cover the costs enumerated under sub. (3) which are incurred before and after the acceptance of waste for disposal at the facility. Any nuclear power plant operator who has paid a fee under sub. (1) shall receive credit on the fees required of the operator under this subsection at a rate determined by the department so that, over the first 5 years of the collection of fees under this subsection, the power plant operator receives total credits equal to the fees paid under sub. (1). In addition to covering the costs enumerated under sub. (3), the fees established under this subsection for the first 5 years after the acceptance of waste for disposal at the facility shall be sufficient to repay the loan from the general fund made under s. 20.505 (1) (b), and the secretary shall lapse moneys from the appropriation under s. 20.505 (1) (g) to the general fund for that purpose over the 5−year period.

(3) The fees established under subs. (1) and (2) shall cover all of the following costs:

(a) The costs of state agencies in assisting the midwest interstate low−level radioactive waste commission member representing this state.

(b) The actual and necessary expenses of the commissioner in the performance of his or her duties.

(c) The actual and necessary expenses of the low−level radioactive waste advisory council created under s. 15.107 (9).

(d) The costs of membership in and costs associated with the midwest interstate low−level radioactive waste compact.

History: 1983 a. 393, 543; 1995 a. 115.
Cross Reference: See also ch. Adm 42, Wis. adm. code.

16.12 Violation of midwest interstate low−level radioactive waste compact. (1) Except as provided in sub. (2), any person, other than an official of another state, who violates any provision of the midwest interstate low−level radioactive waste compact under ss. 16.11 to 16.13 shall forfeit not more than $1,000.

(2) The sole remedies against the state, other than in its capacity as a generator, for a violation of any provision of the midwest interstate low−level radioactive waste compact under s. 16.11 are the remedies provided in s. 16.11.

History: 1983 a. 393; 1995 a. 115.

16.13 Data collection. Upon the request of the midwest interstate low−level radioactive waste commission member representing the state, the department may require a generator, as defined under s. 16.11 (2) (j), to provide information necessary for the member to discharge his or her duties under s. 16.11.

History: 1983 a. 393; 1995 a. 115.

16.135 Low−level radioactive waste council. (1) The low−level radioactive waste council shall do all of the following:

(a) Advise the midwest interstate low−level radioactive waste commissioner representing this state under s. 16.11.

(b) Be convened by the commissioner as necessary, but at least twice yearly, to review activities of the midwest interstate low−level radioactive waste commission.

(c) Make studies and recommend solutions and policy alternatives relating to matters before the commission.

(d) Present recommendations in writing to the governor and the legislature as requested or as necessary to ensure adequate exchange of information on activities and programs of the commission.

(2) This section does not apply after June 30, 2002.

History: 1989 a. 31; 1995 a. 27.

16.15 Resource recovery and recycling program. (1) DEFINITIONS. In this section:

(a) "Agency" has the meaning given under s. 16.52 (7).

(ab) "Authority" has the meaning given under s. 16.70 (2), but excludes the University of Wisconsin Hospitals and Clinics Authority.

(ae) "Cost of disposing of processed material" has the meaning given in s. 287.11 (2m) (a) 1.

(ah) "Cost of selling processed material" has the meaning given in s. 287.11 (2m) (a) 2.

(aj) "Major appliance" has the meaning given in s. 287.01 (3).

(am) "Office wastepaper" means any wastepaper or wastepaper product generated by an agency.

(ar) "Processed material" has the meaning given in s. 287.11 (2m) (a) 3.

(b) "Recovered material" has the meaning under s. 16.70 (11).

(c) "Recyclable material" means material that is suitable for recycling.

(d) "Recycled material" has the meaning under s. 16.70 (12).

(e) "Recycling" has the meaning under s. 289.43 (1).

(f) "Yard waste" has the meaning given in s. 287.01 (17).

(2) PROGRAM ESTABLISHMENT. The department shall establish a resource recovery and recycling program to promote the reduction of solid waste by agencies and authorities, the separation, recovery and disposition of recyclable materials and the procurement of recycled materials and recovered materials. The department shall require each agency and authority to participate in the

resource recovery and recycling program. The department shall also investigate opportunities for the inclusion of local governmental units in the resource recovery and recycling program and shall permit participation of local governmental units in the program when feasible.

(3) SOURCE SEPARATION. (a) *Requirements.* Except as provided in par. (b), the department shall require each agency and authority to do all of the following:

1. Separate for recycling all lead acid batteries, waste oil and major appliances that are generated as solid waste by the agency or authority beginning on January 1, 1991.

2. Except as provided in this subdivision, separate for recycling at least 50% of yard waste that is generated by the agency or authority beginning on January 1, 1992, and all yard waste that is generated by the agency or authority beginning on January 1, 1993. An agency or authority may allow yard waste to be left where it falls or dispose of yard waste on the same property on which it is generated, in lieu of separation for recycling.

3. Separate for recycling at least 50% of each of the materials listed in s. 287.07 (3) or (4) that is generated as solid waste by the agency or authority beginning on January 1, 1993, and such greater amount of such materials as the department determines is reasonably feasible beginning on January 1, 1995.

(b) *Variance.* 1. The department of natural resources shall, at the request of an agency or authority, grant a variance to a requirement under par. (a) 3. for up to one year for a material that is generated by the agency or authority in one or more locations if the department of natural resources determines that the cost of selling processed material exceeds any of the following:

a. Forty dollars per ton of processed material, as annually adjusted by the department of natural resources to reflect changes in price levels due to inflation since 1989.

b. The cost of disposing of processed material.

2. The department of natural resources may on its own initiative grant a variance to a requirement under par. (a) 3. for up to one year for a material that is generated by one or more state agencies or authorities in one or more locations if the department of natural resources determines that the cost of selling processed material exceeds the amount under subd. 1. a. or b.

3. The department of natural resources may grant a variance to a requirement under par. (a) for up to one year in the event of an unexpected emergency condition.

History: 1987 a. 292; 1989 a. 335; 1995 a. 27, 227; 1999 a. 9.

16.18 Management assistance grants to certain counties. (1) In this section, "eligible county" means a county that has a geographic area of less than 400 square miles and that contains no incorporated municipal territory.

(2) An eligible county may apply to the department for a management assistance grant annually in each state fiscal year for the purpose of assisting the county in funding one or more of the following functions:

(a) Public security.

(b) Public health.

(c) Public infrastructure.

(d) Public employee training.

(e) Economic development.

(3) No eligible county may receive a grant under this section unless the county maintains its financial records in accordance with accounting procedures established by the department of revenue, and unless the county submits to the department a detailed expenditure plan that identifies how the grant proceeds are proposed to be expended and how the proposed expenditures will enable the county to meet its goals for execution of the functions specified in sub. (2) for which the grant is requested.

(4) The department shall make grants to eligible counties from the appropriation under s. 20.505 (1) (ku).

(5) No county may receive a grant under this section in an amount exceeding $500,000 in any state fiscal year.

History: 1999 a. 9.

16.22 National and community service. (1) DEFINITIONS. In this section:

(a) "Board" means the national and community service board.

(b) "Corporation" means the corporation for national and community service created under 42 USC 12651.

(c) "National service program" means a program that addresses unmet human, educational, environmental or public safety needs and that receives financial assistance from the corporation or the board.

(dm) "Youth corps program" means a full−time, year−round national service program or a full−time, summer national service program that does all of the following:

1. Undertakes meaningful service projects with visible public benefits, including natural resources, urban renovation and human resources projects.

2. Includes as participants persons who have attained the age of 16 years but who have not attained the age of 26 years, including youths who are not enrolled in school and other disadvantaged youths.

3. Provides those participants with crew−based, highly structured and adult−supervised work experience, life skills training, education, career guidance and counseling, employment training and support services and with the opportunity to develop citizenship values and skills through service to their community and country.

(2) DUTIES OF THE BOARD. The board shall do all of the following:

(a) Prepare and update annually, through an open and public participation process, a plan for the provision of national service programs in this state that covers a 3−year period, that ensures outreach to diverse community−based organizations serving underrepresented populations and that contains such information as the corporation may require.

(b) Prepare applications for financial assistance from the corporation.

(c) Prepare applications for approval by the corporation of national service program positions that are eligible for national service educational awards under 42 USC 12601 and 12604.

(d) Make recommendations to the corporation concerning priorities for programs receiving federal domestic volunteer services assistance under 42 USC 4950 to 5091n.

(e) Provide technical assistance to persons applying for financial assistance from the corporation to enable those persons to plan and implement national service programs.

(f) Assist in providing health care and child care for participants in national service programs.

(g) Provide a system for the recruitment and placement of participants in national service programs and disseminate information to the public concerning national service programs and positions in national service programs.

(h) From the appropriations under s. 20.505 (4) (j) and (p), award grants to persons providing national service programs, giving priority to the greatest extent practicable to persons providing youth corps programs.

(i) Provide oversight and evaluation of the national service programs funded under par. (h).

(j) On request, provide projects, training methods, curriculum materials and other technical assistance to persons providing national service programs.

(k) Coordinate its activities with the activities of the corporation, the federal ACTION agency established under 42 USC 5041 and any state agency that administers federal financial assistance

under 42 USC 9901 to 9912 or any other federal financial assistance program with which coordination would be appropriate.

(L) Perform such other duties as may be required by the corporation.

(3) DELEGATION OF DUTIES. The board may not directly provide a national service program. Subject to any limitations that the corporation may prescribe, the board may delegate any of the duties specified in sub. (2), other than policy−making duties, to another state agency, a public agency or a nonprofit organization.

History: 1993 a. 437, 491; 1995 a. 225; 1997 a. 237.

16.25 Volunteer fire fighter and emergency medical technician service award program. (1) In this section:

(a) "Board" means the volunteer fire fighter and emergency medical technician service award board.

(b) "Internal Revenue Code" means the Internal Revenue Code, as defined for the current taxable year under s. 71.01 (6).

(c) "Municipality" means a city, village or town.

(d) "Program" means the volunteer fire fighter and emergency medical technician service award program established under sub. (2).

(2) The board shall establish by rule a program to provide length−of−service awards, described in 26 USC 457 (e) (11), to volunteer fire fighters in municipalities that operate volunteer fire departments or that contract with volunteer fire companies organized under ch. 181 or 213 and to volunteer emergency medical technicians in any municipality that authorizes volunteer emergency medical technicians to provide emergency medical technical services in the municipality. To the extent permitted by federal law, the board shall design the program so as to treat the length−of−service awards as a tax−deferred benefit under the Internal Revenue Code.

(3) The board shall promulgate rules to include the following design features for the program:

(a) All municipalities that operate volunteer fire departments or that contract with a volunteer fire company organized under ch. 181 or 213 and all municipalities that authorize volunteer emergency medical technicians to provide emergency medical technical services are eligible to participate in the program.

(b) Annual contributions in an amount determined by the municipality shall be paid by each municipality for each volunteer fire fighter and emergency medical technician who provides services for the municipality.

(c) The municipality may select from among the plans offered by individuals or organizations under contract with the board under sub. (4) for the volunteer fire fighters and emergency medical technicians who perform services for the municipality. The municipality shall pay the annual contributions directly to the individual or organization offering the plan selected by the municipality.

(d) 1. Subject to subd. 2., the board shall match all annual municipal contributions paid for volunteer fire fighters and emergency medical technicians up to $250 per fiscal year, other than contributions paid for the purchase of additional years of service under par. (e), to be paid from the appropriation account under s. 20.505 (4) (er). This amount shall be adjusted annually on July 1 to reflect any changes in the U.S. consumer price index for all urban consumers, U.S. city average, as determined by the U.S. department of labor, for the 12−month period ending on the preceding December 31. The board shall pay all amounts that are matched under this paragraph to the individuals and organizations offering the plans selected by the municipalities.

2. If the moneys appropriated under s. 20.505 (4) (er) are not sufficient to fully fund the contributions required to be paid by the board under subd. 1., the board shall prorate the contributions paid for the volunteer fire fighters and emergency medical technicians.

(e) A municipality may purchase additional years of service for volunteer fire fighters and emergency medical technicians who have at least 5 years of service as a volunteer fire fighter or emergency medical technician for the municipality. The number of additional years of service that may be purchased under this paragraph may not exceed the number of years of volunteer fire fighting or emergency medical technical service performed by the volunteer fire fighter or emergency medical technician for the municipality.

(f) Except in the case of a volunteer fire fighter or emergency medical technician or the beneficiary of a volunteer fire fighter or emergency medical technician eligible for a lump sum under par. (i), a vesting period of 10 years of volunteer fire fighting or emergency medical technical service for a municipality shall be required before a volunteer fire fighter or emergency medical technician may receive any benefits under the program.

(g) A volunteer fire fighter or emergency medical technician shall be paid a length of service award either in a lump sum or in a manner specified by rule, consisting of all municipal and state contributions made on behalf of the volunteer fire fighter or emergency medical technician and all earnings on the contributions, less any expenses incurred in the investment of the contributions and earnings, after the volunteer fire fighter or emergency medical technician attains 20 years of service for a municipality and reaches the age of 60. If a volunteer fire fighter or emergency medical technician has satisfied all vesting requirements under the program but has less than 20 years of service for a municipality or has not reached the age of 60, the program shall provide for the payment of a length of service award either in a lump sum or in a manner specified by rule in an amount to be determined by the board, but less than the amount paid to a volunteer fire fighter or emergency medical technician who has attained 20 years of service for a municipality and has reached the age of 60.

(h) A volunteer fire fighter or emergency medical technician who has not met all of the vesting requirements under the program shall forfeit his or her accrued years of volunteer fire fighting or emergency medical technical service if he or she should cease providing volunteer fire fighting or emergency medical technical services for a municipality for a period of 6 months or more, unless he or she has been granted a leave of absence by his or her supervisor.

(i) 1. The beneficiary of a volunteer fire fighter or emergency medical technician who is killed in the line of duty shall be paid a length of service award either in a lump sum or in a manner specified by rule, consisting of all municipal and state contributions made on behalf of the volunteer fire fighter or emergency medical technician and all earnings on the contributions, less any expenses incurred in the investment of the contributions and earnings.

2. A volunteer fire fighter or emergency medical technician who becomes disabled during his or her service as a volunteer fire fighter or emergency medical technician for the municipality shall be paid a length of service award either in a lump sum or in a manner specified by rule, in an amount to be determined by the board.

(j) The account of any volunteer fire fighter or emergency medical technician who has not met all of the vesting requirements under the program, who has not provided volunteer fire fighting or emergency medical technical services for a municipality for a period of 6 months or more and who has not been granted a leave of absence by his or her supervisor shall be closed.

(k) The board shall equitably allocate all moneys in accounts of volunteer fire fighters and emergency medical technicians that have been forfeited or closed to the accounts of volunteer fire fighters and emergency medical technicians that have not been forfeited or closed.

(4) (a) The board shall establish by rule the requirements for, and the qualifications of, the individuals and organizations in the private sector that are eligible to provide administrative services and investment plans under the program, other than services funded from the appropriation under s. 20.505 (4) (ec). In establishing the requirements and qualifications, the board shall develop criteria of financial stability that each individual and

organization must meet in order to offer the services and plans under the program.

(b) The board may contract with any individual or organization in the private sector that seeks to provide administrative services and investment plans required for the program, other than services funded from the appropriation under s. 20.505 (4) (ec), if the individual or organization fulfills the requirements and has the qualifications established by the board under par. (a). Section 16.72 (2) (b) does not apply to any such contract.

(5) The board shall establish by rule a process by which a volunteer fire fighter or emergency medical technician may appeal to the board any decision made by the department or by an individual or organization under contract with the board under sub. (4) that affects a substantial interest of the volunteer fire fighter or emergency medical technician under the program.

(6) Annually, on or before December 31, the board shall submit a report to the chief clerk of each house of the legislature under s. 13.172 (2) describing the activities of the board.

History: 1999 a. 105.
Cross Reference: See also ch. VFF−EMT 1, Wis. adm. code.

16.255 College savings program vendor. (1) The department shall determine the factors to be considered in selecting a vendor of the program under s. 14.64, which shall include:

(a) The person's ability to satisfy record−keeping and reporting requirements.

(b) The fees, if any, that the person proposes to charge account owners.

(c) The person's plan for promoting the college savings program and the investment that the person is willing to make to promote the program.

(d) The minimum initial contribution or minimum contributions that the person will require.

(e) The ability and willingness of the person to accept electronic contributions.

(f) The ability of the person to augment the college savings program with additional, beneficial services related to the program.

(2) The department shall solicit competitive sealed proposals under s. 16.75 (2m) from nongovernmental persons to serve as vendor of the college savings program. The department shall select the vendor based upon factors determined by the department under sub. (1).

(3) The contract between the department and the vendor shall ensure all of the following:

(a) That the vendor reimburses the state for all administrative costs that the state incurs for the college savings program.

(b) That a firm of certified public accountants selected by the vendor annually audits the college savings program and provides a copy of the audit to the college savings program board.

(c) That each account owner receives a quarterly statement that identifies the contributions to the college savings account during the preceding quarter, the total contributions to and the value of the college savings account through the end of the preceding quarter and any distributions made during the preceding quarter.

(d) That the vendor communicate to the beneficiary and account owner the requirements of s. 14.64 (8).

History: 1999 a. 44; 2001 a. 38 s. 12.

16.26 Weatherization assistance. Notwithstanding s. 16.54 (2) (a), the department shall administer federal funds available to this state under the weatherization assistance for low−income persons program, as amended, 42 USC 6861 to 6873. The department shall administer the funds in accordance with 42 USC 6861 to 6873 and regulations adopted under 42 USC 6861 or 6873.

History: 1991 a. 39; 1995 a. 27, 289, 432; 2003 a. 33 s. 163; Stats. 2003 s. 16.26.

16.27 Low−income energy assistance. (1) DEFINITIONS. In this section:

(a) "County department" means a county department under s. 46.215 or 46.22.

(am) "Crisis assistance" means a benefit that is given to a household experiencing or at risk of experiencing a heating−related emergency.

(b) "Dwelling" means the residence of a low−income warm room program volunteer.

(bm) "Heating assistance" means a benefit, other than crisis assistance, that is given to a household to assist in meeting the cost of home heating.

(c) "Household" means any individual or group of individuals who are living together as one economic unit for whom residential energy is customarily purchased in common or who make undesignated payments for energy in the form of rent.

(d) "Low−income warm room program materials" include a removable, insulated radiator blanket, a portable remote control thermostat and other cost−efficient materials or repairs necessary to achieve maximum heating efficiency in a dwelling.

(e) "Low−income warm room program volunteer" means a person who is eligible for assistance under 42 USC 8621 to 8629, whose dwelling, in comparison to the dwellings of other persons eligible for assistance under 42 USC 8621 to 8629, has a high ratio of space to occupant, and who volunteers to take the training under sub. (2) (b) and to cooperate with the department in the installation and operation of low−income warm room program materials in his or her dwelling.

(em) "Utility allowance" means the amount of utility costs paid by those individuals in subsidized housing who pay their own utility bills, as averaged from total utility costs for the housing unit by the housing authority.

(2) ADMINISTRATION. (a) The department shall administer low−income energy assistance as provided in this section to assist an eligible household to meet the costs of home energy with low−income home energy assistance benefits authorized under 42 USC 8621 to 8629.

(b) The department shall administer a low−income warm room program to install low−income warm room program materials in the dwellings of low−income warm room program volunteers and to train the low−income warm room program volunteers and the members of each low−income warm room program volunteer's household in the operation of the low−income warm room program materials to achieve maximum health and heating efficiency.

(3) FUNDING. Subject to s. 16.54 (2), the department shall, within the limits of the availability of federal funds received under 42 USC 8621 to 8629:

(b) By October 1 of every year from the appropriation under s. 20.505 (1) (mb), determine the total amount available for payment of heating assistance under sub. (6) and determine the benefit schedule.

(c) From the appropriation under s. 20.505 (1) (mb), allocate $1,100,000 in each federal fiscal year for the department's expenses in administering the funds to provide low−income energy assistance.

(d) From the appropriation under s. 20.505 (1) (n), allocate $2,900,000 in each federal fiscal year for the expenses of a county department, another local governmental agency or a private nonprofit organization in administering under sub. (4) the funds to provide low−income energy assistance.

(e) From the appropriation under s. 20.505 (1) (mb):

1. Allocate and transfer to the appropriation under s. 20.505 (1) (kn), 15% of the moneys received under 42 USC 8621 to 8629 in each federal fiscal year under the priority of maintaining funding for the geographical areas on July 20, 1985, and, if funding is reduced, prorating contracted levels of payment, for the weather-

ization assistance program administered by the department under s. 16.26.

2. Allocate not more than $3,200,000 in each federal fiscal year for the payment of crisis assistance benefits to meet weather−related or fuel supply shortage emergencies under sub. (8).

3. Except as provided under subd. 6., allocate the balance of funds received under 42 USC 8621 to 8629 in a federal fiscal year, after making the allocations under pars. (c) and (d) and subds. 1. and 2., for the payment of heating assistance under sub. (6).

6. If federal funds received under 42 USC 8621 to 8629 in a federal fiscal year total less than 90% of the amount received in the previous federal fiscal year, submit a plan of expenditure under s. 16.54 (2) (b).

7. By October 1 of each year and after consulting with the department of administration, allocate funds budgeted but not spent and any funds remaining from previous fiscal years to heating assistance under sub. (6) or to the weatherization assistance program under s. 16.26.

(4) APPLICATION PROCEDURE. (a) A household may apply after September 30 and before May 16 of any year for heating assistance from the county department under s. 46.215 (1) (n) or 46.22 (1) (b) 4m. a. to e. or from another local governmental agency or a private nonprofit organization with which the department contracts to administer the heating assistance program, and shall have the opportunity to do so on a form prescribed by the department for that purpose.

(b) If by February 1 of any year the number of households applying under par. (a) substantially exceeds the number anticipated, the department may reduce the amounts of payments made under sub. (6) made after that date. The department may suspend the processing of additional applications received until the department adjusts benefit amounts payable.

(5) ELIGIBILITY. Subject to the requirements of subs. (4) (b) and (8), the following shall receive low−income energy assistance under this section:

(b) A household with income which is not more than 150% of the income poverty guidelines for the nonfarm population of the United States as prescribed by the federal office of management and budget under 42 USC 9902 (2).

(c) A household entirely composed of persons receiving aid to families with dependent children under s. 49.19, food stamps under 7 USC 2011 to 2029, or supplemental security income or state supplemental payments under 42 USC 1381 to 1383c or s. 49.77.

(d) A household with income within the limits specified under par. (b) that resides in housing that is subsidized or administered by a municipality, a county, the state or the federal government in which a utility allowance is applied to determine the amount of rent or the amount of the subsidy.

(6) BENEFITS. Within the limits of federal funds allocated under sub. (3) and subject to the requirements of sub. (4) (b) and s. 16.54 (2) (b), heating assistance shall be paid under this section according to a benefit schedule established by the department based on household income, family size and energy costs.

(7) INDIVIDUALS IN STATE PRISONS OR SECURED JUVENILE FACILITIES. No payment under sub. (6) may be made to a prisoner who is imprisoned in a state prison under s. 302.01 or to a person placed at a secured correctional facility, as defined in s. 938.02 (15m), a secured child caring institution, as defined in s. 938.02 (15g), or a secured group home, as defined in s. 938.02 (15p).

(8) CRISIS ASSISTANCE PROGRAM. A household eligible for heating assistance under sub. (6) may also be eligible for a crisis assistance payment to meet a weather−related or fuel supply shortage crisis. The department shall define the circumstances constituting a crisis for which a payment may be made and shall establish the amount of payment to an eligible household or individual. The department may delegate a portion of its responsibility under this subsection to a county department under s. 46.215 or 46.22 or to another local governmental agency or a private nonprofit organization.

(9) NOTICE OF UTILITY DISCONNECTION REQUIRED. Any public utility, as defined in s. 196.01 (5), or any fuel distributor furnishing heat, light or power to a residential customer shall provide written notice of intent to disconnect or discontinue service during the months of November to April and shall include information concerning any federal, state or local program that provides assistance for fuel or home heating bills. The department shall provide printed information at no cost upon request to any fuel distributor serving residential customers except public utilities. The information shall describe the nature and availability of any federal, state or local program that provides assistance for fuel or home heating bills.

History: 1985 a. 29 ss. 1055g, 2488h to 2488n; 1985 a. 176, 332; 1987 a. 27; 1989 a. 31, 359; 1991 a. 39; 1993 a. 16; 1995 a. 27 ss. 2336, 3182 to 3207; Stats. 1995 s. 16.385; 1995 a. 77, 417; 1999 a. 9; 2003 a. 33 s. 162; Stats. 2003 s. 16.27.

SUBCHAPTER III

FINANCE

16.40 Department of administration, duties, powers. The department of administration shall:

(1) PREPARE BUDGET. Discharge all duties in connection with the compilation of the biennial state budget report imposed by ss. 16.42 to 16.46.

(2) ATTEND FINANCE COMMITTEE. Attend all public hearings of the joint committee on finance and such executive meetings as the committee may desire, answer questions and give information called for by the committee relative to the financial operations of the state and its several agencies.

(3) PREPARE ANNUAL FINANCIAL STATEMENT. Prepare at the end of each fiscal year not later than October 15, a condensed, and popular account of the finances of the state, showing the sources of the state's revenue and the purposes of its expenditures, including a comparison with the prior year; prepare at the end of each fiscal year not later than October 15, a statement of the condition of the general fund showing the cash balance, the accounts receivable, the accounts payable and the continuing unexpended and unencumbered appropriation balances; and prepare not earlier than January 1 nor later than February 1 in each year a tentative statement of the estimated receipts and disbursements of the general fund for the biennium in progress, showing also the estimated condition of the general fund at the end of the current biennium. A copy of each of such statements shall be filed in the legislative reference bureau and shall be sent to each member of the legislature.

(4) FURNISH INFORMATION. Furnish such other information regarding the finances of the state and the financial operations of agencies as may be called for by the governor, the governor−elect, the legislature or either house thereof, or any member thereof.

(5) BOOKKEEPING FORMS. Prescribe the forms of accounts and other financial records to be used by all agencies. Such accounts shall be as nearly uniform as is practical, and as simple as is consistent with an accurate and detailed record of all receipts and disbursements and of all other transactions affecting the acquisition, custodianship and disposition of value. The secretary may call upon the state auditor for advice and suggestions in prescribing such forms.

(6) TAKE TESTIMONY. In the discharge of any duty imposed by law, administer oaths and take testimony and cause the deposition of witnesses to be taken in the manner prescribed for taking depositions in civil actions in circuit courts.

(7) COLLECT REVENUE INFORMATION. Collect from any available source and correlate information concerning any and all anticipated state revenues, including program revenues and segregated revenues from program receipts.

(8) COLLECT INFORMATION ON DISBURSEMENTS. Collect and correlate information from all agencies concerning any agency disbursements and the proper time thereof.

(9) FORECAST REVENUES AND EXPENDITURES. Forecast all revenues and expenditures of the state.

(10) DETERMINE MINIMUM CASH BALANCES. Determine the minimum cash balances needed in public depositories in which operating accounts are maintained at all times to meet the operating requirements of all agencies.

(11) ADVISE INVESTMENT BOARD DIRECTOR ON SURPLUS MONEYS. Advise the executive director of the investment board daily concerning surplus moneys available for investment from each of the various state funds.

(12) ADVISE INVESTMENT BOARD DIRECTOR ON CASH NEEDS. Advise the executive director of the investment board concerning the date when invested funds will be required in the form of cash. Said director shall furnish such reports of investments as may be required by the department of administration.

(13) COOPERATE IN IMPROVEMENTS OF STATE FUND MANAGEMENT. Cooperate with the executive director of the investment board, the state treasurer, the department of revenue and other revenue agencies for the purpose of effecting improvements in the management and investment of state funds.

(14) COMMITTEES. Perform administrative services required to properly account for the finances of committees created by law or executive order. The governor may authorize each committee to make expenditures from the appropriation under s. 20.505 (4) (ba) not exceeding $2,000 per fiscal year. The governor shall report such authorized expenditures to the joint committee on finance at the next quarterly meeting of the committee. If the governor desires to authorize expenditures of more than $2,000 per fiscal year by a committee, the governor shall submit to the joint committee on finance for its approval a complete budget for all expenditures made or to be made by the committee. The budget may cover a period encompassing more than one fiscal year or biennium during the governor's term of office. If the joint committee on finance approves a budget authorizing expenditures of more than $2,000 per fiscal year by such a committee, the governor may authorize the expenditures to be made within the limits of the appropriation under s. 20.505 (4) (ba) in accordance with the approved budget during the period covered by the budget. If after the joint committee on finance approves a budget for such a committee the governor desires to authorize expenditures in excess of the authorized expenditures under the approved budget, the governor shall submit a modified budget for the committee to the joint committee on finance. If the joint committee on finance approves a modified budget, the governor may authorize additional expenditures to be made within the limits of the appropriation under s. 20.505 (4) (ba) in accordance with the modified budget during the period covered by the modified budget.

(16) MAINTAIN AN ACCOUNTING FOR OPERATING NOTES. Maintain an accounting of, forecast and administer those moneys pledged for the repayment of operating notes issued under subch. III of ch. 18, in accordance with agreements entered into by the secretary under s. 16.004 (9).

(17) INTERSTATE BODIES. Perform administrative services required to properly account for dues and related expenses for state participation in national or regional interstate governmental bodies specified in s. 20.505 (4) (ba) or determined by the governor.

(18) REQUIRE AGENCIES TO PROVIDE COPIES. Require each state agency, at the time that the agency submits a request to the department for an increased appropriation to be provided in an executive budget bill which is necessitated by the compensation plan under s. 230.12 or a collective bargaining agreement approved under s. 111.92, to provide a copy of the request to the director of the office of state employment relations and the joint committee on employment relations.

(19) STATE−OWNED RENTAL HOUSING. Require each agency as defined in s. 16.52 (7) which has a program revenue or segregated revenue appropriation for deposit of housing receipts to deposit all revenues received from rentals established under s. 16.004 (8) for state−owned housing in that appropriation account, or if the appropriation is for more than one purpose, in a separate subaccount within that appropriation, and to pay all expenses for maintenance of the housing from that account or subaccount.

(20) PUBLIC DEBT SERVICE COSTS PROJECTION. Prepare in each odd−numbered year for inclusion in the report submitted by the building commission under s. 13.48 (7) a projection of the long−term trends in principal and interest costs on public debt contracted under subchs. I and IV of ch. 18 as a proportion of all tax revenues that are deposited or are expected to be deposited in the general fund. The projection shall take account of the recommendations adopted by the building commission for the long−range building program under s. 13.48 (7) for the succeeding fiscal biennium and all proposed general obligation bonding contained in the executive budget bill or bills, including bonding for the authorized state building program as well as for other borrowing purposes.

(21) ADMINISTRATIVE SERVICES PROVIDED TO THE BOARD OF COMMISSIONERS OF PUBLIC LANDS. Render an accounting to the board of commissioners of public lands for the costs of all administrative services provided by the department and other state agencies, as defined in s. 20.001 (1), to the board. All moneys received from the board under s. 24.64 for the costs of administrative services provided by the department and other state agencies shall be deposited in the general fund.

(22) SALE OF FOREST PRODUCTS AT FORT MCCOY. (a) Annually distribute an amount equal to 50% of the amount appropriated under s. 20.505 (1) (ng) to the school districts located in whole or in part in Monroe County in proportion to the number of pupils in each such school district's membership, as defined in s. 121.004 (5), in the previous school year who were residents of that county in the previous school year.

(b) Annually distribute an amount equal to 50% of the amount appropriated under s. 20.505 (1) (ng) to Monroe County for the benefit of the public roads in Monroe County.

(23) UNIVERSITY OF WISCONSIN−GREEN BAY PROGRAMMING. Provide funding from the appropriation under s. 20.505 (1) (km) to finance programming at the University of Wisconsin−Green Bay that is jointly developed by the Oneida Tribe and the University of Wisconsin−Green Bay.

History: 1971 c. 125; 1977 c. 196 s. 130 (3); 1977 c. 272; 1979 c. 1, 34, 221; 1981 c. 20, 27, 317; 1981 c. 390 s. 252; 1983 a. 27, 368, 524; 1985 a. 29; 1987 a. 4, 27; 1989 a. 31, 359; 1991 a. 39; 1993 a. 16; 1999 a. 9, 24, 185; 2001 a. 16, 109; 2003 a. 33 ss. 164, 9160.

16.401 Treasury management. The department shall:

(1) HAVE CUSTODY OF MONEYS. Receive and have charge of all moneys paid into the treasury and any other moneys received by officers and employees of state agencies, and pay out the moneys as directed by law, except as provided in ss. 16.52 (7), 20.907 (5) (b), 20.920, and 20.929.

Note: Section 16.401 (intro.) and (1) are created eff. 7−1−04 by 2003 Wis. Act 33.

(2) ISSUE RECEIPTS. Issue receipts for all money paid to the department.

Note: Sub. (2) is shown as renumbered from s. 14.58 (2) and amended eff. 7−1−04 by 2003 Wis. Act 33.

(3) PAY CLAIMS AS PRESENTED. Pay all claims authorized to be paid out of the treasury in the order in which they are presented, giving a preference to no one.

Note: Sub. (3) is shown as renumbered from s. 14.58 (3) eff. 7−1−04 by 2003 Wis. Act 33.

(4) PAY ON WARRANTS SUMS AUTHORIZED BY LAW. (a) Pay out of the treasury, on demand, upon the warrants of the department, except as provided in s. 20.929, such sums only as are authorized by law to be so paid, if there are appropriate funds therein to pay the same, and, when any sum is required to be paid out of a particu-

lar fund, pay it out of such fund only; and upon each such warrant, when payment is made in currency, take the receipt endorsed on or annexed thereto, of the payee therein named or an authorized agent or assignee. The secretary shall accept telephone advice believed by him or her to be genuine from any public depository, as defined in s. 34.01 (5), stating that a specified amount of money has been deposited with such public depository for the credit of the state, and shall act upon such telephone advice as though it had been in writing.

(b) When in the judgment of the secretary balances in state public depository accounts are temporarily in excess of that required under par. (a), the secretary may transfer the excess balance to the investment fund for the purpose of investment only. The earnings attributable to the investment of temporary excess balances shall be distributed as provided in sub. (14).

Note: Sub. (4) is shown as renumbered from s. 14.58 (4) and amended eff. 7−1−04 by 2003 Wis. Act 33.

(5) ACCOUNT FOR INTEREST. Pay into the treasury and account for all sums directly or indirectly received by the secretary by virtue of the secretary's office, or as interest or compensation for the use, deposit, or forbearance of any state moneys in the secretary's hands or under the secretary's control.

Note: Sub. (5) is shown as renumbered from s. 14.58 (5) and amended eff. 7−1−04 by 2003 Wis. Act 33.

(6) KEEP CASH AND FUND ACCOUNTS. Keep records showing the number, date, and amount of each cash receipt issued by the department and classify said receipts by state funds; submit a summary statement of collections by fund together with a copy of each remittance advice in support thereof; keep also records showing the check, share draft, or other draft number, date, payee, and amount of each cash disbursement and classify said disbursements by state funds; keep a record of the date, payee, and amount of each disbursement made by a money transfer technique other than a check or draft and classify the disbursement by state fund; and verify at the end of each week the amounts shown by the secretary's records to represent total cash balance and cash balances of individual state funds by comparing said amounts with corresponding balances appearing on records maintained by the department.

Note: Sub. (6) is shown as renumbered from s. 14.58 (6) and amended eff. 7−1−04 by 2003 Wis. Act 33.

(7) REPORT TO GOVERNOR MONTHLY. Report to the governor monthly, or oftener if the governor so requires, on:

(a) The total amount of funds in the treasury, specifying in what kind of currency they consist, the amount of each kind, and the amount belonging to each separate fund.

(b) The amounts in each of the state depositories, together with the interest earned thereon.

(c) Any defalcation or neglect of duty of any disbursing or collecting officer or agent of the state.

Note: Sub. (7) is shown as renumbered from s. 14.58 (8) eff. 7−1−04 by 2003 Wis. Act 33.

(8) SUBMIT BIENNIAL REPORT. As part of the report submitted under s. 15.04 (1) (d), include a statement showing for each of the 2 preceding fiscal years the cash balance in each state fund at the beginning of the fiscal year, the aggregate amount of receipts credited, and the aggregate amount of disbursements charged to each said fund during the fiscal year and the resultant cash balance in each state fund at the end of the fiscal year. This statement shall further show as of the end of each said 2 fiscal years, at par, the aggregate value of securities held for each state fund and the aggregate value of securities held in trust or deposited for safekeeping, and shall show the manner in which the total cash balance was accounted for by listing the balances on deposit in each state account in a public depository, deducting from the total of such balances the aggregate amount of checks, share drafts, or other drafts outstanding and adding thereto the aggregate amount of cash and cash items in office.

Note: Sub. (8) is shown as renumbered from s. 14.58 (9) and amended eff. 7−1−04 by 2003 Wis. Act 33.

(9) REPORT CERTAIN PAYMENTS. Whenever the secretary or any state department shall remit to any county, city, town, or village any sum in payment of a state aid or other item, the remitter shall transmit a statement of the amount and purpose thereof to the clerk of such municipality. After the receipt thereof, the clerk of such municipality shall present such statement at the next regular meeting of the governing body and shall thereafter file and keep such statement for 6 years.

Note: Sub. (9) is shown as renumbered from s. 14.58 (10) and amended eff. 7−1−04 by 2003 Wis. Act 33.

(10) STAMP CHECKS AND DRAFTS. Cause to be plainly printed or stamped upon each check, share draft, and other draft issued by the secretary the period of time, as determined by the secretary but not to exceed one year, during which the check or other draft may be presented for payment. The secretary shall cancel on his or her records any check or other draft that is not presented for payment within the prescribed time period and shall credit the amount thereof to the fund upon which it is drawn.

Note: Sub. (10) is shown as renumbered from s. 14.58 (12) and amended eff. 7−1−04 by 2003 Wis. Act 33.

(11) PROVIDE SERVICES IN CONNECTION WITH SECURITIES HELD IN TRUST. Upon request therefor from any company, corporation, society, order, or association that has securities on deposit with the secretary, in trust, mail to its address not to exceed 60 days before the same become due, any or all interest coupons; return to it any or all bonds, notes, or other deposits as they become due and are replaced by other securities; cut all interest coupons, make any endorsement of interest or otherwise on any such securities; and collect therefor from the company, corporation, society, order, or association making the request, a 25−cent fee for a single coupon cut, or for each entry of interest endorsed on a note or return of a bond, note, or other security, and a 10−cent fee for each additional coupon cut, or entry of interest endorsed on a note, bond, or other security, and may withhold any and all coupons cut or refuse endorsement of interest on securities until such fee is paid. Such fees shall be paid into the state treasury as a part of the general fund, and an extra charge may be required for postage or registered mail.

Note: Sub. (11) is shown as renumbered from s. 14.58 (13) and amended eff. 7−1−04 by 2003 Wis. Act 33.

(12) HOLD SAFEKEEPING RECEIPTS FOR FEDERAL SECURITIES. Whenever any federal securities are purchased under authority of any law and the secretary is custodian thereof the secretary may accept and hold safekeeping receipts of a federal reserve bank for such securities. Each such receipt shall be identified on its face with the name of the fund to which the securities described in the receipt belong.

Note: Sub. (12) is shown as renumbered from s. 14.58 (17) and amended eff. 7−1−04 by 2003 Wis. Act 33.

(13) SALE OF INVESTMENTS. Whenever the department draws a check, share draft, or other draft dated the next following business day upon a fund whose investment and collection is under the exclusive control of the investment board pursuant to s. 25.17 (1), and the receipts of the state are insufficient to permit a disbursement from said fund in the amount of such check, share draft, or other draft, the investment board shall sell investments owned by such fund for delivery in time to provide sufficient money to cover such check, share draft, or other draft on the date that it bears.

Note: Sub. (13) is shown as renumbered from s. 14.58 (18) and amended eff. 7−1−04 by 2003 Wis. Act 33.

(14) APPORTION INTEREST. Apportion at least quarterly the interest earned on state moneys in all depositories among the several funds as provided in s. 25.14 (3), except that earnings attributable to the investment of temporary excess balances under sub. (4) (b) shall be distributed according to a formula prescribed by the depository selection board. To the maximum extent deemed administratively feasible by the depository selection board, the formula shall approximate the distribution of earnings among funds which would occur if earnings were allocated in proportion to each fund's actual contribution to the earnings. Interest so apportioned shall be added to and become a part of such funds.

Note: Sub. (14) is shown as renumbered from s. 14.58 (19) eff. 7−1−04 by 2003 Wis. Act 33.

History: 2003 a. 33 ss. 55 to 60, 62 to 68, 165, 166.

16.405 Requests for issuance of operating notes. (1) At any time the department determines that a deficiency will occur in the funds of the state which will not permit the state to meet its operating obligations in a timely manner, it may prepare a request for the issuance of operating notes under subch. III of ch. 18 and, subject to subs. (2) and (3), may submit the request to the building commission.

(2) The department may not submit a request to the building commission under sub. (1) unless the request is signed by the secretary and the governor.

(3) If the department proposes to submit a request to the building commission under sub. (1), the secretary shall notify the joint committee on finance in writing of the proposed action. If the cochairpersons of the committee do not notify the secretary that the committee has scheduled a meeting for the purpose of reviewing the proposed submission within 14 working days after the date of the secretary's notification, the department may submit the request to the building commission as proposed. If, within 14 working days after the date of the secretary's notification, the cochairpersons of the committee notify the secretary that the committee has scheduled a meeting for the purpose of reviewing the proposed submission, the department may submit the request to the building commission only upon approval of the committee.

History: 1983 a. 3; 1985 a. 29; 1997 a. 27.

16.41 Agency and authority accounting; information; aid. (1) All agencies shall keep their accounts and other financial records as prescribed by the secretary under s. 16.40 (5), except as otherwise specifically directed by law. All agencies and authorities shall furnish to the secretary all information relating to their financial transactions which the secretary requests pursuant to this subchapter for such periods as the secretary requests, and shall render such assistance in connection with the preparation of the state budget report and the budget bill and in auditing accounts, as the secretary or the governor may require.

(2) The secretary and his or her duly authorized employees shall have free access to all financial accounts of every agency and authority, and each agency and authority shall assist the secretary in preparing estimates of receipts and expenditures for inclusion in the state budget report.

(3) Upon request of the secretary all agencies and authorities shall furnish such information concerning anticipated revenues and expenditures as the secretary requires for effective control of state finances.

(4) In this section, "authority" means a body created under ch. 231, 233, 234, or 237.

History: 1977 c. 196 s. 130 (3); 1977 c. 272, 273; 1983 a. 27; 1987 a. 399; 1995 a. 27; 2001 a. 16.

16.412 Agency payments. At the request of any agency, the secretary may authorize the processing of specified regular periodic payments through the use of money transfer techniques including, without limitation because of enumeration, direct deposit, electronic funds transfer, and automated clearinghouse procedures.

Note: This section is shown as amended eff. 7−1−04 by 2003 Wis. Act 33. Prior to 7−1−04 it reads:

16.412 Agency payments. At the request of any agency the secretary, with the approval of the state treasurer, may authorize the processing of specified regular periodic payments through the use of money transfer techniques including, without limitation because of enumeration, direct deposit, electronic funds transfer and automated clearinghouse procedures.

History: 1981 c. 20; 2003 a. 33.

16.415 Certification of payrolls. (1) Neither the secretary nor any other fiscal officer of this state may draw, sign, or issue, or authorize the drawing, signing, or issuing of any warrant on any disbursing officer of the state to pay any compensation to any person in the classified service of the state unless an estimate, payroll, or account for such compensation, containing the names of every person to be paid, bears the certificate of the appointing authority that each person named in the estimate, payroll, or account has been appointed, employed, or subject to any other personnel transaction in accordance with, and that the pay for the person has been established in accordance with, the law, compensation plan, or applicable collective bargaining agreement, and applicable rules of the administrator of the division of merit recruitment and selection in the office of state employment relations then in effect.

Note: Sub. (1) is shown as amended eff. 7−1−04 by 2003 Wis. Act 33. Prior to 7−1−04 it reads:

(1) Neither the secretary nor any other fiscal officer of this state may draw, sign, or issue, or authorize the drawing, signing, or issuing of any warrant on the treasurer or other disbursing officer of the state to pay any compensation to any person in the classified service of the state unless an estimate, payroll, or account for such compensation, containing the names of every person to be paid, bears the certificate of the appointing authority that each person named in the estimate, payroll or account has been appointed, employed, or subject to any other personnel transaction in accordance with, and that the pay for the person has been established in accordance with, the law, compensation plan, or applicable collective bargaining agreement, and applicable rules of the director of the office of state employment relations and the administrator of the division of merit recruitment and selection in the office of state employment relations then in effect.

(2) Any person entitled to be certified as described in sub. (1), as having been appointed or employed in pursuance of law and of the rules pursuant thereto, and refused such certificate, may maintain an action of mandamus to compel the appointing authority to issue such certificate.

(3) Any sums paid contrary to this section may be recovered from any appointing authority making such appointments in contravention of law or of the rules promulgated pursuant thereto, or from any appointing authority signing or countersigning or authorizing the signing or countersigning of any warrant for the payment of the same, or from the sureties on the official bond of any such appointing authority, in an action in the circuit court for any county within the state, maintained by the director of the office of state employment relations, or by a citizen resident therein, who is assessed for, and liable to pay, or within one year before the commencement of the action has paid, a state, city or county tax within this state. All moneys recovered in any action brought under this section when collected, shall be paid into the state treasury except that if a citizen taxpayer is plaintiff in any such action he or she shall be entitled to receive for personal use the taxable cost of such action and 5% of the amount recovered as attorney fees.

History: 1971 c. 270 ss. 67, 68; 1973 c. 12; 1977 c. 196 ss. 63, 65, 130 (5), 131; 1977 c. 272 s. 98; 1977 c. 273; 1983 a. 27; 1985 a. 332 s. 251 (1); 1989 a. 31; 2003 a. 33 ss. 169 to 171, 9160.

16.417 Dual employment or retention. (1) In this section:

(a) "Agency" means an office, department, independent agency, institution of higher education, association, society or other body in state government created or authorized to be created by the constitution or any law, which is entitled to expend moneys appropriated by law, including the legislature and the courts, but not including an authority.

(b) "Authority" means a body created under ch. 231, 232, 233, 234, 235 or 237.

(c) "Elective state official" has the meaning given in s. 13.62 (6).

(2) (a) No individual other than an elective state official who is employed or retained in a full−time position or capacity with an agency or authority may hold any other position or be retained in any other capacity with an agency or authority from which the individual receives, directly or indirectly, more than $12,000 from the agency or authority as compensation for the individual's services during the same year.

(b) No elective state official may hold any other position or be retained in any other capacity with an agency or authority, except an unsalaried position or unpaid service with an agency or authority that is compatible with the official's duties, the emoluments of

which are limited to reimbursement for actual and necessary expenses incurred in the performance of duties.

(c) No agency or authority may employ any individual or enter into any contract in violation of this subsection.

(d) The department shall annually check to assure that no individual violates this subsection. The department shall order any individual whom it finds to be in violation of this subsection to forfeit that portion of the economic gain that the individual realized in violation of this subsection.

(e) The attorney general, when requested by the department, shall institute proceedings to recover any forfeiture incurred under this subsection which is not paid by the individual against whom it is assessed.

(f) This subsection does not apply to an individual other than an elective state official who has a full−time appointment for less than 12 months, during any period of time that is not included in the appointment.

History: 1987 a. 365 ss. 1, 4m; 1987 a. 399; 1989 a. 56 s. 259; 1993 a. 362; 1997 a. 27; 2001 a. 16.

Restrictions that sub. (2) imposes on dual state employment of state employees are discussed. 77 Atty. Gen. 245.

16.42 Agency requests. (1) All agencies, other than the legislature and the courts, no later than September 15 of each even−numbered year, in the form and content prescribed by the department, shall prepare and forward to the department and to the legislative fiscal bureau the following program and financial information:

(a) A clear statement of the purpose or goal for each program or subprogram;

(b) Clear statements of specific objectives to be accomplished and, as appropriate, the performance measures used by the agency to assess progress toward achievement of these objectives;

(c) Proposed plans to implement the objectives and the estimated resources needed to carry out the proposed plans;

(d) A statement of legislation required to implement proposed programmatic and financial plans; and

(e) All fiscal or other information relating to such agencies that the secretary or the governor requires on forms prescribed by the secretary.

(f) The information required under s. 16.423.

(g) The information required under s. 16.529 (2).

(2) The secretary may make budget estimates for all such agencies which fail to furnish the information required under sub. (1) by the date specified in sub. (1).

History: 1971 c. 125, 215; 1973 c. 12, 333; 1975 c. 388; 1977 c. 29; 1977 c. 196 s. 130 (3), (4); 1977 c. 272; 1979 c. 34, 221; 1981 c. 20; 1987 a. 4; 1993 a. 16; 2001 a. 109; 2003 a. 33.

16.423 Base budget review reports. (1) In this section, "state agency" has the meaning given in s. 20.001 (1).

(2) (a) During the 2001−03 fiscal biennium, the secretary shall require that one−third of all state agencies submit a report no later than September 15, 2002, and every 3rd fiscal biennium thereafter, that contains the information specified in sub. (3).

(b) During the 2003−05 fiscal biennium, the secretary shall require that 50% of the state agencies that did not submit a report under par. (a) submit a report no later than September 15, 2004, and every 3rd fiscal biennium thereafter, that contains the information specified in sub. (3).

(c) During the 2005−07 fiscal biennium, the secretary shall require that all state agencies created on or before September 15, 2006, that did not submit a report under par. (a) or (b) submit submit a report no later than September 15, 2006, and every 3rd fiscal biennium thereafter, that contains the information specified in sub. (3).

(d) Beginning in the 2005−07 fiscal biennium, the secretary shall require that any state agency created after September 15, 2006, submit a report no later than the September 15 in the even−numbered year that first occurs after the state agency is created, and every 3rd fiscal biennium thereafter, that contains the information specified in sub. (3).

(3) A report submitted under this section shall contain at least all of the following:

(a) A description of each programmatic activity of the state agency.

(b) For each programmatic activity of the state agency, an accounting of all expenditures, arranged by revenue source and the categories specified in sub. (4), in each of the prior 3 fiscal years.

(c) For each programmatic activity of the state agency, an accounting of all expenditures, arranged by revenue source and the categories specified in sub. (4), in the last 2 quarters in each of the prior 3 fiscal years.

(4) The secretary shall develop categories for state agencies to use for the purpose of organizing the expenditure information that is required under sub. (3) (b) and (c).

History: 2001 a. 109.

16.425 Summary of tax exemption devices. (1) DECLARATION OF POLICY. Because state policy objectives are sought and achieved by both governmental expenditures and tax exemption, and because both have an impact on the government's capacity to lower tax rates or raise expenditures, both should receive regular comprehensive review by the governor and the legislature in the budgetary process. This section seeks to facilitate such comprehensive review by providing for the generation of information concerning tax exemptions and other similar devices comparable to expenditure information.

(2) DEFINITION. For the purposes of this section "tax exemption device" means any tax provision which exempts, in whole or in part, certain persons, income, goods, services, or property from the impact of established taxes, including, but not limited because of failure of enumeration, to those devices known as tax deductions, tax allowances, tax exclusions, tax credits and tax exemptions.

(3) REPORT ON TAX EXEMPTION DEVICES. The department of revenue shall, in each even−numbered year on the date prescribed for it by the secretary, furnish to the secretary a report detailing the approximate costs in lost revenue, the policy purposes and to the extent possible, indicators of effectiveness in achieving such purposes, for all state tax exemption devices, including those based on the internal revenue code, in effect at the time of the report. The report need relate only to chs. 71, 76 and 77 tax exemption devices and to property tax exemptions for which reports are required under s. 70.337. The report shall be prepared in such a manner as to facilitate the making of comparisons with the information reported in s. 16.46 (1) to (6).

History: 1973 c. 90; 1981 c. 20; 1983 a. 27; 1991 a. 39; 1993 a. 490.

16.43 Budget compiled. The secretary shall compile and submit to the governor or the governor−elect and to each person elected to serve in the legislature during the next biennium, not later than November 20 of each even−numbered year, a compilation giving all of the data required by s. 16.46 to be included in the state budget report, except the recommendations of the governor and the explanation thereof. The secretary shall not include in the compilation any provision for the development or implementation of an information technology development project for an executive branch agency that is not consistent with the strategic plan of the agency, as approved under s. 16.976.

History: 1977 c. 29; 1981 c. 20; 2001 a. 16; 2003 a. 33.

16.44 Budget hearings. After the filing of the compilation required under s. 16.43, the governor or governor−elect shall consider all requests and all other information which may be of value in understanding the issues and problems to be dealt with in the executive budget. The governor or governor−elect may hold public hearings determined to be necessary to gather further information from agencies, interested citizens and others. The department of administration and all other agencies shall cooperate fully with

the governor or governor−elect in providing information and analyses as requested.

History: 1973 c. 333; 1977 c. 196 s. 130 (3); 1977 c. 273.

16.45 Budget message to legislature. In each regular session of the legislature, the governor shall deliver the budget message to the 2 houses in joint session assembled. Unless a later date is requested by the governor and approved by the legislature in the form of a joint resolution, the budget message shall be delivered on or before the last Tuesday in January of the odd−numbered year. With the message the governor shall transmit to the legislature, as provided in ss. 16.46 and 16.47, the biennial state budget report and the executive budget bill or bills together with suggestions for the best methods for raising the needed revenues.

History: 1971 c. 2; 1973 c. 333; 1987 a. 4, 186; 1993 a. 16.

16.46 Biennial budget, contents. The biennial state budget report shall be prepared by the secretary, under the direction of the governor, and a copy of a budget−in−brief thereof shall be furnished to each member of the legislature on the day of the delivery of the budget message. The biennial state budget report shall be furnished to each member of the legislature on the same day and shall contain the following information:

(1) A summary of the actual and estimated receipts of the state government in all operating funds under existing laws during the current and the succeeding bienniums, classified so as to show the receipts by funds, organization units and sources of income.

(2) A summary of the actual and estimated disbursements of the state government from all operating funds during the current biennium and of the requests of agencies and the recommendations of the governor for the succeeding biennium.

(3) A statement showing the condition of all operating funds of the treasury at the close of the preceding fiscal year and the estimated condition at the close of the current year.

(4) A statement showing how the total estimated disbursements during each year of the succeeding biennium compare with the estimated receipts, and the additional revenues, if any, needed to defray the estimated expenses of the state.

(5) A statement of the actual and estimated receipts and disbursements of each department and of all state aids and activities during the current biennium, the departmental estimates and requests, and the recommendations of the governor for the succeeding biennium. Estimates of expenditures shall be classified to set forth such expenditures by funds, organization units, appropriation, object and activities at the discretion of the secretary.

(5g) A summary of the information submitted to the department by state agencies under s. 16.423.

(5m) A statement of estimated general purpose revenue receipts and expenditures in the biennium following the succeeding biennium based on recommendations in the budget bill or bills. The statement shall contain all of the following:

(a) For the 2nd year of the succeeding biennium, a comparison of the following:

1. The amount of moneys projected to be deposited in the general fund during the fiscal year that are designated as "Revenues and Transfers" in the summary in s. 20.005 (1), as published in the biennial budget bill or bills, less the amount designated as the "Opening Balance" in the summary, and adjusted by any one−time deposit of revenues in the general fund.

2. The amount of moneys designated as "Total Expenditures" in the summary in s. 20.005 (1), as published in the biennial budget bill or bills, adjusted by any one−time expenditure of general purpose revenue in excess of $5,000,000.

(b) An estimate of the cost of any provision in the biennial budget bill or bills that would, without the enactment of subsequent legislation, increase general purpose revenue expenditures or that would decrease the amount of revenues deposited in the general fund in the biennium following the succeeding biennium.

(c) 1. An estimate of the increase in general purpose revenue spending that will be required in the biennium following the succeeding biennium for all of the following:

a. General equalization school aids.

b. Appropriations to the department of corrections.

c. The medical assistance program under subch. IV of ch. 49.

d. The amount designated as "Compensation Reserves" in the summary under s. 20.005 (1), as printed in the revised schedule that is approved under s. 20.004 (2) for that fiscal biennium.

e. Public debt contracted under subchs. I and IV of ch. 18.

2. For the purpose of making the calculation under subd. 1., the secretary shall assume that the increase in general purpose revenue spending between the succeeding biennium and the biennium following the succeeding biennium for each of the items identified in subd. 1. a. to 1. e. is the same as that between the current biennium and the succeeding biennium for these items, as proposed in the biennial budget bill or bills.

(d) An estimate of the difference between the amount of tax revenues that will be deposited in the general fund in the biennium following the succeeding biennium and the amount of tax revenues that are deposited in the general fund in the succeeding biennium. For the purpose of making this calculation, the secretary shall:

1. Assume that the amount of tax revenues that are deposited in the general fund in the succeeding biennium is the amount designated as "Taxes" in the summary in s. 20.005 (1), as published in the biennial budget bill or bills.

2. Assume that the annual increase in tax revenues that are deposited in the general fund in each fiscal year of the biennium following the succeeding biennium is the average of the annual increase for each of the 10 preceding fiscal years.

3. Adjust the estimate of the amount of tax revenues that are deposited in the general fund in the biennium following the succeeding biennium by any provision in the biennial budget bill or bills that would affect the amount of tax revenues that are deposited in the general fund in the biennium.

(e) 1. A comparison of the following:

a. The amount of moneys that are designated as "Revenues and Transfers" in the summary in s. 20.005 (1), as published in the biennial budget bill or bills, and that are available for appropriation in the 2nd year of the succeeding biennium.

b. An amount that equals the sum of the amount of moneys designated as "Total Expenditures" in the summary in s. 20.005 (1), as published in the biennial budget bill or bills, for the 2nd year of the succeeding biennium and the amount required to fund the increase in general purpose revenue spending in the biennium following the succeeding biennium for each of the items identified in par. (c) 1. a. to 1. e.

2. The secretary shall present this comparison in the format used for the statement of the condition of the general fund in the statement prepared under s. 20.005 (1).

(f) A summary of the amount of additional general purpose revenues that will be available in the biennium following the succeeding biennium for increased expenditures or tax reductions, other than the amount calculated in par. (d).

(6) Any explanatory matter which in the judgment of the governor or the secretary will facilitate the understanding by the members of the legislature of the state financial condition and of the budget requests and recommendations.

(7) The report of the department of revenue prepared under s. 16.425, together with the purposes and approximate costs in lost revenue of each new or changed tax exemption device provided in the proposed budget. This information shall be integrated with the rest of the information in this section in such a manner as to facilitate to the fullest extent possible, direct comparisons between expenditure information and tax exemption device information, as defined in s. 16.425.

(8) The estimate of the department of revenue under s. 73.03 (36).

(9) A comparison of the state's budgetary surplus or deficit according to generally accepted accounting principles, as reported in any audited financial report prepared by the department for the most recent fiscal year, and the estimated change in the surplus or deficit based on recommendations in the biennial budget bill or bills. For the purpose of this calculation, the secretary shall increase or decrease the surplus or deficit by the amount designated as "Gross Balances" that appears in the 2nd year of the biennium in the summary in s. 20.005 (1), as published in the biennial budget bill or bills.

History: 1971 c. 125; 1973 c. 90; 1977 c. 196 s. 130 (3); 1979 c. 34; 1981 c. 20; 1983 a. 27; 1989 a. 335; 1993 a. 16; 1999 a. 83; 2001 a. 16, 109.

16.461 Biennial budget, summary of funds. After the governor has submitted all budget recommendations, the secretary shall prepare a summary of the recommendations of all funds, to be distributed to the members of the legislature.

16.465 Budget stabilization fund reallocations. The secretary may reallocate moneys in the budget stabilization fund to other funds in the manner provided in s. 20.002 (11). No interest may be assessed to the general fund on account of such a reallocation.

History: 1985 a. 120.

16.47 Budget bill. (1) Except as provided in s. 16.529 (2), the executive budget bill or bills shall incorporate the governor's recommendations for appropriations for the succeeding biennium. The appropriation method shown in the bill or bills shall in no way affect the amount of detail or manner of presentation which may be requested by the joint committee on finance. Appropriation requests may be divided into 3 allotments: personal services, other operating expenses and capital outlay or such other meaningful classifications as may be approved by the joint committee on finance.

(1m) Immediately after the delivery of the budget message, the budget bill or bills shall be introduced without change into either house by the joint finance committee and when introduced shall be referred to that committee.

(2) No bill containing an appropriation or increasing the cost of state government or decreasing state revenues in an annual amount exceeding $10,000 shall be passed by either house until the budget bill has passed both houses; except that the governor or the joint committee on finance may recommend such bills to the presiding officer of either house, in writing, for passage and the legislature may enact them, and except that the senate or assembly committee on organization may recommend to the presiding officer of its respective house any such bill not affecting state finances by more than $100,000 biennially. Such bills shall be accompanied by a statement to the effect that they are emergency bills recommended by the governor, the joint committee on finance, or the senate or assembly committee on organization. Such statement by the governor or joint committee on finance shall be sufficient to permit passage prior to the budget bill. Such statement by the senate or assembly committee on organization shall be effective only to permit passage by its respective house.

History: 1971 c. 125; 1979 c. 34, 221; 1981 c. 20; 1983 a. 27; 1987 a. 4; 2003 a. 33.

16.48 Unemployment reserve financial statement. (1) On or about January 15 of each odd−numbered year, the secretary of workforce development shall prepare and furnish to the governor, the speaker of the assembly, the minority leader of the assembly, and the majority and minority leaders of the senate:

(a) A statement of unemployment insurance financial outlook, which shall contain the following, together with the secretary's recommendations and an explanation for such recommendations:

1. Projections of unemployment insurance operations under current law through at least the 2nd year following the close of the biennium, including benefit payments, tax collections, borrowing or debt repayments and amounts of interest charges, if any.

2. Specific proposed changes in the laws relating to unemployment insurance financing, benefits and administration.

3. Projections specified in subd. 1. under the proposed laws.

4. The economic and public policy assumptions upon which the projections are based, and the impact upon the projections of variations from those assumptions.

5. If significant cash reserves in the unemployment reserve fund are projected throughout the forecast period, a statement giving the reasons why the reserves should be retained in the fund.

6. If unemployment insurance program debt is projected at the end of the forecast period, the reasons why it is not proposed to liquidate the debt.

(b) A report summarizing the deliberations of the council on unemployment insurance and the position of the council, if any, concerning each proposed change in the unemployment insurance laws submitted under par. (a).

(2) Upon receipt of the statement and report under sub. (1), the governor may convene a special committee consisting of the secretary of workforce development and the legislative leaders specified in sub. (1) to review the statement and report. Upon request of 2 or more of the legislative leaders specified in sub. (1), the governor shall convene such a committee. The committee shall attempt to reach a consensus concerning proposed changes to the unemployment insurance laws and shall submit its recommendations to the governor and legislature concurrently with the statement furnished under sub. (3).

(3) On or about February 15 of each odd−numbered year, the secretary of workforce development, under the direction of the governor, shall submit to each member of the legislature an updated statement of unemployment insurance financial outlook which shall contain the information specified in sub. (1) (a), together with the governor's recommendations and an explanation for such recommendations, and a copy of the report required under sub. (1) (b).

History: 1983 a. 388; 1995 a. 27 s. 9130 (4); 1997 a. 3, 39.

16.50 Departmental estimates. (1) EXPENDITURES. (a) Each department except the legislature and the courts shall prepare and submit to the secretary an estimate of the amount of money which it proposes to expend, encumber or distribute under any appropriation in ch. 20. The department of administration shall prepare and submit estimates for expenditures from appropriations under ss. 20.855, 20.865, 20.866 and 20.867. The secretary may waive the submission of estimates of other than administrative expenditures from such funds as he or she determines, but the secretary shall not waive submission of estimates for the appropriations under s. 20.285 (1) (im) and (n) nor for expenditure of any amount designated as a refund of an expenditure under s. 20.001 (5). Estimates shall be prepared in such form, at such times and for such time periods as the secretary requires. Revised and supplemental estimates may be presented at any time under rules promulgated by the secretary.

(b) This subsection does not apply to appropriations under ss. 20.255 (2) (ac) and (r), 20.835, and 20.865 (4).

(2) ACTION THEREON BY SECRETARY. The secretary shall examine each such estimate to determine whether appropriations are available therefor and expenditures under the appropriations can be made without incurring danger of exhausting the appropriations before the end of the appropriation period and whether there will be sufficient revenue to meet such contemplated expenditures except as provided in sub. (7). The secretary also shall examine each estimate to assure as nearly as possible that the proposed plan of program execution reflects the intentions of the joint committee on finance, legislature and governor, as expressed by them in the budget determinations. If satisfied that such estimate meets these tests, the secretary shall approve the estimate; otherwise he or she shall disapprove the estimate, in whole or in part,

as the facts require. If the secretary is satisfied that an estimate for any period is more than sufficient for the execution of the normal functions of a department, he or she may modify or withhold approval of the estimate. This section shall be strictly construed by the secretary to the end that such budget determinations and policy decisions reflected by such determinations be implemented to the fullest extent possible within the concepts of proper management.

(3) LIMITATION ON INCREASE OF FORCE AND SALARIES. No department, except the legislature or the courts, may increase the pay of any employee, expend money or incur any obligation except in accordance with the estimate that is submitted to the secretary as provided in sub. (1) and approved by the secretary or the governor. No change in the number of full−time equivalent positions authorized through the biennial budget process or other legislative act may be made without the approval of the joint committee on finance, except for position changes made by the governor under s. 16.505 (1) (c) or (2), by the University of Wisconsin Hospitals and Clinics Board under s. 16.505 (2n) or by the board of regents of the University of Wisconsin System under s. 16.505 (2m) or (2p). The secretary may withhold, in total or in part, the funding for any position, as defined in s. 230.03 (11), as well as the funding for part−time or limited term employees until such time as the secretary determines that the filling of the position or the expending of funds is consistent with s. 16.505 and with the intent of the legislature as established by law or in budget determinations, or the intent of the joint committee on finance in creating or abolishing positions under s. 13.10, the intent of the governor in creating or abolishing positions under s. 16.505 (1) (c) or (2) or the intent of the board of regents of the University of Wisconsin System in creating or abolishing positions under s. 16.505 (2m) or (2p). Until the release of funding occurs, recruitment or certification for the position may not be undertaken. The secretary shall submit a quarterly report to the joint committee on finance of any position changes made by the governor under s. 16.505 (1) (c). No pay increase may be approved unless it is at the rate or within the pay ranges prescribed in the compensation plan or as provided in a collective bargaining agreement under subch. V of ch. 111. At the request of the director of the office of state employment relations, the secretary of administration may authorize the temporary creation of pool or surplus positions under any source of funds if the director determines that temporary positions are necessary to maintain adequate staffing levels for high turnover classifications, in anticipation of attrition, to fill positions for which recruitment is difficult. Surplus or pool positions authorized by the secretary shall be reported quarterly to the joint committee on finance in conjunction with the report required under s. 16.54 (8).

(4) APPEALS TO GOVERNOR. Any department feeling itself aggrieved by the refusal of the secretary to approve any estimate, or any item therein, may appeal from the secretary's decision to the governor, who, after a hearing and such investigation as the governor deems necessary, may set aside or modify such decision.

(5) DISBURSEMENTS. The secretary may not draw a warrant for payment of any expenditures incurred by any department nor may any department make any expenditure for which the approval of the secretary or the governor is necessary under this section, including any expenditure under s. 20.867, unless the expenditure was made in accordance with an estimate submitted to and approved by the secretary or by the governor. In the event that the secretary determines that previously authorized expenditures will exceed revenues in the current or forthcoming fiscal year by more than 0.5% of the estimated general purpose revenue appropriations for that fiscal year, he or she may not decline to approve an estimate or to draw a warrant under this subsection, but shall instead proceed under sub. (7).

(5m) UNIVERSITY INDIRECT COST REIMBURSEMENTS. Subsections (2) to (5) do not apply to expenditures authorized under s. 20.285 (2) (i).

(6) PROPORTIONAL SPENDING. If the secretary determines that expenditures of general purpose or segregated fund revenues are utilized to match revenues received under s. 16.54 or 20.001 (2) (b) for the purposes of combined program expenditure, the secretary may require that disbursements of the general purpose revenue and corresponding segregated revenue be in direct proportion to the amount of program revenue or corresponding segregated revenue which is available or appropriated in ch. 20 or as condition of a grant or contract. If the secretary makes such a determination, the agency shall incorporate the necessary adjustments into the expenditure plans provided for in sub. (1).

(7) REVENUE SHORTFALL. (a) If following the enactment of the biennial budget act in any biennium the secretary determines that previously authorized expenditures will exceed revenues in the current or forthcoming fiscal year by more than one−half of one percent of the estimated general purpose revenue appropriations for that fiscal year, he or she may not take any action under sub. (2) and shall immediately notify the governor, the presiding officers of each house of the legislature and the joint committee on finance.

(b) Following such notification, the governor shall submit a bill containing his or her recommendations for correcting the imbalance between projected revenues and authorized expenditures, including a recommendation as to whether moneys should be transferred from the budget stabilization fund to the general fund. If the legislature is not in a floorperiod at the time of the secretary's notification, the governor shall call a special session of the legislature to take up the matter of the projected revenue shortfall and the governor shall submit his or her bill for consideration at that session.

History: 1971 c. 270; 1973 c. 333; 1975 c. 39; 1977 c. 29, 196, 418; 1979 c. 32, 34; 1981 c. 20, 27, 30, 314; 1983 a. 27 ss. 70, 71a, 2202 (42); 1985 a. 332 s. 251 (6); 1987 a. 4, 27; 1989 a. 31, 336; 1991 a. 316; 1993 a. 16; 1995 a. 27; 1997 a. 27; 1999 a. 9; 2001 a. 16; 2003 a. 33 ss. 173, 174, 9160.

The secretary is not authorized by s. 16.50 (2) to reduce payments to municipalities under s. 79.03. Milwaukee v. Lindner, 98 Wis. 2d 624, 297 N.W.2d 828 (1980).

The secretary is not authorized by sub. (2) to reduce payments under the school aids program. School District of LaFarge v. Lindner, 100 Wis. 2d 111, 301 N.W.2d 196 (1981).

16.501 Forward Wisconsin, Inc.; funds. (1) No funds appropriated under s. 20.143 (1) (bm) may be expended until the department of commerce submits to the secretary a report setting forth the amount of private contributions received by Forward Wisconsin, Inc., since the date the department of commerce last submitted a report under this subsection. After receiving the report, the secretary may approve the expenditure of funds up to the amount set forth in the report. Total funds expended in any fiscal year may not exceed the amounts in the schedule under s. 20.143 (1) (bm).

(2) Forward Wisconsin, Inc., shall expend funds appropriated under s. 20.143 (1) (bm) in adherence with the uniform travel schedule amounts approved under s. 20.916 (8). Forward Wisconsin, Inc., may not expend funds appropriated under s. 20.143 (1) (bm) on entertainment, foreign travel, payments to persons not providing goods or services to Forward Wisconsin, Inc., or for other purposes prohibited by contract between Forward Wisconsin, Inc., and the department.

History: 1985 a. 29; 1987 a. 399; 1995 a. 27 s. 9116 (5).

16.505 Position authorization. (1) Except as provided in subs. (2), (2m), (2n), and (2p), no position, as defined in s. 230.03 (11), regardless of funding source or type, may be created or abolished unless authorized by one of the following:

(a) The legislature by law or in budget determinations.

(b) The joint committee on finance under s. 13.10.

(c) The governor creating or abolishing positions funded from revenues specified in s. 20.001 (2) (e).

(2) (a) An agency may request the governor to create or abolish a full−time equivalent position or portion thereof funded from revenues specified in s. 20.001 (2) (b) or (c) in the agency. Upon

receiving such a request, the governor may change the authorized level of full−time equivalent positions funded from such revenues in the agency in accordance with this subsection. The governor may approve a different authorized level of positions than is requested by the agency. If the governor proposes to change the number of full−time equivalent positions in an agency funded from revenues specified in s. 20.001 (2) (b) or (c), the governor shall notify the joint committee on finance in writing of his or her proposed action. If the cochairpersons of the committee do not notify the governor that the committee has scheduled a meeting for the purpose of reviewing the proposed action within 14 working days after the date of the governor's notification, the position changes may be made as proposed by the governor. If, within 14 working days after the date of the governor's notification, the cochairpersons of the committee notify the governor that the committee has scheduled a meeting for the purpose of reviewing the proposed action, the position changes may be made under this subsection only upon approval of the committee.

(b) This subsection does not apply to full−time equivalent positions funded from the appropriation under s. 20.370 (2) (bg) or (8) (mg).

(2m) The board of regents of the University of Wisconsin System may create or abolish a full−time equivalent position or portion thereof from revenues appropriated under s. 20.285 (1) (gs), (h), (ip), (iz), (j), (kc), (m), (n), or (u) or (3) (iz) or (n) and may create or abolish a full−time equivalent position or portion thereof from revenues appropriated under s. 20.285 (1) (im) that are generated from increased enrollment and from courses for which the academic fees or tuition charged equals the full cost of offering the courses. No later than the last day of the month following completion of each calendar quarter, the board of regents shall report to the department and the cochairpersons of the joint committee on finance concerning the number of full−time equivalent positions created or abolished by the board under this subsection during the preceding calendar quarter and the source of funding for each such position.

(2n) The University of Wisconsin Hospitals and Clinics Board may create or abolish a full−time equivalent position or portion thereof from revenues appropriated under s. 20.495 (1) (g). No later than the last day of the month following completion of each calendar quarter, the University of Wisconsin Hospitals and Clinics Board shall report to the department and the cochairpersons of the joint committee on finance concerning the number of full−time equivalent positions created or abolished by the board under this subsection during the preceding calendar quarter.

(2p) (a) Subject to par. (b), the board of regents of the University of Wisconsin System may create or abolish a full−time equivalent academic staff or faculty position or portion thereof from revenues appropriated under s. 20.285 (1) (a). Annually, no later than the September 30 following completion of the fiscal year, the board of regents shall report to the department and the cochairpersons of the joint committee on finance concerning the number of full−time equivalent positions created or abolished by the board under this subsection during the preceding fiscal year.

(b) The board of regents may not create or abolish any position under par. (a) until the board and the department have entered into a memorandum of understanding that establishes a methodology for identifying and accounting for the cost of funding any positions that are created, including any amounts that the board may include in a certification to the department under s. 20.928 (1). The board and the department shall enter into the memorandum of understanding no later than September 1, 2002.

(c) Notwithstanding s. 20.928 (1), in certifying the sum of moneys needed to pay any costs associated with a position that is created under par. (a), the board of regents may only certify the sum that is permitted under the memorandum of understanding entered into under par. (b).

(d) Notwithstanding s. 16.42 (1), in submitting information under s. 16.42 for the biennial budget bill or bills, the board of regents may only include that portion of the cost of funding the positions created under par. (a) that is permitted under the memorandum of understanding entered into under par. (b).

(3) If the secretary determines that the expenditure estimate established under s. 16.50 (1) for any agency so warrants, the secretary may require an agency to seek prior approval to expend funds for any position, including limited term employment. The secretary may also require any agency except a judicial branch agency or legislative service agency to comply with the procedures for entering position information for its employees, including limited term employees, into the information system established under s. 16.004 (7).

(3m) (a) Annually, after July 1, each agency shall submit a report to the secretary identifying each position for that agency that became vacant during the preceding fiscal year.

(b) Notwithstanding s. 16.50 (1), the secretary shall require each agency to submit expenditure estimates for vacant full−time equivalent positions during each fiscal year.

(4) (a) In this subsection, "agency" has the meaning given under s. 16.52 (7).

(b) Except as provided in par. (c), no agency may change the funding source for a position authorized under this section unless the position is authorized to be created under a different funding source in accordance with this section.

(c) The department shall fund from general purpose revenue under s. 20.865 (1) (cj) positions in the University of Wisconsin System that are otherwise funded from revenues specified in s. 20.001 (2) (e), to the extent authorized under s. 20.865 (1) (cj).

History: 1977 c. 196, 418; 1979 c. 34; 1981 c. 20; 1983 a. 27; 1987 a. 27; 1989 a. 31, 127; 1991 a. 39, 269; 1993 a. 16; 1995 a. 27; 1997 a. 27; 2001 a. 16, 109.

16.51 Department of administration; preauditing and accounting; additional duties and powers. The department of administration in the discharge of preauditing and accounting functions shall:

(1) SUGGEST IMPROVEMENTS. Suggest plans for the improvement and management of the public revenues and expenditures.

(4) DIRECT COLLECTION OF MONEYS. Except as otherwise provided by law, direct and superintend the collection of all moneys due the state.

(5) KEEP AND STATE ACCOUNTS. Keep and state all accounts in which the state is interested as provided in s. 16.52.

(6) AUDIT CLAIMS. Examine, determine and audit, according to law, the claims of all persons against the state as provided in s. 16.53.

(7) AUDIT CLAIMS FOR EXPENSES IN CONNECTION WITH PRISONERS AND JUVENILES IN SECURED CORRECTIONAL FACILITIES. Receive, examine, determine and audit claims, duly certified and approved by the department of corrections, from the county clerk of any county in behalf of the county, which are presented for payment to reimburse the county for certain expenses incurred or paid by it in reference to all matters growing out of actions and proceedings involving prisoners in state prisons, as defined in s. 302.01, or juveniles in secured correctional facilities, as defined in s. 938.02 (15m), including prisoners or juveniles transferred to a mental health institute for observation or treatment, when the proceedings are commenced in counties in which the prisons or secured correctional facilities are located by a district attorney or by the prisoner or juvenile as a postconviction remedy or a matter involving the prisoner's status as a prisoner or the juvenile's status as a resident of a secured correctional facility and for certain expenses incurred or paid by it in reference to holding those juveniles in secure custody while those actions or proceedings are pending. Expenses shall only include the amounts that were necessarily incurred and actually paid and shall be no more than the legitimate cost would be to any other county had the offense or crime occurred therein.

History: 1971 c. 125; 1977 c. 418; 1979 c. 221; 1985 a. 29; 1989 a. 31; 1995 a. 27, 77; 1997 a. 35.

16.513 Program and segregated revenue sufficiency. **(1)** Each agency which has a program revenue appropriation or appropriation of segregated revenues from program receipts shall, at such times as required by the secretary, make quarterly reports to the department projecting the revenues and expenditures for the ensuing quarterly period under each such appropriation to the agency.

(2) Upon reviewing the reports submitted under sub. (1), the department shall report to the joint committee on finance concerning any projected insufficiency of program revenues or segregated revenues from program receipts to meet expenditures contemplated by agencies. The report shall contain information concerning any encumbrances made by agencies attributable to a program revenue appropriation or appropriation of segregated revenues from program receipts that are in excess of the moneys, assets or accounts receivable under s. 20.903 (2) required to remove the liabilities created by the encumbrances.

(3) If there are insufficient moneys, assets or accounts receivable, as determined under s. 20.903 (2), that are projected by an agency or projected by the department under s. 16.40 (7) to cover anticipated expenditures under a program revenue appropriation or appropriation of segregated revenues from program receipts, the agency shall propose and submit to the department a plan to assure that there are sufficient moneys, assets or accounts receivable to meet projected expenditures under the appropriation. The department may approve, disapprove or approve with modifications each plan submitted by an agency. If the department approves a plan, or approves a plan with modifications, the department shall forward the plan to the joint committee on finance. If the cochairpersons of the committee do not notify the secretary that the committee has scheduled a meeting for the purpose of reviewing the proposed plan within 14 working days after the date of the secretary's submittal, any portion of the plan which does not require the action of the legislature or the action of the committee under another law may be implemented. If, within 14 working days after the date of the secretary's submittal, the cochairpersons of the committee notify the secretary that the committee has scheduled a meeting for the purpose of reviewing the proposed plan, no part of the plan may be implemented without the approval of the committee in accordance with applicable law, or without the approval of the legislature if legislative approval is required.

(4) The department shall monitor the performance of agencies in carrying out plans approved under sub. (3) and shall periodically report its findings regarding such performance to the joint committee on finance.

(5) Any officer of an agency which is responsible for the submission of a report required by sub. (1) or a plan required by sub. (3) who fails to submit the report or plan within the time required by the department may be required to forfeit not less than $200 nor more than $1,000.

History: 1983 a. 27.

16.515 Supplementation of program revenue and program revenue−service appropriations. **(1)** The secretary may supplement any sum certain program revenue or program revenue−service appropriation which the secretary determines is insufficient because of unforeseen emergencies or insufficient to accomplish the purpose for which made, if the secretary finds that an emergency exists, no funds are available for such purposes and the purposes for which a supplemental appropriation is requested have been authorized or directed by the legislature. If the secretary proposes to supplement such an appropriation, the secretary shall notify the joint committee on finance in writing of the proposed action. The secretary may proceed with the proposed action if within 14 working days of the notification the committee does not schedule a meeting for the purpose of reviewing the secretary's proposed action. If the committee schedules a meeting for the purpose of reviewing the proposed action, the action shall not take effect unless the committee approves the action.

(2) All supplements proposed under this section which are not acted upon by the committee shall be paid from the appropriation under s. 20.865 (8) (g).

(3) This section does not apply to supplementation of the appropriation under s. 20.370 (2) (bg) or (8) (mg).

History: 1981 c. 20; 1989 a. 31; 1991 a. 269; 1993 a. 16.

16.517 Adjustments of program revenue positions and funding levels. No later than 30 days after the effective date of each biennial budget act, the department shall provide to the joint committee on finance a report indicating any initial modifications that are necessary to the appropriation levels established under that act for program revenue and program revenue−service appropriations as defined in s. 20.001 (2) (b) and (c) or to the number of full−time equivalent positions funded from program revenue and program revenue−service appropriations authorized by that act to account for any additional funding or positions authorized under s. 16.505 (2) or (2m) or 16.515 in the fiscal year immediately preceding the fiscal biennium of the budget that have not been included in authorizations under the biennial budget act but which should be included as continued budget authorizations in the fiscal biennium of the budget. Such modifications shall be limited to adjustment of the appropriation or position levels to the extent required to account for higher base levels for the fiscal year immediately preceding the fiscal biennium of the budget due to appropriation or position increases authorized under s. 16.505 (2) or (2m) or 16.515 during the fiscal year immediately preceding the fiscal biennium of the budget. If the cochairpersons of the committee do not notify the secretary that the committee has scheduled a meeting for the purpose of reviewing the proposed modifications within 14 working days after the date of receipt of the department's report, the department may make the modifications specified in the report. If, within 14 working days after the date of the department's report, the cochairpersons of the committee notify the secretary that the committee has scheduled a meeting for the purpose of reviewing the proposed modifications, the department may not make the modifications specified in the report until the committee approves the report.

History: 1985 a. 29; 1987 a. 4, 27; 1991 a. 39; 1995 a. 27.

16.518 Transfers to the budget stabilization fund and the cash building projects fund. **(1)** In this section, "summary" means the amount shown in the summary in s. 20.005 (1), as published in the biennial budget act or acts.

(2) Annually, the secretary shall calculate the difference between the amount of moneys projected to be deposited in the general fund during the fiscal year that are designated as "Taxes" in the summary and the amount of such moneys actually deposited in the general fund during the fiscal year.

(3) (a) Subject to par. (b), if the amount of moneys projected to be deposited in the general fund during the fiscal year that are designated as "Taxes" in the summary is less than the amount of such moneys actually deposited in the general fund during the fiscal year, the secretary shall annually transfer from the general fund to the budget stabilization fund 50% of the amount calculated under sub. (2).

(b) 1. If the balance of the budget stabilization fund on June 30 of the fiscal year is at least equal to 5% of the estimated expenditures from the general fund during the fiscal year, as reported in the summary, the secretary may not make the transfer under par. (a).

2. If the amount transferred under par. (a) would cause the general fund balance on June 30 of the fiscal year to be less than the general fund balance that is required under s. 20.003 (4) for that fiscal year, the secretary shall reduce the amount transferred under par. (a) to the amount that would cause the general fund balance to be equal to the minimum general fund balance that is required under s. 20.003 (4) for that fiscal year.

History: 2001 a. 16.

16.519 Fund transfers relating to tobacco settlement agreement. (1) In this section, "tobacco settlement agreement" means the Attorneys General Master Tobacco Settlement Agreement of November 23, 1998.

(4) If the state has not received in fiscal year 2002−03 at least $15,345,100 under the tobacco settlement agreement, because the secretary, under s. 16.63, has sold the state's right to receive any of the payments under the tobacco settlement agreement, the secretary shall transfer from the general fund to the tobacco control fund an amount equal to $15,345,100 less any payments received under the tobacco settlement agreement and deposited in the tobacco control fund in that fiscal year.

History: 2001 a. 16; 2003 a. 33.

16.52 Accounting. The department of administration shall:

(1) KEEP SEPARATE ACCOUNTS. Keep in its office separate accounts of the revenues and funds of the state, and of all moneys and funds received or held by the state, and also of all encumbrances, expenditures, disbursements and investments thereof, showing the particulars of every encumbrance, expenditure, disbursement and investment.

(2) REVENUE ACCOUNTS. Place revenue estimates on the books of accounts and credit actual receipts against them as of the last day of each quarter. Except as provided in s. 20.002 (2), any receipts applying to a prior fiscal year received between the day after the date for closing of books specified by the secretary under sub. (5) (a) and the next succeeding such date specified by the secretary shall be credited by the secretary to the fiscal year following the year to which the receipts apply. Except in the case of program revenue and continuing appropriations, any refund of a disbursement to a general purpose revenue appropriation, applicable to any prior fiscal year, received between these dates may not be credited to any appropriation but shall be considered as a nonappropriated receipt. General purpose revenue (GPR) earned, as defined in s. 20.001 (4) is not available for expenditure, whether or not applied to the fiscal year in which received.

(3) KEEP APPROPRIATION ACCOUNTS. Keep separate accounts of all appropriations authorizing expenditures from the state treasury, which accounts shall show the amounts appropriated, the amounts allotted, the amounts encumbered, the amounts expended, the allotments unencumbered and the unallotted balance of each appropriation.

(5) ENCUMBRANCES AND CHARGES FOR PRIOR FISCAL YEAR. (a) On a date specified by the secretary within 7 days of July 31 of each fiscal year, all outstanding encumbrances against an appropriation entered for the previous fiscal year shall be transferred by the secretary as encumbrances against the appropriation for the current fiscal year, and an equivalent prior year appropriation balance shall also be forwarded to the current year by the secretary. Payments made on previous year encumbrances forwarded shall be charged to the current fiscal year. All other charges incurred during any previous fiscal year, and not evidenced by encumbrances, which are presented for payment between the day after the date specified by the secretary under this paragraph in any fiscal year and the date specified by the secretary under this paragraph in the next succeeding fiscal year shall be entered as charges in the fiscal year following the year in which the charges are incurred. The requirements of this paragraph may be waived in whole or in part by the secretary with the advice of the state auditor on appropriations other than general purpose revenue appropriations and corresponding segregated revenue appropriations.

(b) After the date specified by the secretary under par. (a), agencies shall be allowed not to exceed one month for reconciling prior year balances, correcting errors and certifying necessary adjustments to the department. No prior year corrections shall be permitted after that date, it being incumbent upon all agencies to completely reconcile their records with the department by that date. Each agency shall delegate to some individual the responsibility of reconciling its accounts as herein provided and shall certify the individual's name to the secretary. As soon as a reconciliation has been effected, the agency shall advise the secretary in writing of such fact and shall forward to the secretary a copy of such reconciliation. If any agency fails to reconcile its accounts as provided in this subsection, the person responsible for such reconciliation shall not be entitled to any further compensation for salary until such reconciliation is effected. With the approval of the state auditor any agency which relies extensively on central accounting records may be permitted by the secretary to file a statement of agreement in lieu of a reconciliation on all or part of its accounts.

(c) In addition to the annual reconcilement of accounts required by par. (b), the secretary may request any state agency to reconcile its accounts with those of the department at such other times as the secretary deems necessary. The manner and form of the reconcilement shall be determined by the secretary.

(6) PRIOR APPROVAL OF PURCHASE ORDERS, ETC. (a) Except as authorized in s. 16.74, all purchase orders, contracts, or printing orders for any agency, as defined in s. 16.70 (1e), shall, before any liability is incurred thereon, be submitted to the secretary for his or her approval as to legality of purpose and sufficiency of appropriated and allotted funds therefor. In all cases the date of the contract or order governs the fiscal year to which the contract or order is chargeable, unless the secretary determines that the purpose of the contract or order is to prevent lapsing of appropriations or to otherwise circumvent budgetary intent. Upon such approval, the secretary shall immediately encumber all contracts or orders, and indicate the fiscal year to which they are chargeable.

(b) Pursuant to s. 16.72 and subject to ss. 16.53 and 20.903 local purchases may be made or miscellaneous expenses incurred by any state department.

(c) Any department feeling itself aggrieved by the refusal of the secretary to approve any proposed encumbrance or payment under this section or s. 16.53 may appeal from the secretary's decision to the governor, who, after a hearing and such investigation as the governor deems necessary, may set aside or modify such decision.

(7) PETTY CASH ACCOUNT. With the approval of the secretary, each agency which is authorized to maintain a contingent fund under s. 20.920 may establish a petty cash account from its contingent fund. The procedure for operation and maintenance of petty cash accounts and the character of expenditures therefrom shall be prescribed by the secretary. In this subsection, "agency" means an office, department, independent agency, institution of higher education, association, society or other body in state government created or authorized to be created by the constitution or any law, which is entitled to expend moneys appropriated by law, including the legislature and the courts, but not including an authority created in ch. 231, 233, 234, or 237.

(8) REFUND ACCOUNTS. The secretary shall promulgate rules permitting agencies, authorized to do so by the governor, to issue checks, share drafts or other drafts to refund amounts not to exceed $5 each. The secretary may establish petty cash funds for such agencies for the purpose of paying refunds.

(9) SECRETARY TO REQUIRE ACCOUNTS OF STATE MONEY, ETC. The secretary shall require all persons receiving money or securities or having the disposition or management of any property of the state, of which an account is kept in the secretary's office, to render statements thereof to the secretary; and all such persons shall render such statements at such time and in such form as the secretary shall require.

(10) DEPARTMENT OF PUBLIC INSTRUCTION. The provisions of sub. (2) with respect to refunds and sub. (5) (a) with respect to reimbursements for the prior fiscal year shall not apply to the appropriations under s. 20.255 (2) (ac) and (r).

(11) SECRETARY TO ALLOCATE DEPARTMENTAL CENTRAL SERVICES COSTS. The secretary may allocate and charge, and may prescribe the procedures for departments to allocate and charge, the central services costs of the department of administration or of

individual departments to selected federal grants or contracts. The charges to departments for the central services costs incurred by the department of administration and the indirect costs incurred by the departments in the administration of federally−aided programs under grants or contracts shall be made in accordance with the procedures adopted by the secretary.

(12) DATE FOR INTERFUND TRANSFERS. Whenever it is provided by law for a transfer of moneys to be made from one fund to another fund and no date is specified for the transfer to be made, determine a date on which the transfer shall be made or provide for partial transfers to be made on different dates, and transfer the moneys in accordance with its determination.

History: 1971 c. 125, 261; 1973 c. 243; 1975 c. 41 s. 52; 1977 c. 29; 1977 c. 196 s. 130 (3), (4); 1977 c. 272, 273, 418; 1979 c. 34 ss. 65 to 67, 2102 (43) (a); 1981 c. 14; 1983 a. 27 ss. 73, 74, 2202 (42); 1983 a. 368; 1985 a. 29; 1987 a. 399; 1989 a. 31, 336, 359; 1991 a. 39, 316; 1995 a. 27 ss. 296, 297, 9145 (1); 1997 a. 27; 2001 a. 16; 2003 a. 33.

16.525 State aid recipients' accounting. Every association, society, institute or other organization that receives aid in any form through appropriations from the state shall report to the department in August of each year. Such annual report shall contain a detailed statement of all receipts and expenditures of such association, society, institute or organization for the fiscal year concluded on the preceding June 30, and such portions as are of special importance may be published in the biennial report of the department under s. 15.04 (1) (d).

History: 1977 c. 196 s. 131; 1987 a. 186.

16.526 Payment of the state's unfunded liabilities under the Wisconsin Retirement System; revenue obligations. (1) For purposes of subch. II of ch. 18, the purposes of obtaining proceeds to pay the state's anticipated unfunded prior service liability under s. 40.05 (2) (b) and of paying the state's unfunded prior service liability under s. 40.05 (2) (b) and the state's unfunded liability under s. 40.05 (4) (b), (bc), and (bw) and subch. IX of ch. 40 is a special fund program, and the excise tax fund is a special fund. The legislature finds and determines that the excise tax fund is a segregated fund consisting of fees, penalties, or excise taxes and that the special program to pay the state's unfunded prior service liability under s. 40.05 (2) (b) and the state's unfunded liability under s. 40.05 (4) (b), (bc), and (bw) and subch. IX of ch. 40 from the net proceeds of revenue obligations issued under this section is appropriate and will serve a public purpose.

(2) The net proceeds of revenue obligations issued under subch. II of ch. 18, as authorized under this section, shall be deposited in a fund in the state treasury, or an account maintained by a trustee, created under s. 18.57 (1). The moneys shall be applied for ancillary payments and for the provision of reserves, as determined by the building commission, and for the payment of part or all of the state's unfunded prior service liability under s. 40.05 (2) (b) and the state's unfunded liability under s. 40.05 (4) (b), (bc), and (bw) and subch. IX of ch. 40, as determined by the department, and any remainder shall be paid into a retirement liability obligation redemption fund created under 18.562 (3).

(3) The department shall have all powers necessary and convenient to distribute the excise tax fund revenues and to distribute the proceeds of the revenue obligations issued under this section in accordance with subch. II of ch. 18.

(4) The department may enter into agreements with the federal government or its agencies, political subdivisions of this state, individuals, or private entities to insure, or in any other manner provide, additional security for the revenue obligations issued under this section.

(5) (a) Subject to the limitation under par. (b), the building commission may contract revenue obligations, payable from the excise tax fund, under this section in the maximum amount that the building commission believes can be fully paid on a timely basis from moneys received or anticipated to be received in the excise tax fund.

(b) Except as otherwise provided in this paragraph, the requirements for funds obtained to pay the state's anticipated unfunded prior service liability under s. 40.05 (2) (b) and funds used for the payment of the state's unfunded prior service liability under s. 40.05 (2) (b) and the state's unfunded liability under s. 40.05 (4) (b), (bc), and (bw) and subch. IX of ch. 40, that are to be paid from revenue obligations issued under this section, shall be determined by the secretary. The sum of revenue obligations issued under this section and appropriation obligations issued under s. 16.527, if any, excluding any appropriation obligations that have been defeased under a cash optimization program administered by the building commission and any appropriation obligations issued pursuant to s. 16.527 (3) (b) 3., shall not exceed $1,500,000,000.

(6) Unless otherwise expressly provided in resolutions authorizing the issuance of revenue obligations under this section or in other agreements with the owners of revenue obligations, each issue of revenue obligations under this section shall be on a parity with every other revenue obligation issued under this section and in accordance with subch. II of ch. 18.

(7) As determined by the building commission, any moneys deposited in the excise tax fund that are not required for the retirement of revenue obligations and providing for reserves and for ancillary payments authorized to be paid from such moneys are transferred to the general fund.

(8) Recognizing its moral obligation to do so, the legislature expresses its expectation and aspiration that, if the funds in the excise tax fund are insufficient to pay the principal of and interest on the revenue obligations issued under subch. II of ch. 18 pursuant to this section, the legislature shall make an appropriation from the general fund sufficient to pay the principal and interest on the obligations or to replenish a reserve fund, if applicable.

History: 2003 a. 33, 84.

16.527 Retirement of state's unfunded liabilities under the Wisconsin Retirement System; appropriation obligations. (1) LEGISLATIVE FINDING AND DETERMINATION. Recognizing that the state, by prepaying part or all of the state's unfunded prior service liability under s. 40.05 (2) (b) and the state's unfunded liability under s. 40.05 (4) (b), (bc), and (bw) and subch. IX of ch. 40, may reduce its costs and better ensure the timely and full payment of retirement benefits to participants and their beneficiaries under the Wisconsin Retirement System, the legislature finds and determines that it is in the public interest for the state to issue appropriation obligations to obtain proceeds to pay the state's anticipated unfunded prior service liability under s. 40.05 (2) (b) and to pay part or all of the state's unfunded prior service liability under s. 40.05 (2) (b) and the state's unfunded liability under s. 40.05 (4) (b), (bc), and (bw) and subch. IX of ch. 40.

(2) DEFINITIONS. In this section:

(a) "Appropriation obligation" means an undertaking by the state to repay a certain amount of borrowed money that is payable from all of the following:

1. Moneys annually appropriated by law for debt service due with respect to such undertaking in that year.

2. Proceeds of the sale of appropriation obligations described in sub. (3) (b) 3.

3. Payments received for that purpose under agreements and ancillary arrangements described in sub. (4) (e).

4. Investment earnings on amounts in subds. 1. to 3.

(b) "Evidence of appropriation obligation" means a written promise to pay an appropriation obligation.

(c) "Refunding obligation" means an appropriation obligation contracted to fund or refund all or any part of one or more outstanding appropriation obligations.

(3) AUTHORIZATION OF APPROPRIATION OBLIGATIONS. (a) The department shall have all powers necessary and convenient to carry out its duties, and exercise its authority, under this section.

(b) 1. Subject to the limitation under subd. 2., the department may contract appropriation obligations of the state under this section for the purpose of paying part or all of the state's unfunded prior service liability under s. 40.05 (2) (b) and the state's unfunded liability under s. 40.05 (4) (b), (bc), and (bw) and subch. IX of ch. 40.

2. The sum of appropriation obligations issued under this section, excluding any obligations that have been defeased under a cash optimization program administered by the building commission and any obligations issued pursuant to subd. 3., and revenue obligations issued under s. 16.526, if any, may not exceed $1,500,000,000.

3. The department may contract appropriation obligations as the department determines is desirable to fund or refund outstanding appropriation obligations issued under this section, to pay issuance or administrative expenses, to make deposits to reserve funds, to pay accrued or funded interest, to pay the costs of credit enhancement, or to make payments under other agreements entered into under sub. (4) (e).

(4) TERMS. (a) Money may be borrowed and evidences of appropriation obligation issued therefor pursuant to one or more written authorizing certifications under sub. (5), unless otherwise provided in the certification, at any time, in any specific amounts, at any rates of interest, for any term, payable at any intervals, at any place, in any manner, and having any other terms or conditions that the department considers necessary or useful. Appropriation obligations may bear interest at variable or fixed rates, bear no interest, or bear interest payable only at maturity or upon redemption prior to maturity.

(b) The department may authorize evidences of appropriation obligation having any provisions for prepayment considered necessary or useful, including the payment of any premium.

(c) Interest shall cease to accrue on an appropriation obligation on the date that the obligation becomes due for payment if payment is made or duly provided for, but the obligation and accrued interest shall continue to be a binding obligation according to its terms until 6 years overdue for payment, or such longer period as may be required by federal law. At that time, unless demand for its payment has been made, it shall be extinguished and considered no longer outstanding.

(d) All money borrowed by the state pursuant to evidences of appropriation obligation issued under this section shall be lawful money of the United States, and all appropriation obligations shall be payable in such money.

(e) At the time of, or in anticipation of, contracting for the appropriation obligations and at any time thereafter so long as the appropriation obligations are outstanding, the department may enter into agreements and ancillary arrangements relating to the appropriation obligations, including trust indentures, liquidity facilities, remarketing or dealer agreements, letter of credit agreements, insurance policies, guaranty agreements, reimbursement agreements, indexing agreements, or interest exchange agreements. Any payments made or received pursuant to any such agreement or ancillary arrangement shall be made from or deposited as provided in the agreement or ancillary arrangement.

(f) All evidences of appropriation obligation owned or held by any state fund are outstanding in all respects and the state agency controlling the fund shall have the same rights with respect to an evidence of appropriation obligation as a private party, but if any sinking fund acquires evidences of appropriation obligation that gave rise to such fund, the obligations are considered paid for all purposes and no longer outstanding and shall be canceled as provided in sub. (8) (e). All evidences of appropriation obligation owned by any state fund shall be registered to the fullest extent registrable.

(g) The state shall not be generally liable on evidences of appropriation obligation and evidences of appropriation obligation shall not be a debt of the state for any purpose whatsoever. Evidences of appropriation obligation, including the principal thereof and interest thereon, shall be payable only from amounts that the legislature may, from year to year, appropriate for the payment thereof.

(5) PROCEDURES. (a) No evidence of appropriation obligation may be issued by the state unless the issuance is pursuant to a written authorizing certification. The certification shall set forth the aggregate principal amount of appropriation obligations authorized thereby, the manner of sale of the evidences of appropriation obligation, and the form and terms thereof. The certification shall be signed by the secretary, or his or her designee, and shall be transmitted to the governor.

(b) Appropriation obligations may be sold at either public or private sale and may be sold at any price or percentage of par value. The department may provide in any authorizing certification for refunding obligations under sub. (7) that they be exchanged privately in payment and discharge of any of the outstanding obligations being refinanced. All appropriation obligations sold at public sale shall be noticed as provided in the authorizing certification. Any bid received at public sale may be rejected.

(6) FORM. (a) Evidences of appropriation obligation may be in the form of bonds, notes, or other evidences of obligation, and may be issued in book−entry form or in certificated form. Notwithstanding s. 403.104 (1), every evidence of appropriation obligation is a negotiable instrument.

(b) Every evidence of appropriation obligation shall be executed in the name of and for the state by the governor and shall be sealed with the great seal of the state or a facsimile thereof. The facsimile signature of the governor may be imprinted in lieu of the manual signature of such officer, as the department directs, if approved by such officer. An evidence of appropriation obligation bearing the manual or facsimile signature of a person in office at the time such signature was signed or imprinted shall be fully valid notwithstanding that before or after the delivery thereof such person ceased to hold such office.

(c) Every evidence of appropriation obligation shall be dated not later than the date issued, shall contain a reference by date to the appropriate authorizing certification, shall state the limitation established in sub. (4) (g), and shall be in accordance with the authorizing certification.

(d) An evidence of appropriation obligation shall be in such form and contain such statements or terms as determined by the department, and may not conflict with law or with the appropriate authorizing certification.

(7) REFUNDING OBLIGATIONS. (a) 1. The department may authorize the issuance of appropriation obligation refunding obligations. Refunding obligations may be issued, subject to any contract rights vested in owners of obligations being refinanced, to refinance all or any part of one or more issue of obligations notwithstanding that the obligations may have been issued at different times. The principal amount of the refunding obligations may not exceed the sum of: the principal amount of the obligations being refinanced; applicable redemption premiums; unpaid interest on the obligations to the date of delivery or exchange of the refunding obligations; in the event the proceeds are to be deposited in trust as provided in par. (c), interest to accrue on the obligations from the date of delivery to the date of maturity or to the redemption date selected by the department, whichever is earlier; and the expenses incurred in the issuance of the refunding obligations and the payment of the obligations.

2. A determination by the department that a refinancing is advantageous or that any of the amounts provided subd. 1. should be included in the refinancing shall be conclusive.

(b) If the department determines to exchange refunding obligations, they may be exchanged privately for and in payment and discharge of any of the outstanding obligations being refinanced. Refunding obligations may be exchanged for such principal amount of the obligations being exchanged therefor as may be determined by the department to be necessary or advisable. The

owners of the obligations being refunded who elect to exchange need not pay accrued interest on the refunding obligations if and to the extent that interest is accrued and unpaid on the obligations being refunded and to be surrendered. If any of the obligations to be refinanced are to be called for redemption, the department shall determine which redemption dates are to be used, if more than one date is applicable and shall, prior to the issuance of the refunding obligations, provide for notice of redemption to be given in the manner and at the times required by the certification authorizing the outstanding obligations.

(c) 1. The principal proceeds from the sale of any refunding obligations shall be applied either to the immediate payment and retirement of the obligations being refinanced or, if the obligations have not matured and are not presently redeemable, to the creation of a trust for and shall be pledged to the payment of the obligations being refinanced.

2. If a trust is created, a separate deposit shall be made for each issue of appropriation obligations being refinanced. Each deposit shall be with the secretary of administration or a bank or trust company that is a member of the Federal Deposit Insurance Corporation. If the total amount of any deposit, including money other than sale proceeds but legally available for such purpose, is less than the principal amount of the obligations being refinanced and for the payment of which the deposit has been created and pledged, together with applicable redemption premiums and interest accrued and to accrue to maturity or to the date of redemption, then the application of the sale proceeds shall be legally sufficient only if the money deposited is invested in securities issued by the United States or one of its agencies, or securities fully guaranteed by the United States, and only if the principal amount of the securities at maturity and the income therefrom to maturity will be sufficient and available, without the need for any further investment or reinvestment, to pay at maturity or upon redemption the principal amount of the obligations being refinanced together with applicable redemption premiums and interest accrued and to accrue to maturity or to the date of redemption. The income from the principal proceeds of the securities shall be applied solely to the payment of the principal of and interest and redemption premiums on the obligations being refinanced, but provision may be made for the pledging and disposition of any surplus.

3. Nothing in this paragraph may be construed as a limitation on the duration of any deposit in trust for the retirement of obligations being refinanced that have not matured and that are not presently redeemable. Nothing in this paragraph may be construed to prohibit reinvestment of the income of a trust if the reinvestments will mature at such times that sufficient cash will be available to pay interest, applicable premiums, and principal on the obligations being refinanced.

(8) FISCAL REGULATIONS. (a) The department shall act as registrar for each evidence of appropriation obligation. No transfer of a registered evidence of appropriation obligation is valid unless made on a register maintained by the department, and the state may treat the registered owner as the owner of the instrument for all purposes. Payments of principal and interest shall be by electronic funds transfer, check, share draft, or other draft to the registered owner at the owner's address as it appears on the register, unless the department has otherwise provided. Information in the register is not available for inspection and copying under s. 19.35 (1). The department may make any other provision respecting registration as it considers necessary or useful. The department may enter into a contract for the performance of any of its functions relating to appropriation obligations.

(b) The department, or the department's agent, shall maintain records containing a full and correct description of each evidence of appropriation obligation issued, identifying it, and showing its date, issue, amount, interest rate, payment dates, payments made, registration, destruction, and every other relevant transaction.

(c) The secretary may appoint one or more trustees and fiscal agents for each issue of appropriation obligations. The secretary may be denominated the trustee and the sole fiscal agent or a cofiscal agent for any issue of appropriation obligations. Every other fiscal agent shall be an incorporated bank or trust company authorized by the laws of the United States or of the state in which it is located to do a banking or trust company business. There may be deposited with a trustee, in a special account, moneys to be used only for the purposes expressly provided in the certification authorizing the issuance of evidences of appropriation obligation or an agreement between the department and the trustee. The department may make other provisions respecting trustees and fiscal agents as the department considers necessary or useful and may enter into a contract with any trustee or fiscal agent containing such terms, including compensation, and conditions in regard to the trustee or fiscal agent as the department considers necessary or useful.

(d) If any evidence of appropriation obligation is destroyed, lost, or stolen, the department shall execute and deliver a new evidence of appropriation obligation, upon filing with the department evidence satisfactory to the department that the evidence of appropriation obligation has been destroyed, lost, or stolen, upon providing proof of ownership thereof, and upon furnishing the department with indemnity satisfactory to it and complying with such other rules of the department and paying any expenses that the department may incur. The department shall cancel the evidences of appropriation obligation surrendered to the department.

(e) Unless otherwise directed by the department, every evidence of appropriation obligation paid or otherwise retired shall be marked "canceled" and delivered, through the secretary if delivered to a fiscal agent other than the secretary, to the auditor who shall destroy them and deliver to the department a certificate to that effect.

(9) APPROPRIATION OBLIGATIONS AS LEGAL INVESTMENTS. Any of the following may legally invest any sinking funds, moneys, or other funds belonging to them or under their control in any appropriation obligations issued under this section:

(a) The state, the investment board, public officers, municipal corporations, political subdivisions, and public bodies.

(b) Banks and bankers, savings and loan associations, credit unions, trust companies, savings banks and institutions, investment companies, insurance companies, insurance associations, and other persons carrying on a banking or insurance business.

(c) Personal representatives, guardians, trustees, and other fiduciaries.

(10) MORAL OBLIGATION PLEDGE. Recognizing its moral obligation to do so, the legislature expresses its expectation and aspiration that it shall make timely appropriations from moneys in the general fund that are sufficient to pay the principal and interest due with respect to any appropriation obligations in any year, to make payments of the state under agreements and ancillary arrangements entered into under sub. (4) (e), to make deposits into reserve funds created under sub. (3) (b) 3., and to pay related issuance or administrative expenses.

History: 2003 a. 33, 84.

16.528 Interest on late payments. (1) DEFINITIONS. In this section:

(a) "Agency" means an office, department, independent agency, institution of higher education, association, society or other body in state government created or authorized to be created by the constitution or any law, which is entitled to expend moneys appropriated by law, including the legislature and the courts, but not including an authority created in ch. 231, 233, 234, or 237.

(b) "Subcontractor" has the meaning given in s. 66.0901 (1) (d).

(2) INTEREST PAYABLE. (a) Except as provided in sub. (3) or as otherwise specifically provided, an agency which does not pay timely the amount due on an order or contract shall pay interest on the balance due from the 31st day after receipt of a properly completed invoice or receipt and acceptance of the property or service under the order or contract, whichever is later, or, if the agency

does not comply with s. 16.53 (2), from the 31st day after receipt of an improperly completed invoice or receipt and acceptance of the property or service under the order or contract, whichever is later, at the rate specified in s. 71.82 (1) (a) compounded monthly.

(b) For the purposes of par. (a), a payment is timely if the payment is mailed, delivered or transferred by the later of the following:

1. The date specified on a properly completed invoice for the amount specified in the order or contract.

2. Except as provided in subd. 3., within 45 days after receipt of a properly completed invoice or receipt and acceptance of the property or service under the order or contract, or, if the agency does not comply with s. 16.53 (2), within 45 days after receipt of an improperly completed invoice or receipt and acceptance of the property or service under the order or contract, whichever is later.

3. For orders or contracts entered into on and after the first day of the 3rd 12−month period beginning after February 1, 1987, within 30 days after receipt of a properly completed invoice or receipt and acceptance of the property or service under the order or contract, or, if the agency does not comply with s. 16.53 (2), within 30 days after receipt of an improperly completed invoice or receipt and acceptance of the property or service under the order or contract, whichever is later.

(2m) INTEREST PAYABLE TO SUBCONTRACTORS. (a) Except as provided in sub. (3) (e) or as otherwise specifically provided, principal contractors that engage subcontractors to perform part of the work on an order or contract from an agency shall pay subcontractors for satisfactory work in a timely fashion. A payment is timely if it is mailed, delivered or transferred to the subcontractor no later than 7 days after the principal contractor's receipt of any payment from the agency.

(b) If a subcontractor is not paid in a timely fashion, the principal contractor shall pay interest on the balance due from the 8th day after the principal contractor's receipt of any payment from the agency, at the rate specified in s. 71.82 (1) (a) compounded monthly.

(c) Subcontractors receiving payment under this subsection shall pay lower−tier subcontractors, and be liable for interest on late payments, in the same manner as principal contractors are required to pay subcontractors in pars. (a) and (b).

(3) EXCEPTIONS. Subsection (2) does not apply to the following:

(a) Any portion of an order or contract under which the payment is made from federal moneys.

(b) An order or contract that is subject to late payment interest or another late payment charge required by another law or rule specifically authorized by law.

(c) An order or contract between 2 or more agencies except if the order or contract involves prison industries.

(d) An order or contract for services which provides for the time of payment and the consequences of nontimely payment.

(e) An order or contract under which the amount due is subject to a good faith dispute if, before the date payment is not timely, notice of the dispute is sent by 1st class mail, personally delivered or sent in accordance with the procedure specified in the order or contract. In this paragraph, "good faith dispute" means a contention by an agency that goods delivered or services rendered were of a lesser quantity or quality than ordered or specified by contract, were faulty or were installed improperly; or any other reason giving cause for the withholding of payment by the agency until the dispute is settled.

(4) APPROPRIATION FROM WHICH PAID. An agency which pays interest under this section shall pay the interest from the appropriation for administration of the program under which the order or contract was made or entered into unless payment from that appropriation is prohibited. Notwithstanding ss. 20.115 to 20.765, if payment from the appropriation for administration of the program is prohibited, the interest payment shall be made from a general program operations appropriation of the agency determined by the agency. If the program is administered from more than one appropriation, the interest payment shall be made from the appropriation or appropriations for program administration determined by the agency.

(5) REPORTS OF INTEREST PAID. Annually before October 1, each agency shall report to the department the number of times in the previous fiscal year the agency paid interest under this section, the total amount of interest paid and the reasons why interest payments were not avoided by making timely payment.

(6) ATTORNEY FEES. Notwithstanding s. 814.04 (1), in an action to recover interest due under this section, the court shall award the prevailing party reasonable attorney fees.

History: 1985 a. 300; 1987 s. 312 s. 17; 1987 a. 399; 1989 a. 233; 1991 a. 39; 1995 a. 27, 241; 1999 a. 150 s. 672; 2001 a. 16; 2001 a. 30 s. 108.

16.529 Lapses and fund transfers relating to unfunded retirement liability debt service. (1) DEFINITIONS. The definitions in s. 20.001 are applicable in this section, except that "state agency" does not include the department of employee trust funds or the investment board.

(2) LAPSES AND TRANSFERS REQUIRED. If obligations are issued under s. 16.526 or 16.527, or both, any executive budget bill prepared under s. 16.47 (1) shall require the secretary during the fiscal biennium to which the executive budget bill relates to lapse to the general fund from each appropriation of program revenues, program revenues−service, and federal revenues and to lapse to the applicable fund from each appropriation of segregated fund revenues, segregated fund revenues−service, and segregated federal revenues and subsequently transfer to the general fund an amount equal to that portion of the total amount of principal and interest to be paid on the obligations during the succeeding fiscal biennium that is allocable to the appropriation, as determined under sub. (3). The secretary shall ensure that each state agency includes in the program and financial information forwarded under s. 16.42 (1) an itemization of each amount that is required to be lapsed, or lapsed and transferred, under this subsection.

(3) DETERMINATION OF ALLOCATED AMOUNT. The secretary shall determine the amount of the allocations required under sub. (2) as follows:

(a) The secretary shall first compute the total amount that would have been expended from all appropriations, had obligations under s. 16.526 or 16.527 not been issued, under s. 40.05 (2) (b) and (4) (b), (bc), and (bw) and subch. IX of ch. 40 during the fiscal biennium during which the obligations are issued.

(b) The secretary shall then calculate the percentage of the total computed under par. (a) that is allocable to each appropriation of program revenues, program revenues−service, segregated fund revenues, segregated fund revenues — service, federal revenues, and segregated federal revenues from which moneys would have been expended under s. 40.05 (2) (b) and (4) (b), (bc), and (bw) and subch. IX of ch. 40 had the obligations not been issued. The percentage shall be based upon the amount that would have been required to be expended from the appropriation, had the obligations not been issued, under s. 40.05 (2) (b) and (4) (b), (bc), and (bw) and subch. IX of ch. 40 during the fiscal biennium during which the obligations are issued.

(c) For each appropriation identified under par. (b), the secretary shall then apply the percentage calculated under par. (b) to the total amount of principal and interest to be paid during the succeeding fiscal biennium on obligations issued under ss. 16.526 and 16.527. This amount is the portion of the total amount of principal and interest paid on the obligations during that fiscal biennium that is allocable to each appropriation.

History: 2003 a. 33.

16.53 Preaudit procedure. The department of administration shall preaudit claims in accordance with the following procedures:

(1) CLAIMS AGAINST STATE. (a) *Audit.* The secretary is responsible for auditing claims against the state, when payment thereof out of the state treasury is authorized by law, except as provided in ss. 16.77 (1) and 20.920. The audit may be on a sample basis in accordance with generally accepted auditing standards. The secretary may delegate in writing the audit function to the head of any agency under terms and standards established by the secretary. The delegation shall be by mutual agreement and notice of the agreement shall be reported to the state auditor. If the secretary finds, through sample auditing, review of procedures, controls and any other audit techniques the secretary deems necessary, that the delegated function is not being performed according to the established auditing standards, the secretary shall in writing withdraw the delegated authority. In this subsection, "agency" has the meaning given under s. 16.52 (7).

(b) *Payrolls.* Payrolls, to be entitled to audit, shall be certified by the proper officers who shall set forth the nature of the services rendered by each person named therein.

(c) *Other claims.* Unless otherwise provided by law, all other claims to be entitled to audit shall:

1. Specify the nature and particulars thereof on an official or original invoice.

2. Conform with statutory provisions and be necessarily incurred in the performance of duties required by the state service.

4. Include the claimant's affidavit, or statement under the penalties of perjury, setting forth that all items of traveling expenses were incurred in the performance of duties required by the public service, and that the amount charged for transportation or for other expenses incident to travel was actually paid out and that no part of such transportation was had upon a free pass or otherwise free of charge. The blank form of such travel voucher shall be prescribed by the secretary.

6. Exclude items of expenditure incurred while traveling outside the state by any officer or employee of any state department or institution thereof unless in the discharge of duties required by the public service.

7. Exclude out−of−state expenses of an officer or employee of any state department or institution except upon the order of the head of that department or institution. The department or institution head may determine whether such requests shall be made individually or periodically. The governor may require periodic reports on out−of−state travel made by the personnel of each state agency with such detail as the governor may desire. The governor, by executive order, may require the governor's prior approval for out−of−state travel by members of any state department or institution of the executive branch.

9. Be approved by the proper state officer.

10. Exclude items of expenditure incurred by an employee of any state department while permanently located outside the state unless prior approval of the department of administration has been obtained.

(ca) *Supervision of expenditures.* All departments shall diligently review and supervise the travel expenditures of their employees and may promulgate reasonable rules governing such expenditures. Such rules shall be consistent with the uniform guidelines established under s. 20.916 (8). Each claim shall be approved by the employee's appointing authority, as defined in s. 230.03 (4), or the appointing authority's authorized representative. The approval shall represent the concurrence with the accuracy, necessity and reasonableness of each expense. Claims so approved shall be audited by the department of administration in accordance with par. (a).

(cm) *Advancement of travel expenses.* The head of a state agency may advance money for travel expenses to employees. Any travel advance shall not exceed 80% of the estimated expense.

(d) *Salaries and benefits; when payable.* 1. The secretary, with the approval of the joint committee on employment relations, shall fix the time and frequency for payment of salaries due elective and appointive officers and employees of the state. As determined under this subdivision, the salaries shall be paid either monthly, semimonthly or for each 2−week period.

2. Costs for benefits under ch. 108 which are paid on an actual basis may be charged to and collected from agencies by the secretary on an estimated or premium basis, credited to appropriate appropriations, and paid from the appropriations on an actual basis. If a billing submitted by the department of workforce development for payment of a specific claim for benefits under s. 108.15 (7) remains unpaid by the agency to whom the billing is submitted for more than 60 days after the billing is transmitted to the agency by the secretary, the secretary may charge the cost of payment of the billing to the proper appropriation of the agency to whom the billing is submitted without authorization of the agency and notwithstanding any pending dispute concerning agency liability. If it is finally determined that an agency is not liable in whole or in part for payment of a billing previously submitted and paid, the secretary shall credit any refund received to the appropriation from which the billing was paid, if it is available for expenditure, or otherwise to the fund from which the billing was paid. Any credit to a sum sufficient appropriation shall be made only to the fund from which the appropriation is made. In addition, the secretary may charge agencies for the department's costs of estimation, collection and payment of benefits under ch. 108 on a prorated basis in accordance with the percentage of costs attributable to each agency. Service charges shall be paid into the appropriation made under s. 20.505 (1) (ka).

3. In order to utilize modern accounting methods in processing payrolls, the department may convert and adjust salaries of all state officers and employees so that they are payable in equal payments throughout the year. To this end the secretary may promulgate rules necessary to administer this subdivision.

4. The secretary may promulgate rules pertaining to the administration of earnings garnishment actions under s. 812.42 whenever the state is the garnishee in such actions. In any earnings garnishment action where the judgment debtor is employed by the University of Wisconsin System, the secretary may require the appropriate payroll processing center for the University of Wisconsin System to directly process necessary forms, papers, deductions and checks, share drafts or other drafts in connection with such action.

(2) IMPROPER INVOICES. If an agency receives an improperly completed invoice, the agency shall notify the sender of the invoice within 10 working days after it receives the invoice of the reason it is improperly completed. In this subsection, "agency" means an office, department, independent agency, institution of higher education, association, society or other body in state government created or authorized to be created by the constitution or any law, which is entitled to expend moneys appropriated by law, including the legislature and the courts, but not including an authority created in ch. 231, 233, 234, or 237.

(3) EXAMINATION OF CLAIMANTS. The secretary may examine under oath the claimant or any other person relative to any claim presented against the state, and may require oral or written answers as to any facts relating to the justness of the claim, or as to the liability of the state.

(4) AUDIT ORDER ENDORSED ON CLAIM; RECORD. The order of the secretary auditing any claim shall be endorsed on or annexed to such claim, shall specify the amount allowed, the fund from which the same is payable, and the law that authorizes payment of such claim out of the treasury; and said order with the claim and all evidence relative thereto shall be filed and preserved in the secretary's office.

(5) WARRANTS; WHAT TO SPECIFY. The secretary shall draw a warrant on the state treasury payable to the claimant for the amount allowed by the secretary upon every claim audited under sub. (1), except as authorized in s. 16.52 (7), 20.920, or 20.929, specifying from what fund to be paid, the particular law that authorizes the claim to be paid out of the state treasury, and at the secretary's discretion the post−office address of the payee. No

moneys may be paid out of the state treasury under this section otherwise than upon such warrants.

Note: Sub. (5) is shown as amended eff. 7−1−04 by 2003 Wis. Act 33. Prior to 7−1−04 it reads:

(5) WARRANTS; WHAT TO SPECIFY. The secretary shall draw a warrant on the state treasurer payable to the claimant for the amount allowed by the secretary upon every claim audited under sub. (1), except as authorized in s. 16.52 (7), 20.920 or 20.929, specifying from what fund to be paid, the particular law which authorizes the claim to be paid out of the state treasury, and at the secretary's discretion the post−office address of the payee. The secretary shall not credit the treasurer for any sum of money paid out by the treasurer otherwise than upon such warrants.

(6) WARRANTS; SIGNATURES. Whenever it is impracticable for the secretary to personally sign warrants issued on the state treasury, the secretary's name may be signed thereto by one or more persons in the secretary's department designated by the secretary or by the use of a mechanical device adopted by the secretary for affixing a facsimile signature; and the state treasurer, when written authority and reasons therefor are filed in the office of the state treasurer, shall honor warrants so signed, the same as if signed in person by the secretary, until such authority is revoked in writing.

(7) CERTIFICATION OF BOARDS, EVIDENCE OF CORRECTNESS OF ACCOUNT. The certificate of the proper officers of the board of regents of the University of Wisconsin System, the department of health and family services, or the proper officers of any other board or commission organized or established by the state, shall in all cases be evidence of the correctness of any account which may be certified by them.

(9) TRANSFER OF FUNDS APPROPRIATED. Whenever an appropriation has been made from the general fund in the state treasury to any other fund therein, the secretary may withhold the transfer of such appropriation or any part thereof from the general fund until the moneys required to pay outstanding claims are duly audited and disbursed. Such authority is not limited to the fiscal year of the appropriation if the liability is properly recognized and recorded.

(10) PRIORITY OF CLAIMS. (a) If an emergency arises which requires the department to draw vouchers for payments which will be in excess of available moneys in any state fund, the secretary, after notifying the joint committee on finance under par. (b), may prorate and establish priority schedules for all payments within each fund, including those payments for which a specific payment date is provided by statute, except as otherwise provided in this paragraph. The secretary shall draw all vouchers according to the preference provided in this paragraph. All direct or indirect payments of principal or interest on state bonds and notes issued under subch. I of ch. 18 have first priority. All direct or indirect payments of principal or interest on state notes issued under subch. III of ch. 18 have 2nd priority. No payment having a 1st or 2nd priority may be prorated or reduced under this subsection. All state employee payrolls have 3rd priority. The secretary shall draw all remaining vouchers according to a priority determined by the secretary. The secretary shall maintain records of all claims prorated under this subsection.

Note: Par. (a) is shown as amended eff. 7−1−04 by 2003 Wis. Act 33. Prior to 7−1−04 it reads:

(a) If an emergency arises which requires the department to draw vouchers for payments which will be in excess of available moneys in any state fund, the secretary, in consultation with the state treasurer, and after notifying the joint committee on finance under par. (b), may prorate and establish priority schedules for all payments within each fund, including those payments for which a specific payment date is provided by statute, except as otherwise provided in this paragraph. The secretary shall draw all vouchers according to the preference provided in this paragraph. All direct or indirect payments of principal or interest on state bonds and notes issued under subch. I of ch. 18 have first priority. All direct or indirect payments of principal or interest on state notes issued under subch. III of ch. 18 have 2nd priority. No payment having a 1st or 2nd priority may be prorated or reduced under this subsection. All state employee payrolls have 3rd priority. The secretary shall draw all remaining vouchers according to a priority determined by the secretary. The secretary shall maintain records of all claims prorated under this subsection and shall provide written notice to the state treasurer when a potential cash flow emergency is anticipated.

(b) Before exercising authority under par. (a) the secretary shall notify the joint committee on finance as to the need for and the procedures under which proration or priority schedules under par. (a) shall occur. If the joint committee on finance has not, within 2 working days after the notification, scheduled a meeting to review the secretary's proposal, the secretary may proceed with the proposed action. If, within 2 working days after the notification, the committee schedules a meeting, the secretary may not proceed with the proposed action until after the meeting is held.

Note: Par. (b) is shown as amended eff. 7−1−04 by 2003 Wis. Act 33. Prior to 7−1−04 it reads:

(b) Before exercising authority under par. (a) the secretary shall, after consultation with the state treasurer, notify the joint committee on finance as to the need for and the procedures under which proration or priority schedules under par. (a) shall occur. If the joint committee on finance has not, within 2 working days after the notification, scheduled a meeting to review the secretary's proposal, the secretary may proceed with the proposed action. If, within 2 working days after the notification, the committee schedules a meeting, the secretary may not proceed with the proposed action until after the meeting is held.

(c) If the secretary prorates or establishes priority schedules for payments which are to be made to local units of government, he or she shall establish a procedure whereby any local unit of government which can demonstrate that it would be adversely affected by such action of the secretary may appeal to the secretary for a waiver from having its payment prorated or delayed. In establishing this procedure, the secretary shall consider a local unit of government adversely affected if it can demonstrate that the proration or delay would cause a financial hardship because the scheduled payment had been budgeted as a revenue to be available at the scheduled time of payment and the local unit of government would otherwise have insufficient revenues to meet its immediate expenditure obligations.

(e) The authority granted by this subsection may be exercised only after all other possible procedures have been used and are found to be insufficient, including the temporary reallocation of surplus moneys as provided in s. 20.002 (11).

(11) INTEREST ON DELAYED PAYMENTS. Payments, other than payments subject to s. 16.528, prorated or delayed under sub. (10) which are payable to local units of government shall accrue interest on the payment delay at a rate equal to the state investment fund earnings rate during the period of the payment delay. Payments subject to s. 16.528 prorated or delayed under sub. (10) past the due date shall not accrue interest. In this subsection, "local unit of government" means a county, city, village, town, school district, technical college district or any other governmental entity which is entitled to receive aid payments from this state.

(12) TRAVEL EXPENSES. (a) In this subsection:

1. "Agency" has the meaning given under sub. (2).

2. "Employee" means any officer or employee of the state who is entitled to reimbursement for actual, reasonable and necessary expenses.

(b) Each voucher claim for travel expenses shall be approved by the head of the employee's agency or that person's designee. Such approval represents concurrence with the necessity and reasonableness of each expense. Such approval shall accompany the travel voucher. The expense voucher shall be audited by the agency financial office and then submitted to the department for final audit before payment.

(c) The department may not approve for payment any travel vouchers which exceed the maximum travel schedule amounts which are established under s. 20.916 (8), except in unusual circumstances when accompanied by a receipt and full explanation of the reasonableness of such expense.

(d) The department may not approve for payment any travel vouchers which exceed the auto mileage rates set under s. 20.916 (4) (a) and (e).

(13) FINANCIAL SERVICES. (a) In this subsection, "agency" has the meaning given in s. 16.70 (1e).

(b) The department may charge any agency for accounting, auditing, payroll and other financial services provided to the agency, whether the services are required by law or performed at the agency's request.

(14) REVIEW OF PROPOSED INCORPORATIONS AND ANNEXATIONS. The department may prescribe and collect a fee for review of any petition for incorporation of a municipality under s. 66.0203 or any petition for annexation of municipal territory under s. 66.0217. The fee shall be paid by the person or persons filing the petition for incorporation or by the person or persons filing the notice of the proposed annexation.

History: 1971 c. 100 s. 23; 1971 c. 215, 261; Sup. Ct. Order, 67 Wis. 2d 585, 773 (1975); 1975 c. 39, 164, 198, 397, 422; 1977 c. 29, 196, 418; 1979 c. 34, 221; 1981 c. 1, 20; 1983 a. 3, 27, 192, 368; 1985 a. 29, 300; 1985 a. 332 ss. 15, 251 (1); 1987 a. 399; 1989 a. 31; 1989 a. 125 ss. 1, 10; 1991 a. 39, 316; 1993 a. 80, 399; 1995 a. 27 ss. 301, 302, 9126 (19), 9130 (4); 1997 a. 3; 2001 a. 16; 2003 a. 33, 117.

16.531 Cash flow plan; report. (1) At least 15 days prior to the beginning of any calendar quarter in which the secretary anticipates that it may be necessary to exercise the authority conferred in s. 16.53 (10) (a) or 20.002 (11) (a) or to incur financial obligations and issue operating notes under subch. III of ch. 18, the secretary shall submit a plan to the joint committee on finance describing the specific nature of any proposed action that may be required.

(2) If the secretary determines during any calendar quarter that action under s. 16.53 (10) (a) or 20.002 (11) or subch. III of ch. 18 should be taken that is different from the action specified in the plan submitted under sub. (1), the secretary shall provide notice to the joint committee on finance of the specific nature of any such action that may be required. If the joint committee on finance has not, within 2 working days after such notification, scheduled a meeting to review the secretary's proposal, the secretary may proceed with the proposed action. If, within 2 working days after such notification, the committee schedules a meeting, the secretary may not proceed with the proposed action until after the meeting is held.

(3) Within 30 days after the end of each calendar quarter during which the secretary exercises the authority conferred in s. 16.53 (10) (a), during which there is any outstanding reallocation of moneys under s. 20.002 (11) (a) or during which there are any outstanding operating notes issued under subch. III of ch. 18, the secretary shall submit to the joint committee on finance a report on the status of all such matters, together with an assessment of the degree to which the secretary anticipates that state funds and accounts will have sufficient revenues to meet anticipated obligations during the 6−month period following the calendar quarter for which the report is issued.

History: 1983 a. 3.

16.54 Acceptance of federal funds. (1) Whenever the United States government shall make available to this state funds for the education, the promotion of health, the relief of indigency, the promotion of agriculture or for any other purpose other than the administration of the tribal or any individual funds of Wisconsin Indians, the governor on behalf of the state is authorized to accept the funds so made available. In exercising the authority herein conferred, the governor may stipulate as a condition of the acceptance of the act of congress by this state such conditions as in the governor's discretion may be necessary to safeguard the interests of this state.

(2) (a) 1. Except as provided in subd. 2., whenever funds shall be made available to this state through an act of congress and the funds are accepted as provided in sub. (1), the governor shall designate the state board, commission or department to administer any of such funds, and the board, commission or department so designated by the governor is authorized and directed to administer such funds for the purpose designated by the act of congress making an appropriation of such funds, or by the department of the United States government making such funds available to this state. Whenever a block grant is made to this state, no moneys received as a part of the block grant may be transferred from use as a part of one such grant to use as a part of another such grant, regardless of whether a transfer between appropriations is required, unless the joint committee on finance approves the transfer.

2. Whenever a block grant is made to this state under any federal law enacted after August 31, 1995, which authorizes the distribution of block grants for the purposes for which the grant is made, the governor shall not administer and no board, commission or department may encumber or expend moneys received as a part of the grant unless the governor first notifies the cochairpersons of the joint committee on finance, in writing, that the grant has been made. The notice shall contain a description of the purposes proposed by the governor for expenditure of the moneys received as a part of the grant. If the cochairpersons of the committee do not notify the governor that the committee has scheduled a meeting for the purpose of reviewing the proposed expenditure of grant moneys within 14 working days after the date of the governor's notification, the moneys may be expended as proposed by the governor. If, within 14 working days after the date of the governor's notification, the cochairpersons of the committee notify the governor that the committee has scheduled a meeting for the purpose of reviewing the proposed expenditure of grant moneys, no moneys received as a part of the grant may be expended without the approval of the committee. This subdivision does not apply to the expenditure of block grant funds that are allocated under s. 49.175.

3. In this subsection, "block grant" means a multipurpose federal grant so designated under federal law.

(b) Upon presentation by the department to the joint committee on finance of alternatives to the provisions under s. 16.27, the joint committee on finance may revise the eligibility criteria under s. 16.27 (5), benefit payments under s. 16.27 (6) or the amount allocated for crises under s. 16.27 (3) (e) 2. and the department shall implement those revisions. Benefits or eligibility criteria so revised shall take into account and be consistent with the requirements of federal regulations promulgated under 42 USC 8621 to 8629. If funds received under 42 USC 8621 to 8629 in a federal fiscal year total less than 90% of the amount received in the previous federal fiscal year, the department shall submit to the joint committee on finance a plan for expenditure of the funds. The department may not use the funds unless the committee approves the plan.

(c) Notwithstanding s. 20.435, before using any of the funds disbursed by the federal government to the governor under 42 USC 1397 to 1397f, commencing with funds disbursed for federal fiscal year 1986, the department of health and family services shall submit to the joint committee on finance and to the chief clerk of each house of the legislature, for distribution to the appropriate legislative standing committees under s. 13.172 (3), the proposed state report required under 42 USC 1397c. The appropriate legislative standing committees shall review the reports, conduct public hearings on the reports and submit recommendations to the department of health and family services regarding the reports. The department of health and family services may not use the federal funds unless the joint committee on finance approves the report.

(4) Any board, commission or department of the state government designated to administer any such fund, shall, in the administration of such fund, comply with the requirements of the act of congress making such appropriation and with the rules and regulations which may be prescribed by the United States government or by the department of the federal government making such funds available.

(5) Whenever any agency of the federal government shall require that as a condition to obtaining federal aid the state agency entrusted with the administration of such aid shall submit a budget, plan, application, or other project proposal, then the budget, plan, application or proposal shall, before it is submitted to the federal authorities for approval, first be approved by the governor and reported to the joint committee on finance.

(6) The governor may accept for the state the provisions of any act of congress whereby funds or other benefits are made available to the state, its political subdivisions, or its citizens, so far as the governor considers the provisions to be in the public interest. To

this end, the governor may take or cause to be taken all necessary acts including, without limitation because of enumeration, the following:

(a) The making of leases or other contracts with the federal government.

(b) The preparation, adoption and execution of plans, methods, and agreements.

(c) The designation of state, municipal or other agencies to perform specific duties.

(7) The governor may accept for the state at all times the provisions of any act of congress whereby funds are made available to the state for any purpose whatsoever, including the school health program under the social security act, and perform all other acts necessary to comply with and otherwise obtain, facilitate, expedite, and carry out the required provisions of such acts of congress.

(8) An agency may request the governor to create or abolish a full−time equivalent position or portion thereof funded from revenues specified in s. 20.001 (2) (e) in the agency. Upon receiving such a request, the governor may change the authorized level of full−time equivalent positions funded from such revenues in the agency. The governor may approve a different authorized level of positions than is requested by the agency. The governor, through the secretary, shall notify the joint committee on finance at least quarterly of any federal funds received in excess of those approved in the biennial budget process and of any positions created or abolished under this section.

(8g) Subsections (1) to (8) do not apply to federal moneys made available to the board of regents of the University of Wisconsin System for instruction, extension, special projects or emergency employment opportunities.

(8r) (a) Whenever the federal government makes available moneys for instruction, extension, special projects or emergency employment opportunities, the board of regents of the University of Wisconsin System may accept the moneys on behalf of the state. The board of regents shall, in the administration of the expenditure of such moneys, comply with the requirements of the act of congress making the moneys available and with the regulations prescribed by the federal government or the federal agency administering the act, insofar as the act or regulations are consistent with state law. The board of regents may submit any plan, budget, application or proposal required by the federal agency as a precondition to receipt of the moneys. The board of regents may, consistent with state law, perform any act required by the act of congress or the federal agency to carry out the purpose of the act of congress. The board of regents shall deposit all moneys received under this paragraph in the appropriation account under s. 20.285 (1) (m).

(b) Annually by October 1 the board of regents shall report to the governor and the cochairpersons of the joint committee on finance concerning the date, amount and purpose of any federal moneys accepted by the board under par. (a) during the preceding fiscal year.

(9) (a) In this subsection:

1. "Agency" means an office, department, independent agency, institution of higher education, association, society or other body in state government created or authorized to be created by the constitution or any law, which is entitled to expend moneys appropriated by law, including the legislature and the courts, but not including an authority created in ch. 231, 233, 234, or 237.

2. "Indirect cost reimbursement" means moneys received by an agency from the federal government as reimbursement for indirect costs of administration of a federal grant or contract for which no specific use is mandated by the federal government.

(b) An indirect cost reimbursement may be utilized for administrative purposes, program purposes, funding of positions, payment of federal aid disallowances, or other purposes authorized by law. If an indirect cost reimbursement is not utilized for such a purpose, the head of the agency receiving the reimbursement shall request the department to transfer the reimbursement to the general fund as general purpose revenue — earned. All transfers and other expenditures are subject to approval of the secretary under s. 16.50 (2) and the governor under this section.

(c) All moneys received as indirect cost reimbursements shall be deposited in the account for the proper appropriation under ss. 20.115 to 20.855 for receipt of indirect cost reimbursements.

(d) The department shall coordinate the development of a statewide indirect cost allocation plan to be used by all agencies as part of their indirect cost allocation plans prepared for federal grant applications. Upon request of the department, all agencies shall prepare individual, specific, indirect cost allocation plans in accordance with federal regulations and submit the plans to the department. Upon request of the department, all agencies shall prepare and submit to the department updated indirect cost allocation plans. The secretary may modify any plan to bring it into compliance with applicable state laws or procedures established under s. 16.52 or this section, and to maintain consistency between the plans of agencies.

(10) Before acceptance of any federal grant on behalf of the state which will or may involve the provision of auditing services by the legislative audit bureau, all departments shall provide written notification to the state auditor. Each such federal grant shall, to the maximum extent permitted by federal law and regulation, include an allocation for the cost of such auditing services within the grant budget, plan, application or project proposal.

(11) The state board, commission or department designated by the governor under sub. (2) to administer federal payments in lieu of taxes on national forest lands shall distribute those payments to towns, cities and villages, but not to counties, that provide general governmental services and contain national forest lands. That distribution shall reflect the level of services provided by, and the number of acres of national forest land within, the town, city or village in accordance with 31 USC 6907.

(12) (a) The department of health and family services may not expend or encumber any moneys received under s. 20.435 (8) (mm) unless the department of health and family services submits a plan for the expenditure of the moneys to the department of administration and the department of administration approves the plan.

(b) The department of workforce development may not expend or encumber any moneys received under s. 20.445 (3) (mm) unless the department of workforce development submits a plan for the expenditure of the moneys to the department of administration and the department of administration approves the plan.

(c) The department of administration may approve any plan submitted under par. (a) or (b) in whole or in part. If the department approves any such plan in whole or part, the department shall notify the cochairpersons of the joint committee on finance, in writing, of the department's action under this paragraph.

(d) At the end of each fiscal year, the department of administration shall determine the amount of moneys that remain in the appropriation accounts under ss. 20.435 (8) (mm) and 20.445 (3) (mm) that have not been approved for encumbrance or expenditure by the department pursuant to a plan submitted under par. (a) or (b) and shall require that such moneys be lapsed to the general fund. The department shall notify the cochairpersons of the joint committee on finance, in writing, of the department's action under this paragraph.

(13) (a) If the state receives any interest payments from the federal government relating to the timing of transfers of federal grant funds for programs that are funded with moneys from the general fund and that are covered in an agreement between the federal department of the treasury and the state under the federal Cash Management Improvement Act of 1990, as amended, the payments, less applicable administrative costs, shall be deposited in the general fund as general purpose revenue — earned.

(b) If the state is required to pay any interest payments to the federal government relating to the timing of transfers of federal

grant funds for programs that are funded with moneys from the general fund and that are covered in an agreement between the federal department of the treasury and the state under the federal Cash Management Improvement Act of 1990, as amended, the secretary shall notify the cochairpersons of the joint committee on finance, in writing, that the state is required to pay an interest payment. The notice shall contain an accounting of the amount of interest that the state is required to pay.

History: 1973 c. 333; 1975 c. 39 ss. 69, 732 (1); 1975 c. 224; 1977 c. 418; 1979 c. 34; 1981 c. 27; 1983 a. 27, 208, 470; 1985 a. 29; 1987 a. 4, 27, 186, 399, 403; 1989 a. 31; 1991 a. 39, 316; 1995 a. 27 ss. 303 to 307, 9126 (19); 1995 a. 132, 225; 1999 a. 9, 74; 2001 a. 16; 2003 a. 33.

Cross Reference: See also s. NR 55.01, Wis. adm. code.

Wisconsin may enter into an agreement with the federal government for the development, administration, and enforcement, at the state level, of occupational safety and health laws meeting federal standards. 61 Atty. Gen. 353.

Counties do not have the power to form consortiums for purposes of a federal act when the Governor has not designated them as participating units of government under sub. (6). 63 Atty. Gen. 453.

The governor may authorize counties to channel CETA funds through private nonprofit agencies. 66 Atty. Gen. 15.

16.544 Federal aid disallowances. (1) Each agency that is informed by a federal agency that any liability of $10,000 or more incurred by the agency that has been or was anticipated to be assumed by the federal government from federal moneys received by the agency will not be an allowable use of the federal moneys shall notify the department and the joint committee on finance in writing of the disallowance. The notice shall include a statement of the method proposed by the agency to settle the disallowance.

(2) Each agency having given notice under sub. (1) shall make a quarterly report to the department, or at such other times as the secretary may require, concerning the status of efforts to resolve the audit disallowance. The format of the report shall be determined by the secretary.

(3) Prior to taking final action to remove any liability related to a disallowance of the use of federal moneys, an agency shall submit to the department a statement of the action proposed to remove the liability. The department may approve, disapprove or approve with modifications each such proposed action. The secretary shall forward a copy of each statement of proposed action approved by the department to the joint committee on finance. This subsection does not apply to an action taken by the board of regents of the University of Wisconsin System, within the statutory authority of the board, to remove a liability of less than $5,000.

(4) In this section, "agency" has the meaning given under s. 16.52 (7).

History: 1983 a. 27; 1987 a. 27.

16.545 Federal aid management service. A federal aids management service shall be established in the department of administration:

(1) To fully inform the governor, the legislature, state agencies and the public of available federal aid programs.

(2) To fully inform the governor and the legislature of pending federal aid legislation.

(3) To advise the governor and the legislature of alternative and recommended methods of administering federal aid programs.

(4) To study and interpret the effect of federal aid programs on the administration of state government and the pattern of state government finances.

(5) To assist in the coordination of broad federal aid programs which are administered by more than one state agency.

(6) To maintain an information center on federal aid programs.

(7) To analyze and advise on proposed federal aid budgets submitted to the governor and the joint committee on finance under s. 16.54 (5).

(8) To serve as the state central information reception center for the receipt and dissemination of such federal grant−in−aid information as provided by federal agencies pursuant to section 201 of the federal intergovernmental cooperation act of 1968. The department shall report all such information to the governor and to the joint committee on finance.

(9) To initiate contacts with the federal government for the purpose of facilitating participation by agencies, as defined in s. 16.70 (1e), in federal aid programs, to assist those agencies in applying for such aid, and to facilitate influencing the federal government to make policy changes that will be beneficial to this state. The department may assess an agency to which it provides services under this subsection a fee for the expenses incurred by the department in providing those services.

History: 1975 c. 39; 1983 a. 192 s. 303 (3); 1983 a. 308, 538; 1995 a. 27; 2001 a. 16; 2003 a. 33.

16.548 Federal−state relations office; report. (1) The department may maintain a federal−state relations office in Washington, D.C., for the purpose of promoting federal−state cooperation, headed by a director. The director and a staff assistant for the office shall be appointed by the governor outside the classified service, subject to the concurrence of the joint committee on legislative organization. The director and staff assistant shall serve at the pleasure of the governor.

(2) If the department maintains a federal−state relations office, it shall submit a report from the office to the chief clerk of each house of the legislature, for distribution to the legislature under s. 13.172 (2), within 30 days after the close of each calendar quarter detailing the activities of the office during the quarter and reporting the status of federal legislation of concern to the legislature and other state agencies.

(3) The department may arrange for the federal−state relations office to share office facilities with a similar office serving another state.

History: 1979 c. 34; 1983 a. 27, 192; 1987 a. 186.

16.55 Frauds and uncollectible shortages. The head of each agency shall immediately provide to the secretary any information within his or her knowledge or evidence in his or her possession concerning any suspected fraudulent use of appropriations or embezzlement of moneys in the custody of the agency or any officer or employee thereof. The attorney general shall investigate and, on or before March 1 of each odd−numbered year, notify the department of the sums of money embezzled from the several state accounts during the prior 2 years indicating the amounts uncollected and uncollectible. The department shall cause a bill to be prepared appropriating from the several state funds the amounts necessary to liquidate the uncollectible shortages in state accounts caused by such embezzlement, and submit such bill to the joint committee on finance for introduction.

History: 1981 c. 20.

16.57 Board of regents; staff. (1) The department shall provide a staff of 2 full−time equivalent positions, outside the classified service, for the board of regents of the University of Wisconsin System. The staff shall perform only the duties assigned by the board of regents.

(2) The board of regents shall act as appointing authority for the staff under s. 230.06. The board of regents may not appoint a person to the staff if the person held any position in the University of Wisconsin System in the 12−month period immediately preceding the appointment.

(3) The staff shall at all times observe the confidential nature of the research requests received from the board of regents.

(4) At the request of the board of regents, the department shall assist the board of regents in the recruitment and selection of the staff under this section.

History: 1989 a. 31.

16.58 Services to units of local government. (1) The department shall provide management and personnel consultative and technical assistance to units of government other than the state and may charge for those services.

(2) The department may request technical and staff assistance from other state agencies in providing management and personnel consultative services to those units of government.

History: 1979 c. 361.

16.60 Services to nonprofit corporations. (1) The department of administration may provide, on a reimbursable basis, financial and management services for nonprofit corporations with which the state or its agencies has entered into leases and subleases for the construction and leasing of projects. Services provided under this section shall be in accordance with the request of the building commission as to the type and scope of service requested, the civil service range of the employee or employees assigned to them and the total reimbursement to be charged by the department of administration to the nonprofit corporations.

(2) The department or the legislature or any person delegated by the legislature may inspect and examine or cause an inspection and examination of all records relating to the construction of projects that are, or are to be, financed by a nonprofit corporation and leased or subleased by any state agency.

(3) The secretary or the secretary's designated representative shall serve in an advisory capacity to and be a nonvoting member of any nonprofit corporation with which the state or its agencies has entered into leases and subleases for the construction and leasing of projects.

History: 1983 a. 36 s. 96 (4); 1991 a. 316.

16.61 Records of state offices and other public records. (1) PUBLIC RECORDS BOARD. The public records board shall preserve for permanent use important state records, prescribe policies and standards that provide an orderly method for the disposition of other state records and rationalize and make more cost−effective the management of records by state agencies.

(2) DEFINITIONS. As used in this section:

(a) "Board" means the public records board.

(af) "Form" has the meaning specified in s. 16.97 (5p).

(am) "Microfilm reproduction" means any manner by which an image is reduced in size and reproduced on fine−grain, high resolution film.

(an) "Personally identifiable information" has the meaning specified in s. 19.62 (5).

(b) "Public records" means all books, papers, maps, photographs, films, recordings, optical disks, electronically formatted documents or other documentary materials, regardless of physical form or characteristics, made, or received by any state agency or its officers or employees in connection with the transaction of public business, and documents of any insurer that is liquidated or in the process of liquidation under ch. 645. "Public records" does not include:

1. Records and correspondence of any member of the legislature.

1m. Any state document received by a state document depository library.

2. Duplicate copies of materials the original copies of which are in the custody of the same state agency and which are maintained only for convenience or reference and for no other substantive purpose.

3. Materials in the possession of a library or museum made or acquired solely for reference or exhibition purposes.

4. Notices or invitations received by a state agency that were not solicited by the agency and that are not related to any official action taken, proposed or considered by the agency.

5. Drafts, notes, preliminary computations and like materials prepared for the originator's personal use or prepared by the originator in the name of a person for whom the originator is working.

6. Routing slips and envelopes.

(bm) "Records and forms officer" means a person designated by a state agency to comply with all records and forms management laws and rules under s. 15.04 (1) (j) and to act as a liaison between that state agency and the board.

(c) "Records series" means public records that are arranged under a manual or automated filing system, or are kept together as a unit, because they relate to a particular subject, result from the same activity, or have a particular form.

(cm) "Retention schedule" means instructions as to the length of time, the location and the form in which records series are to be kept and the method of filing records series.

(d) "State agency" means any officer, commission, board, department or bureau of state government.

(3) POWERS AND DUTIES OF THE BOARD. The board:

(a) Shall safeguard the legal, financial and historical interests of the state in public records.

(b) Upon the request of any state agency, county, town, city, village or school district, may order upon such terms as the board finds necessary to safeguard the legal, financial and historical interests of the state in public records, the destruction, reproduction by microfilm or other process, optical disk or electronic storage or the temporary or permanent retention or other disposition of public records.

(c) May promulgate rules to carry out the purposes of this section.

(d) Shall establish a system for the protection and preservation of essential public records as directed by s. 166.10.

(e) May establish the minimum period of time for retention before destruction of any county, city, town, village, metropolitan sewerage district or school district record.

(f) Shall cooperate with and advise records and forms officers.

(j) Shall establish a records management program for this state.

(L) Shall receive and investigate complaints about forms, except as provided in sub. (3n).

(o) May delegate any of the duties under this subsection to other state agencies.

(r) Shall consider recommendations and advice offered by records and forms officers.

(s) Shall recommend to the department procedures for the transfer of public records and records of the University of Wisconsin Hospitals and Clinics Authority to optical disk format, including procedures to ensure the authenticity, accuracy and reliability of any public records or records of the University of Wisconsin Hospitals and Clinics Authority so transferred and procedures to ensure that such records are protected from unauthorized destruction. The board shall also recommend to the department qualitative standards for optical disks and copies of documents generated from optical disks used to store public records and records of the University of Wisconsin Hospitals and Clinics Authority.

(t) Shall recommend to the department qualitative standards for optical disks and for copies of documents generated from optical disks used to store materials filed with local governmental units.

(tm) Shall recommend to the department qualitative standards for storage of records in electronic format and for copies of documents generated from electronically stored records filed with local governmental units.

(u) 1. Shall create a registry, in a format that may be accessed by computer terminal, describing the records series maintained by state agencies that contain personally identifiable information by using, to the maximum extent feasible, information submitted to the board in retention schedules under sub. (4) (b). The board may require state agencies to provide additional information necessary

to create the registry. The board may not require a state agency to modify any records series described in the registry.

2. The registry shall not include any of the following:

a. Any records series that contains the results of a matching program, as defined in s. 19.62 (3), if the state agency using the records series destroys the records series within one year after the records series was created.

b. Mailing lists.

c. Telephone directories.

d. Records series pertaining exclusively to employees of a state agency.

e. Records series specified by the board that contain personally identifiable information incidental to the primary purpose for which the records series was created, such as the name of a salesperson or a vendor in a records series of purchase orders.

f. Records series relating to procurement or budgeting by a state agency.

3. The registry shall be designed to:

a. Ensure that state agencies are not maintaining any secret records series containing personally identifiable information.

b. Be comprehensible to an individual using the registry so that identification of records series maintained by state agencies that may contain personally identifiable information about the individual is facilitated.

c. Identify who may be contacted for further information on a records series.

(3L) EXECUTIVE SECRETARY. The department shall, with the consent of the board and based on qualifications approved by the board, appoint an official in the classified service to oversee the day−to−day execution of the board's duties, to serve as the executive secretary of the board and to coordinate the statewide records management program.

(3n) EXEMPT FORMS. The board may not receive or investigate complaints about the forms specified in s. 16.971 (2m).

(4) APPROVAL FOR DISPOSITION OF RECORDS. (a) All public records made or received by or in the custody of a state agency shall be and remain the property of the state. Those public records may not be disposed of without the written approval of the board.

(b) State agencies shall submit records retention schedules for all public records series in their custody to the board for its approval within one year after each record series has been received or created unless a shorter period of retention is authorized by law, in which case a retention schedule shall be submitted within that period. The board may alter retention periods for any records series; but if retention for a certain period is specifically required by law, the board may not decrease the length of that period. The board may not authorize the destruction of any public records during the period specified in s. 19.35 (5).

(c) A records retention schedule approved by the board on or after March 17, 1988, is effective for 10 years, unless otherwise specified by the board. At the end of the effective period, an agency shall resubmit a retention schedule for approval by the board. During the effective period, if approved by the board and the board has assigned a disposal authorization number to the public record or record series, a state agency may dispose of a public record or record series according to the disposition requirements of the schedule without further approval by the board.

(5) TRANSFER OF PUBLIC RECORDS TO OPTICAL DISK OR ELECTRONIC FORMAT. (a) Subject to rules promulgated by the department under s. 16.611, any state agency may transfer to or maintain in optical disk or electronic format any public record in its custody and retain the public record in that format only.

(b) Subject to rules promulgated by the department under s. 16.611, state agencies shall maintain procedures to ensure the authenticity, accuracy, reliability and accessibility of public records transferred to or maintained in optical disk or electronic format under par. (a).

(c) Subject to rules promulgated by the department under s. 16.611, state agencies that transfer to or maintain in optical disk or electronic format public records in their custody shall ensure that the public records stored in that format are protected from unauthorized destruction.

(6) PROCEDURE FOR MICROFILM REPRODUCTION OF PUBLIC RECORDS. Any state agency desiring to microfilm public records shall submit a request to the board for the microfilm reproduction of each records series to be reproduced together with any information the board requires. In granting or denying approval, the board shall consider factors such as the long−term value of the public records, the cost−effectiveness of microfilm reproduction compared with other records management techniques and the technology appropriate for the specific application. Upon receiving written approval from the board, any state agency may cause any public record to be microfilmed in compliance with this section and rules adopted pursuant thereto.

(7) (a) Any microfilm reproduction of an original record, or a copy generated from an original record stored in optical disk or electronic format, is deemed an original public record if all of the following conditions are met:

1. Any device used to reproduce the record on film or to transfer the record to optical disk or electronic format and generate a copy of the record from optical disk or electronic format accurately reproduces the content of the original.

2. The reproduction is on film which complies with the minimum standards of quality for microfilm reproductions, as established by rule of the board, or the optical disk or electronic copy and the copy generated from optical disk or electronic format comply with the minimum standards of quality for such copies, as established by rule of the department under s. 16.611.

3. The film is processed and developed in accordance with the minimum standards established by the board.

4. The record is arranged, identified and indexed so that any individual document or component of the record can be located with the use of proper equipment.

5. The state agency records and forms officer or other person designated by the head of the state agency or the custodian of any other record executes a statement of intent and purpose describing the record to be reproduced or transferred to optical disk or electronic format, the disposition of the original record, the disposal authorization number assigned by the board for public records of state agencies, the enabling ordinance or resolution for cities, towns, villages or school districts, or the resolution which authorizes the reproduction, optical imaging or electronic formatting for counties when required, and executes a certificate verifying that the record was received or created and microfilmed or transferred to optical disk or electronic format in the normal course of business and that the statement of intent and purpose is properly recorded as directed by the board.

(b) The statement of intent and purpose executed under par. (a) 5. is presumptive evidence of compliance with all conditions and standards prescribed by this subsection.

(c) Any microfilm reproduction of an original record which was made prior to April 18, 1986, in accordance with the standards in effect under the applicable laws and rules for authenticating the record at the time the reproduction was made is deemed an original record.

(8) ADMISSIBLE IN EVIDENCE. (a) Any microfilm reproduction of a public record meeting the requirements of sub. (7) or copy of a public record generated from an original record stored in optical disk or electronic format in compliance with this section shall be taken as, stand in lieu of and have all the effect of the original document and shall be admissible in evidence in all courts and all other tribunals or agencies, administrative or otherwise, in all cases where the original document is admissible.

(b) Any enlarged copy of a microfilm reproduction of a public record made as provided by this section or any enlarged copy of a public record generated from an original record stored in optical

disk or electronic format in compliance with this section that is certified by the custodian as provided in s. 889.08 shall have the same force as an actual−size copy.

(9) PRESERVATION OF REPRODUCTIONS. Provision shall be made for the preservation of any microfilm reproductions of public records and of any public records stored in optical disk or electronic format in conveniently accessible files in the agency of origin or its successor or in the state archives.

(10) CONTRACTS FOR COPYING. Contracts for microfilm reproduction, optical imaging or electronic storage of public records to be performed as provided in this section shall be made by the secretary as provided in ss. 16.70 to 16.77 and the cost of making such reproductions or optical disks or of electronic storage shall be paid out of the appropriation of the state agency having the reproduction made or the storage performed.

(11) AUTHORITY TO REPRODUCE RECORDS. Nothing in this section shall be construed to prohibit the responsible officer of any state agency from reproducing any document by any method when it is necessary to do so in the course of carrying out duties or functions in any case other than where the original document is to be destroyed; but no original public record may be destroyed after microfilming, optical imaging or electronic storage without the approval of the board unless authorized under sub. (4) or (5).

(12) ACCESS TO REPRODUCTIONS AND COPIES. All persons may examine and use the microfilm reproductions of public records and copies of public records generated from optical disk or electronic storage subject to such reasonable rules as may be made by the responsible officer of the state agency having custody of the same.

(13) HISTORICAL SOCIETY AND UNIVERSITY ARCHIVES AS DEPOSITORIES. (a) The historical society, as trustee for the state, shall be the ultimate depository of the archives of the state, and the board may transfer to the society such original records and reproductions as it deems proper and worthy of permanent preservation, including records and reproductions which the custodian thereof has been specifically directed by statute to preserve or keep in the custodian's office. The permanent preservation of records of the University of Wisconsin System may be accomplished under par. (b). The society may deposit in the regional depositories established under s. 44.10, title remaining with the society, the records of state agencies or their district or regional offices which are primarily created in the geographic area serviced by the depository, but the records of all central departments, offices, establishments and agencies shall remain in the main archives in the capital city under the society's immediate jurisdiction, except that the society may place the records temporarily at a regional depository for periods of time to be determined by the society. Nothing in this subsection nor in ch. 44 prevents the society's taking the steps for the safety of articles and materials entrusted to its care in library, museum or archives, including temporary removal to safer locations, dictated by emergency conditions arising from a state of war, civil rebellion or other catastrophe.

(b) The board may designate an archival depository at each university as defined in s. 36.05 (13) which shall meet standards for university archival depositories established by the board with the advice of the board of regents and the historical society or their respective designated representatives. The board may transfer to the appropriate university archival depository all original records and reproductions the board deems worthy of permanent preservation.

(c) The historical society shall, in cooperation with the staff of the board, as soon as practicable, adequately and conveniently classify and arrange the state records or other official materials transferred to its care, for permanent preservation under this section and keep the records and other official materials accessible to all persons interested, under proper and reasonable rules promulgated by the historical society, consistent with s. 19.35. Copies of the records and other official materials shall, on application of any citizen of this state interested therein, be made and certified by the director of the historical society, or an authorized representative in charge, which certificate shall have the same force as if made by the official originally in charge of them.

(d) 1. Except as provided in subd. 2., records which have a confidential character while in the possession of the original custodian shall retain their confidential character after transfer to the historical society unless the board of curators of the historical society, with the concurrence of the original custodian or the custodian's legal successor, determines that the records shall be made accessible to the public under such proper and reasonable rules as the historical society promulgates. If the original custodian or the custodian's legal successor is no longer in existence, confidential records formerly in that person's possession may not be released by the board of curators unless the release is first approved by the public records board. For public records and other official materials transferred to the care of the university archival depository under par. (b), the chancellor of the university preserving the records shall have the power and duties assigned to the historical society under this section.

2. Notwithstanding subd. 1., a record which is transferred to an archival depository under this subsection and which has a confidential character shall be open to inspection and available for copying 75 years after creation of the record unless the custodian, pursuant to ss. 19.34 and 19.35, determines that the record shall be kept confidential.

(e) This subsection does not apply to patient health care records, as defined in s. 146.81 (4), that are in the custody or control of the department of health and family services.

History: 1975 c. 41 ss. 15, 52; 1975 c. 198 s. 65; 1975 c. 199; Stats. 1975 s. 16.61; 1977 c. 418; 1979 c. 32, 79, 93; 1979 c. 361 s. 113; 1981 c. 335; 1981 c. 350 ss. 9 to 12, 13; 1981 c. 391; 1983 a. 27, 524; 1985 a. 180 ss. 5 to 17, 30m; 1985 a. 332 s. 251 (1); 1987 a. 147 ss. 1 to 16, 25; 1987 a. 186; 1989 a. 31, 107, 248, 359; 1991 a. 39, 185, 269, 285, 315; 1993 a. 172, 213; 1995 a. 27 ss. 309 to 347, 9126 (19); 1995 a. 216, 225; 2001 a. 16; 2003 a. 33.

Cross Reference: See also s. Adm 12.01, Wis. adm. code.

16.611 State public records; optical disk and electronic storage. (1) In this section, "public records" has the meaning given under s. 16.61 (2) (b).

(2) (a) The department shall prescribe, by rule, procedures for the transfer of public records and records of the University of Wisconsin Hospitals and Clinics Authority to optical disk or electronic format and for the maintenance of such records stored in optical disk or electronic format, including procedures to ensure the authenticity, accuracy, reliability and accessibility of any public records or records of the University of Wisconsin Hospitals and Clinics Authority so transferred and procedures to ensure that such records are protected from unauthorized destruction.

(b) The department shall prescribe, by rule, procedures governing the operation of its optical disk and electronic storage facility under s. 16.62 (1) (bm).

(c) The department shall prescribe, by rule, qualitative standards for optical disks and for copies of documents generated from optical disks used to store public records and records of the University of Wisconsin Hospitals and Clinics Authority.

(d) The department shall prescribe, by rule, qualitative standards for the storage of public records in electronic format and for copies of public records stored in electronic format.

(3) Prior to submitting any proposed rule prescribed under sub. (2) to the legislative council staff under s. 227.15 (1), the department shall refer the proposed rule to the public records board for its recommendations.

History: 1991 a. 39; 1995 a. 27, 216.

Cross Reference: See also s. Adm 12.01, Wis. adm. code.

16.612 Local government records; optical disk and electronic storage standards. (1) In this section, "local governmental unit" has the meaning given under s. 19.42 (7u).

(2) (a) The department shall prescribe, by rule, qualitative standards for optical disks and for copies of documents generated from optical disks used to store materials filed with local governmental units. Prior to submitting any such rule to the legislative

council staff under s. 227.15 (1), the department shall refer the rule to the public records board for its recommendations.

(b) The department shall prescribe, by rule, qualitative standards for the storage of public records in electronic format and for copies of documents generated from electronically stored materials filed with local governmental units. Prior to submitting any such rule to the legislative council staff under s. 227.15 (1), the department shall refer the rule to the public records board for its recommendations.

History: 1991 a. 39; 1993 a. 172; 1995 a. 27.
Cross Reference: See also s. Adm 12.01, Wis. adm. code.

16.62 Records management service. (1) The department shall establish and maintain a records management service:

(a) To advise and assist state agencies and the University of Wisconsin Hospitals and Clinics Authority in the establishment and operation of records management programs through the issuance of standards and procedures and provision of technical and management consulting services.

(b) To operate a state records center and a central microfilm facility for state agencies and the University of Wisconsin Hospitals and Clinics Authority and to promulgate rules necessary for efficient operation of the facilities.

(bm) To operate a storage facility for storage of public records and records of the University of Wisconsin Hospitals and Clinics Authority in optical disk or electronic format in accordance with rules, promulgated by the department under s. 16.611, governing operation of the facility.

(c) To periodically audit the records management programs of state agencies and the University of Wisconsin Hospitals and Clinics Authority and recommend improvements in records management practices.

(2) The department may establish user charges for records storage and retrieval services, with any moneys collected to be credited to the appropriation account under s. 20.505 (1) (im) or (kb). Such charges shall be structured to encourage efficient utilization of the services.

(3) The department may establish user fees for the services of the public records board. Any moneys collected shall be credited to the appropriation account under s. 20.505 (1) (kb).

History: 1975 c. 41, 224; Stats. 1975 s. 16.62; 1977 c. 29, 418; 1979 c. 34 s. 2102 (1) (b), (c); 1979 c. 175; 1981 c. 350; 1983 a. 27 ss. 87, 88, 1804 to 1806; 1985 a. 180 s. 30m; 1987 a. 27; 1987 a. 147 s. 25; 1991 a. 39; 1995 a. 27, 216; 2001 a. 16.

16.63 Sale of state's rights to tobacco settlement agreement payments. (1) In this section:

(a) "Purchaser" means any person who has purchased the state's right to receive any of the payments under the tobacco settlement agreement.

(b) "Tobacco settlement agreement" means the Attorneys General Master Tobacco Settlement Agreement of November 23, 1998.

(c) "Tobacco settlement revenues" means the right to receive settlement payments arising from or pursuant to the tobacco settlement agreement and all direct or indirect proceeds of that right.

(2) The secretary may sell for cash or other consideration the state's right to receive any of the payments under the tobacco settlement agreement.

(3) The secretary may organize one or more nonstock corporations under ch. 181 or limited liability companies under ch. 183 for any purpose related to the sale of the state's right to receive any of the payments under the tobacco settlement agreement and may take any action necessary to facilitate and complete the sale.

(3m) (a) If the secretary sells the state's right to receive any of the payments under the tobacco settlement agreement, the secretary shall require, as a condition of the sale, that the purchaser notify the secretary if any bonds or other obligations are issued that are secured by any of the payments and provide the secretary with all information on the distribution of the bond or obligation proceeds.

(b) The secretary shall submit a report to the joint committee on finance that includes all of the information provided to the secretary by the purchaser under par. (a).

(4) (a) Tobacco settlement revenues may not be considered proceeds of any property that is not tobacco settlement revenues.

(b) Except as otherwise provided in this subsection, the creation, perfection, and enforcement of security interests in tobacco settlement revenues are governed by ch. 409. Notwithstanding ch. 409, with regard to creating, perfecting, and enforcing a valid security interest in tobacco settlement revenues:

1. If this state or the Wisconsin Health and Educational Facilities Authority is the debtor in the transaction, the proper place to file the required financing statement to perfect the security interest is the department of financial institutions.

2. The required financing statement shall include a description of collateral that describes the collateral as general intangibles consisting of the right to receive settlement payments arising from or pursuant to the tobacco settlement agreement and all proceeds of that right. The required financing statement may include any additional description of collateral that is legally sufficient under the laws of this state.

3. The tobacco settlement revenues are general intangibles for purposes of ch. 409.

4. A security interest perfected under this paragraph is enforceable against the debtor, any assignee or grantee, and all third parties, including creditors under any lien obtained by judicial proceedings, subject only to the rights of any third parties holding security interests in the tobacco settlement revenues previously perfected under this paragraph. Unless the applicable security agreement provides otherwise, a perfected security interest in the tobacco settlement revenues is a continuously perfected security interest in all tobacco settlement revenues existing on the date of the agreement or arising after the date of the agreement. A security interest perfected under this paragraph has priority over any other lien created by operation of law or otherwise, which subsequently attaches to the tobacco settlement revenues.

5. The priority of a security interest created under this paragraph is not affected by the commingling of proceeds arising from the tobacco settlement revenues with other amounts.

(c) The sale, assignment, and transfer of tobacco settlement revenues are governed by this paragraph. All of the following apply to a sale, assignment, or transfer under this paragraph:

1. The sale, assignment, or transfer is an absolute transfer of, and not a pledge of or secured transaction relating to, the seller's right, title, and interest in, to, and under the tobacco settlement revenues, if the documents governing the transaction expressly state that the transaction is a sale or other absolute transfer. After such a transaction, the tobacco settlement revenues are not subject to any claims of the seller or the seller's creditors, other than creditors holding a prior security interest in the tobacco settlement revenues perfected under par. (b).

2. The characterization of the sale, assignment, or transfer as an absolute transfer under subd. 1. and the corresponding characterization of the purchaser's property interest is not affected by any of the following factors:

a. Commingling of amounts arising with respect to the tobacco settlement revenues with other amounts.

b. The retention by the seller of a partial or residual interest, including an equity interest, in the tobacco settlement revenues, whether direct or indirect, or whether subordinate or otherwise.

c. The sale, assignment, or transfer of only a portion of the tobacco settlement revenues or an undivided interest in the tobacco settlement revenues.

d. Any recourse that the purchaser or its assignees may have against the seller.

e. Whether the seller is responsible for collecting payments due under the tobacco settlement revenues or for otherwise enforcing any of the tobacco settlement revenues or retains legal title to the tobacco settlement revenues for the purpose of these collection activities.

f. The treatment of the sale, assignment, or transfer for tax purposes.

3. The sale, assignment, or transfer is perfected automatically as against third parties, including any third parties with liens created by operation of law or otherwise, upon attachment under ch. 409.

4. Nothing in this subsection precludes consideration of the factors listed in subd. 2. a. to e. in determining whether the sale, assignment, or transfer is a sale for tax purposes. The characterization of the sale, assignment, or transfer as an absolute transfer under subd. 1. may not be considered in determining whether the sale, assignment, or transfer is a sale for tax purposes.

(5) If the secretary sells the state's right to receive any of the payments under the tobacco settlement agreement, the state pledges to and agrees with any purchaser or subsequent transferee of the state's right to receive any of the payments under the tobacco settlement agreement that the state will not limit or alter its powers to fulfill the terms of the tobacco settlement agreement, nor will the state in any way impair the rights and remedies provided under the tobacco settlement agreement. The state also pledges to and agrees with any purchaser or subsequent transferee of the state's right to receive any of the payments under the tobacco settlement agreement that the state will pay all costs and expenses in connection with any action or proceeding brought by or on behalf of the purchaser or any subsequent transferee related to the state's not fulfilling the terms of the tobacco settlement agreement. The secretary may include this pledge and agreement of the state in any contract that is entered into by the secretary under this section.

(6) If the secretary sells the state's right to receive any of the payments under the tobacco settlement agreement, the state pledges to and agrees with any purchaser or subsequent transferee of the state's right to receive any of the payments under the tobacco settlement agreement that the state will not limit or alter the powers of the secretary under this section until any contract that is entered into under this section is fully performed, unless adequate provision is made by law for the protection of the rights and remedies of the purchaser or any subsequent transferee under the contract. The secretary may include this pledge and agreement of the state in any contract that is entered into by the secretary under this section.

(8) This subsection and subs. (8m) and (9) shall govern all civil claims, suits, proceedings, and actions brought against the state relating to the sale of the state's right to receive any of the payments under the tobacco settlement agreement. If the state fails to comply with this section or the terms of any agreement relating to the sale of the state's right to receive any of the payments under the tobacco settlement agreement, an action to compel compliance may be commenced against the state.

(8m) If the recovery of a money judgment against the state is necessary to give the plaintiff in an action under sub. (8) complete relief, a claim for the money damages may be joined with the claim commenced under sub. (8).

(9) Sections 16.007, 16.53, and 775.01 do not apply to claims against the state under sub. (8) or (8m). If there is a final judgment against the state in such an action, the judgment shall be paid as provided in s. 775.04 together with interest at the rate of 10% per year from the date such payment was judged to have been due until the date of payment of the judgment.

History: 2001 a. 16, 104.

SUBCHAPTER IV

PURCHASING

16.70 Purchasing; definitions. In ss. 16.70 to 16.78:

(1b) "Affiliate" means a person, as defined in s. 77.51 (10), that controls, is controlled by, or is under common control with another person, as defined in s. 77.51 (10).

(1e) "Agency" means an office, department, agency, institution of higher education, association, society or other body in state government created or authorized to be created by the constitution or any law, which is entitled to expend moneys appropriated by law, including the legislature and the courts, but not including an authority.

(2) "Authority" means a body created under ch. 231, 232, 233, 234, 235, or 237.

(2m) "Computer services" means any services in which a computer is utilized other than for personal computing purposes.

(3) "Contractual services" includes all services, materials to be furnished by a service provider in connection with services, and any limited trades work involving less than $30,000 to be done for or furnished to the state or any agency.

(3e) "Control" means to own, directly or indirectly, more than 10% of the interest in or voting securities of a business.

(3m) "Educational technology" has the meaning given in s. 16.99 (3).

(4) "Executive branch agency" means an agency in the executive branch but does not include the building commission.

(4m) "Information technology" has the meaning given in s. 16.97 (6).

(5) "Judicial branch agency" means an agency created under ch. 757 or 758 or an agency created by order of the supreme court.

(6) "Legislative service agency" means an agency created under ch. 13 which is authorized, or the head of which is authorized, to appoint subordinate staff, except the building commission.

(7) "Limited trades work" means the repair or replacement of existing equipment or building components with equipment or components of the same kind, if the work is not dependent upon the design services of an architect or engineer, and does not alter or affect the performance of any building system, structure, exterior walls, roof or exits, or the fire protection or sanitation of the building. "Limited trades work" includes decorative and surface material changes within a building and minor preventive maintenance to ancillary facilities such as drives, sidewalks and fences.

(8) "Municipality" means a county, city, village, town, school district, board of school directors, sewer district, drainage district, technical college district or any other public or quasi−public corporation, officer, board or other body having the authority to award public contracts.

(9) "Officer" includes the person or persons at the head of each agency, by whatever title the person or persons may be elsewhere designated.

(10) "Permanent personal property" means any and all property which in the opinion of the secretary will have a life of more than 2 years.

(10m) "Personal computing" means utilizing a computer that is located at the work station where the input or output of data is conducted.

(11) "Recovered material" means a product which is recovered from solid waste in a form identical to the original form for a use that is the same as or similar to the original use.

(11m) "Recyclable material" means material in waste for which there exists a commercially demonstrated processing or manufacturing technology which uses the material as a raw material.

(12) "Recycled material" means a product which is manufactured from solid waste or paper mill sludge.

(13) "Recycled or recovered content" means the proportion of an item, by weight or other measure, which is recycled material or recovered material.

(14) "State" does not include a district created under subch. II, III, IV, or V of ch. 229.

(15) "Telecommunications" has the meaning given in s. 16.97 (10).

(16) "Voting securities" means securities that confer upon the holder the right to vote for the election of members of the board of directors or similar governing body of a business, or are convertible into, or entitle the holder to receive upon their exercise, securities that confer such a right to vote.

History: 1971 c. 164; 1975 c. 41 s. 52; 1977 c. 29; 1979 c. 34, 221; 1983 a. 27, 106; 1985 a. 29 ss. 122a to 122f, 3200 (1); 1987 a. 292, 399; 1989 a. 335; 1991 a. 39, 189; 1993 a. 263, 399; 1995 a. 27, 56; 1997 a. 27; 1999 a. 65, 167; 2001 a. 16, 38; 2003 a. 33.

"Contractual services" include technical and professional services. 65 Atty. Gen. 251.

16.701 Subscription service. (1) The department may provide a subscription service containing current information of interest to prospective vendors concerning state procurement opportunities. If the department provides the service, the department shall assist small businesses, as defined in s. 16.75 (4) (c), who are prospective vendors in accessing and using the service by providing facilities or services to the businesses. The department may charge a fee for any such service. The department shall prescribe the amount of any fee by rule.

(2) The department may permit prospective vendors to provide product or service information through the service established under sub. (1). The department may prescribe fees or establish fees through a competitive process for the use of the service under this subsection.

History: 1995 a. 27, 351; 2001 a. 16.

Cross Reference: See also s. Adm 9.01, Wis. adm. code.

16.7015 Bidders list. The department may maintain a bidders list. Any agency to which the department delegates purchasing authority under s. 16.71 (1) may maintain a bidders list if authorized by the delegation. The bidders list shall include the names and addresses of all persons who request to be notified of bids or competitive sealed proposals, excluding those to be awarded under s. 16.75 (1) (c) or (2m) (c), that are solicited by the department or other agency for the procurement of materials, supplies, equipment or contractual services under this subchapter. Any list maintained by the department may include the names and addresses of any person who requests to be notified of bids or competitive sealed proposals that are solicited by any agency. The department or other agency shall notify each person on its list of all bids or competitive sealed proposals that are solicited by the department or other agency. The department or other agency may remove any person from its list for cause.

History: 1995 a. 351; 2001 a. 16.

16.705 Contractual services. (1) The department or its agents may contract for services which can be performed more economically or efficiently by such contract.

(1m) Subsection (1) does not apply to contracts entered into by the volunteer fire fighter and emergency medical technician service award board under s. 16.25 (4) (b).

(2) The department shall promulgate rules for the procurement of contractual services, including but not limited to the approval and monitoring processes for contractual service contracts. Each officer requesting approval to engage any person to perform contractual services shall submit to the department written justification for such contracting which shall include a description of the contractual services to be procured, justification of need, justification for not contracting with other agencies, a specific description of the scope of contractual services to be performed, and justification for the procurement process if a process other than competitive bidding is to be used. The department may not approve any contract for contractual services unless it is satisfied that the justification for contracting conforms to the requirements of this section and ss. 16.71 to 16.77.

(3) The director of the office of state employment relations, prior to award, under conditions established by rule of the department, shall review contracts for contractual services in order to ensure that agencies:

(a) Properly utilize the services of state employees;

(b) Evaluate the feasibility of using limited term appointments prior to entering into a contract for contractual services; and

(c) Do not enter into any contract for contractual services in conflict with any collective bargaining agreement under subch. V of ch. 111.

(5) The department shall promulgate rules to assure that the process used for selection of persons to perform contractual services includes a review of the independence and relationship, if any, of the contractor to employees of the agency, disclosure of any former employment of the contractor or employees of the contractor with the agency and a procedure to minimize the likelihood of selection of a contractor who provides or is likely to provide services to industries, client groups or individuals who are the object of state regulation or the recipients of state funding to a degree that the contractor's independence would be compromised.

(6) If the agency for which contractual services are performed under a contractual services agreement concludes that the performance was unsatisfactory, the agency shall file with the department an evaluation of the contractor's performance within 60 days after the fulfillment of the agreement. The evaluation shall be in such form as the secretary may require.

(7) The department shall review evaluations submitted under sub. (6) and promulgate rules prescribing procedures to assure that future contracts for contractual services are not awarded to contractors whose past performance is found to be unsatisfactory, to the extent feasible.

(8) The department shall, annually on or before October 15, submit to the governor, the joint committee on finance, the joint legislative audit committee and the chief clerk of each house of the legislature for distribution to the appropriate standing committees under s. 13.172 (3), a report concerning the number, value and nature of contractual service procurements authorized for each agency during the preceding fiscal year.

History: 1977 c. 196 s. 31; Stats. 1977 s. 16.705; 1981 c. 20; 1983 a. 27; 1985 a. 29 s. 3200 (1); 1985 a. 332 s. 251 (1); 1987 a. 186; 1989 a. 125; 1999 a. 105; 2003 a. 33 ss. 201, 9160.

Cross Reference: See also ch. Adm 10, Wis. adm. code.

It is possible for the state to lease one of its parking facilities to an independent contractor upon a finding that an independent contractor can perform the service of operating and maintaining the parking facility more economically or more efficiently than the civil service system. 62 Atty. Gen. 183.

16.71 Purchasing; powers. (1) Except as otherwise required under this section and s. 16.78 or as authorized in s. 16.74, the department shall purchase and may delegate to special designated agents the authority to purchase all necessary materials, supplies, equipment, all other permanent personal property and miscellaneous capital, and contractual services and all other expense of a consumable nature for all agencies. In making any delegation, the department shall require the agent to adhere to all requirements imposed upon the department in making purchases under this subchapter. All materials, services and other things and expense furnished to any agency and interest paid under s. 16.528 shall be charged to the proper appropriation of the agency to which furnished.

(1m) The department shall not delegate to any executive branch agency, other than the board of regents of the University of Wisconsin System, the authority to enter into any contract for materials, supplies, equipment, or contractual services relating to information technology or telecommunications prior to review and approval of the contract by the department. No executive branch agency, other than the board of regents of the University of Wisconsin System, may enter into any such contract without review and approval of the contract by the department.

(2) The department of administration shall delegate authority to make all purchases for prison industries to the department of corrections. This delegation may be withdrawn by the department of administration only with the consent of, and in accordance with the terms specified by, the joint committee on finance, for failure to comply with applicable purchasing rules, procedures or statutory requirements.

(3) If the department makes or delegates to the department of revenue or to any other designated purchasing agent under sub. (1) the authority to make a major procurement, as defined in s. 565.01 (4), for the department of revenue, the department, department of revenue or designated purchasing agent shall comply with the requirements under s. 565.25.

(5) The department shall delegate authority to the volunteer fire fighter and emergency medical technician service award board to enter into contracts under s. 16.25 (4) (b).

(6) The department may assess any agency or municipality to which it provides services under this subchapter for the cost of the services provided to the agency or municipality. The department may also identify savings that the department determines to have been realized by an agency to which it provides services under this subchapter and may assess the agency for not more than the amount of the savings identified by the department.

History: 1977 c. 418; 1983 a. 333; 1985 a. 29, 300; 1987 a. 119; 1989 a. 31; 1991 a. 39, 269; 1995 a. 27; 1997 a. 27; 1999 a. 105; 2001 a. 16; 2003 a. 33.

Cross Reference: See also ch. Adm 7 and s. 10.13, Wis. adm. code.

The applicability of ch. 16, subch. IV is determined by the purpose for the purchase, not the source of funds. 64 Atty. Gen. 4.

16.72 Purchasing, duties. (1) The department of administration shall check or have checked, as to quantity and quality, the delivery to agencies of all purchases made under s. 16.71.

(2) (a) The department shall prepare standard specifications, as far as possible, for all state purchases. By "standard specifications" is meant a specification, either chemical or physical or both, prepared to describe in detail the article which the state desires to purchase, and trade names shall not be used. On the formulation, adoption and modification of any standard specifications, the department of administration shall also seek and be accorded without cost, the assistance, advice and cooperation of other agencies and officers. Each specification adopted for any commodity shall, insofar as possible, satisfy the requirements of any and all agencies which use it in common.

(b) Except as provided in ss. 16.751, 560.9813 (4) (b), and 565.25 (2) (a) 4., the department shall prepare or review specifications for all materials, supplies, equipment, other permanent personal property and contractual services not purchased under standard specifications. Such "nonstandard specifications" may be generic or performance specifications, or both, prepared to describe in detail the article which the state desires to purchase either by its physical properties or by its programmatic utility. When appropriate for such nonstandard items or services, trade names may be used to identify what the state requires, but wherever possible 2 or more trade names shall be designated and the trade name of any Wisconsin producer, distributor or supplier shall appear first.

Note: There is no s. 560.9813 (4). Corrective legislation is pending.

(c) To the extent possible, the department shall write specifications so as to permit the purchase of materials manufactured in the United States, as defined in s. 16.754 (1).

(d) Except as permitted in ss. 16.75 (6) (am) and 16.751, to the extent possible, the department and any other designated purchasing agent under s. 16.71 (1) shall write specifications for the purchase of materials, supplies, commodities, equipment and contractual services so as to permit their purchase from prison industries, as created under s. 303.01 (1).

(e) In writing the specifications under this subsection, the department and any other designated purchasing agent under s. 16.71 (1) shall incorporate requirements for the purchase of products made from recycled materials and recovered materials if their use is technically and economically feasible. Each authority other than the University of Wisconsin Hospitals and Clinics Authority, in writing specifications for purchasing by the authority, shall incorporate requirements for the purchase of products made from recycled materials and recovered materials if their use is technically and economically feasible. The specifications shall include requirements for the purchase of the following materials:

1. Paper and paper products.
2. Plastic and plastic products.
3. Glass and glass products.
4. Motor oil and lubricants.
5. Construction materials, including insulating materials.
6. Furnishings, including rugs, carpets and furniture.
7. Highway equipment, including signs, signposts, reflectors, guardrails, lane dividers and barricades.

(f) In writing specifications under this subsection, the department, any other designated purchasing agent under s. 16.71 (1) and each authority other than the University of Wisconsin Hospitals and Clinics Authority shall incorporate requirements relating to the recyclability and ultimate disposition of products and, wherever possible, shall write the specifications so as to minimize the amount of solid waste generated by the state, consistent with the priorities established under s. 287.05 (12). All specifications under this subsection shall discourage the purchase of single−use, disposable products and require, whenever practical, the purchase of multiple−use, durable products.

(4) (a) Except as provided in ss. 16.71 and 16.74 or as otherwise provided in this subchapter and the rules promulgated under s. 16.74 and this subchapter, all supplies, materials, equipment and contractual services shall be purchased for and furnished to any agency only upon requisition to the department. The department shall prescribe the form, contents, number and disposition of requisitions and shall promulgate rules as to time and manner of submitting such requisitions for processing. No agency or officer may engage any person to perform contractual services without the specific prior approval of the department for each such engagement. Purchases of supplies, materials, equipment or contractual services by the legislature, the courts or legislative service or judicial branch agencies do not require approval under this paragraph.

(b) The department shall promulgate rules for the declaration as surplus of supplies, materials and equipment in any agency and for the transfer to other agencies or for the disposal by private or public sale of supplies, materials and equipment. Except as provided in s. 51.06 (6), in either case, the department shall deposit the net proceeds in the budget stabilization fund, except that the department shall transfer any supplies, materials or equipment declared to be surplus to the department of tourism, upon request of the department of tourism, at no cost, if the transfer is permitted by the agency having possession of the supplies, materials or equipment.

(4m) The department shall provide the department of revenue with a copy of each contract for a major procurement, as defined in s. 565.01 (4), for the department of revenue.

(5) (a) In this subsection, "materials" has the meaning given in s. 16.754 (1) (c).

(b) The department and the historical society jointly shall promulgate rules identifying types of historically significant materials.

(c) Before an agency may dispose of surplus materials that are of a type identified in rules promulgated under par. (b), the agency shall provide an opportunity for the historical society to inspect and obtain historically significant surplus materials for its collections. The historical society may not be required to compensate an agency for releasing historically significant surplus materials to the historical society under this paragraph.

(8) The department may purchase educational technology materials, supplies, equipment, or contractual services from orders placed with the department by school districts, cooperative

educational service agencies, technical college districts, and the board of regents of the University of Wisconsin System.

(9) The department shall ensure that every agency includes on all stationery utilized by the agency for correspondence outside the agency at least one telephone number where the agency may be contacted, at least one facsimile transmission number for the agency, if the agency has such a number, and at least one electronic mail address for the agency, if the agency has such an address.

History: 1975 c. 41; 1977 c. 418; 1981 c. 20, 350; 1983 a. 92; 1983 a. 333 ss. 3c, 3g, 3n; 3w; 1985 a. 29 ss. 122g, 3200 (1); 1985 a. 332; 1987 a. 119, 292; 1989 a. 31, 335; 1991 a. 39, 269; 1995 a. 27, 227; 1997 a. 27, 212; 1999 a. 9, 32, 105; 2001 a. 16; 2003 a. 33.

Cross Reference: See also chs. Adm 5 and 11, Wis. adm. code.

Computer programs may be sold as surplus provided the programs were not created for resale purposes. 59 Atty. Gen. 144.

16.73 Cooperative purchasing. (1) The department may enter into an agreement with a municipality or group of municipalities, and municipalities may enter into agreements with each other, under which any of the parties may agree to participate in, administer, sponsor or conduct purchasing transactions under a joint contract for the purchase of materials, supplies, equipment, permanent personal property, miscellaneous capital or contractual services. This subsection does not apply to construction contracts that are subject to s. 16.855 or 66.0901.

(2) The department may purchase and store in warehouses articles that may be needed by agencies and municipalities. The department may sell stored articles to municipalities at cost.

(3) The department may, upon request, make available to municipalities technical purchasing information including, but not limited to, standard forms, manuals, product specifications and standards and contracts or published summaries of contracts, including price and delivery information.

(4) (a) When it is in the best interest of the state and consistent with competitive purchasing practices, the department may enter into agreements with purchasing agents of any other state or the federal government under which any of the parties may agree to participate in, administer, sponsor or conduct purchasing of materials, supplies, equipment, permanent personal property, miscellaneous capital or contractual services. The state may purchase from any vendor selected as a result of such purchasing agreements. This paragraph does not apply to construction contracts that are subject to s. 16.855 or 66.0901.

(b) The department may cooperate with purchasing agents and other interested parties of any other state or the federal government to develop uniform purchasing specifications under s. 16.72 (2) on a regional or national level to facilitate cooperative interstate purchasing transactions.

(5) If the department designates the board of regents of the University of Wisconsin System as its purchasing agent for any purpose under s. 16.71 (1), the board may enter into a contract to sell any materials, supplies, equipment or contractual services purchased by the board to the University of Wisconsin Hospitals and Clinics Authority, and may contract with the University of Wisconsin Hospitals and Clinics Authority for the joint purchase of any materials, supplies, equipment or contractual services if the sale or purchase is made consistently with that delegation and with this subchapter.

(6) The department shall administer a program to facilitate purchases of large equipment that is needed by municipalities. The department shall purchase large equipment as a part of the program. The department may, by rule, prescribe requirements for participation in the program and for participation in specific purchases under the program.

History: 1983 a. 27; 1985 a. 29 s. 3200 (1); 1989 a. 335; 1995 a. 27; 1999 a. 150 s. 672; 2001 a. 16.

16.74 Legislative and judicial branch purchasing. (1) All supplies, materials, equipment, permanent personal property and contractual services required within the legislative branch shall be purchased by the joint committee on legislative organization or by the house or legislative service agency utilizing the supplies, materials, equipment, property or services. All supplies, materials, equipment, permanent personal property and contractual services required within the judicial branch shall be purchased by the director of state courts or the judicial branch agency utilizing the supplies, materials, equipment, property or services.

(2) (a) Requisitions for legislative branch purchases shall be signed by the cochairpersons of the joint committee on legislative organization or their designees for the legislature, by an individual designated by either house of the legislature for the house, or by the head of any legislative service agency, or the designee of that individual, for the legislative service agency. Requisitions for judicial branch purchases shall be signed by the director of state courts or by an individual designated by the director for the courts, or by the head of any judicial branch agency, or the designee of that individual, for the judicial branch agency.

(b) Contracts for purchases by the senate or assembly shall be signed by an individual designated by the organization committee of the house making the purchase. Contracts for other legislative branch purchases shall be signed by an individual designated by the joint committee on legislative organization. Contracts for purchases by the judicial commission or judicial council shall be signed by an individual designated by the commission or council, respectively. Contracts for other judicial branch purchases shall be signed by an individual designated by the director of state courts.

(3) Each legislative and judicial officer who is authorized to make purchases or engage services under this section may prescribe the form of requisitions or contracts for the purchases and engagements. Requisitions and contracts shall be maintained by the officer and shall be subject to inspection and copying under subch. II of ch. 19. No such requisition or contract need be filed with the department.

(4) Each legislative and judicial officer shall file all bills and statements for purchases and engagements made by the officer under this section with the secretary, who shall audit and authorize payment of all lawful bills and statements. No bill or statement for any purchase or engagement for the legislature, the courts or any legislative service or judicial branch agency may be paid until the bill or statement is approved by the requisitioning or contracting officer under sub. (2).

(5) The department, upon request, shall make recommendations and furnish assistance to the courts, to either house of the legislature or to any legislative service or judicial branch agency regarding purchasing procedure. The department, upon request, shall process requisitions for purchases submitted by the courts, the legislature or any legislative service or judicial branch agency and shall procure materials, supplies, equipment, property and services for the courts, the legislature and legislative service and judicial branch agencies in accordance with the purchasing procedure prescribed for executive branch agencies under this subchapter.

(6) All stationery and printing purchased under this section shall be procured from the lowest responsible bidder.

History: 1985 a. 29.

16.75 Buy on low bid, exceptions. (1) (a) 1. All orders awarded or contracts made by the department for all materials, supplies, equipment, and contractual services to be provided to any agency, except as otherwise provided in par. (c) and subs. (2), (2g), (2m), (3m), (3t), (6), (7), (8), (9), and (10m) and ss. 16.73 (4) (a), 16.751, 16.754, 16.964 (8), 50.05 (7) (f), 153.05 (2m) (a), and 287.15 (7), shall be awarded to the lowest responsible bidder, taking into consideration life cycle cost estimates under sub. (1m), when appropriate, the location of the agency, the quantities of the articles to be supplied, their conformity with the specifications, and the purposes for which they are required and the date of delivery.

2. If a vendor is not a Wisconsin producer, distributor, supplier or retailer and the department determines that the state, foreign nation or subdivision thereof in which the vendor is domiciled grants a preference to vendors domiciled in that state, nation or subdivision in making governmental purchases, the department and any agency making purchases under s. 16.74 shall give a preference over that vendor to Wisconsin producers, distributors, suppliers and retailers, if any, when awarding the order or contract. The department may enter into agreements with states, foreign nations and subdivisions thereof for the purpose of implementing this subdivision.

3. Bids may be received only in accordance with such specifications as are adopted by the department as provided in this subsection. Any or all bids may be rejected. Whenever sealed bids are invited, each bid, with the name of the bidder, shall be entered on a record, and each record with the successful bid indicated shall, after the award or letting of the contract, be opened to public inspection. Where a low bid is rejected, a complete written record shall be compiled and filed, giving the reason in full for such action. Any waiver of sealed, advertised bids as provided in sub. (2m) or (6) shall be entered on a record kept by the department and open to public inspection.

(b) When the estimated cost exceeds $25,000, the department shall invite bids to be submitted. The department shall either solicit sealed bids to be opened publicly at a specified date and time, or shall solicit bidding by auction to be conducted electronically at a specified date and time. Whenever bids are invited, due notice inviting bids shall be published as a class 2 notice, under ch. 985 or posted on the Internet at a site determined or approved by the department. The bid opening or auction shall occur at least 7 days after the date of the last insertion of the notice or at least 7 days after the date of posting on the Internet. The notice shall specify whether sealed bids are invited or bids will be accepted by auction, and shall give a clear description of the materials, supplies, equipment, or contractual services to be purchased, the amount of any bond, share draft, check, or other draft to be submitted as surety with the bid or prior to the auction, and the date and time that the public opening or the auction will be held.

(c) Except as provided in sub. (7), when the estimated cost is $25,000 or less, the award may be made in accordance with simplified procedures established by the department for such transactions.

(cm) If bids are solicited by auction, the award may be made in accordance with simplified competitive procedures established by the department for such transactions.

(1m) The department shall award each order or contract for materials, supplies or equipment on the basis of life cycle cost estimates, whenever such action is appropriate. Each authority other than the University of Wisconsin Hospitals and Clinics Authority shall award each order or contract for materials, supplies or equipment on the basis of life cycle cost estimates, whenever such action is appropriate. The terms, conditions and evaluation criteria to be applied shall be incorporated in the solicitation of bids or proposals. The life cycle cost formula may include, but is not limited to, the applicable costs of energy efficiency, acquisition and conversion, money, transportation, warehousing and distribution, training, operation and maintenance and disposition or resale. The department shall prepare documents containing technical guidance for the development and use of life cycle cost estimates, and shall make the documents available to local governmental units.

(2) (a) When the department of administration believes that it is to the best interests of the state to purchase certain patented or proprietary articles, other than printing and stationery, it may purchase said articles without the usual statutory procedure but all equipment shall be purchased from the lowest and best bidder as determined by the bids and a comparison of any detailed specifications submitted with the bids, and after due notice, whenever notice is required under this section. Where the low bid or bids are rejected, a complete written record shall be compiled and filed, giving the reasons in full for such action.

(b) When the department determines that utility services are available only from a sole source as a result of regulation or of a natural monopoly, these services may be obtained without compliance with the usual procedure under this section.

(2g) (a) The purchasing authority under s. 16.71 (2) may make purchases for products of and goods for resale by prison industries, other than purchases of printing or stationery, without inviting bids and without accepting the lowest responsible bid.

(b) The purchasing authority shall notify the governor prior to any purchase under par. (a) which exceeds $15,000. The governor has 72 hours, excluding Saturday, Sunday or a legal holiday, in which to veto any such purchase.

(c) No notice is required for purchases by prison industries under this subsection. All other purchasing rules and procedures apply to prison industries purchases.

(2m) (a) Except as otherwise required by law, if the secretary or his or her designee determines that the use of competitive sealed bidding is not practicable or not advantageous to this state, the department may solicit competitive sealed proposals. Each request for competitive sealed proposals shall state the relative importance of price and other evaluation factors.

(b) When the estimated cost exceeds $25,000, the department may invite competitive sealed proposals by publishing a class 2 notice under ch. 985 or by posting notice on the Internet at a site determined or approved by the department. The notice shall describe the materials, supplies, equipment, or contractual services to be purchased, the intent to make the procurement by solicitation of proposals rather than by solicitation of bids, any requirement for surety and the date the proposals will be opened, which shall be at least 7 days after the date of the last insertion of the notice or at least 7 days after the date of posting on the Internet.

(c) When the estimated cost is $25,000 or less, the department may award the order or contract in accordance with simplified procedures established by the department for such transactions.

(d) For purposes of clarification, the department may discuss the requirements of the proposed order or contract with any person who submits a proposal and shall permit any offerer to revise his or her proposal to ensure its responsiveness to those requirements.

(e) The department shall determine which proposals are reasonably apt to be awarded the order or contract and shall provide each offerer of such a proposal a fair and equal opportunity to discuss the proposal. The department may negotiate with each offerer in order to obtain terms that are advantageous to this state. Prior to the award of the order or contract, any offerer may revise his or her proposal. The department shall keep a written record of all meetings, conferences, oral presentations, discussions, negotiations and evaluations of proposals under this section.

(f) In opening, discussing and negotiating proposals, the department may not disclose any information that would reveal the terms of a competing proposal.

(g) After receiving each offerer's best and final offer, the department shall determine which proposal is most advantageous and shall award the order or contract to the person who offered it. The department's determination shall be based only on price and the other evaluation factors specified in the request for proposals. The department shall state in writing the reason for the award and shall place the statement in the contract file. This paragraph does not apply to procurements under s. 16.751.

(h) Following the award of the order or contract, the department shall prepare a register of all proposals.

(i) This subsection does not apply to the purchase of printing or stationery.

(3) The department may let contracts in excess of funds available. Except in the cases to which s. 18.10 (1) applies, any such contract shall state in substance that its continuance beyond the limits of funds already available is contingent upon appropriation

of the necessary funds. Contracts may be for any term deemed to be in the best interests of the state but the terms and provisions for renewal or extension, if any, shall be incorporated in the bid specifications and the contract document.

(3m) (a) In this subsection, "minority business" means a business certified by the department of commerce under s. 560.036 (2).

(b) The department and any agency making purchases under s. 16.74 shall attempt to ensure that 5% of the total amount expended under this subchapter in each fiscal year is paid to minority businesses. Except as provided under sub. (7), the department may purchase materials, supplies, equipment and contractual services from any minority business submitting a qualified responsible competitive bid that is no more than 5% higher than the apparent low bid or competitive proposal that is no more than 5% higher than the most advantageous offer. In administering the preference for minority businesses established in this paragraph, the department and any agency making purchases under s. 16.74 shall maximize the use of minority businesses which are incorporated under ch. 180 or which have their principal place of business in this state.

(c) 1. After completing any contract under this subchapter, the contractor shall report to the agency that awarded the contract any amount of the contract that was subcontracted to minority businesses.

2. Each agency shall report to the department at least semiannually, or more often if required by the department, the total amount of money it has expended for contracts and orders awarded to minority businesses and the number of contacts with minority businesses in connection with proposed purchases.

3. The department shall maintain and annually publish data on state purchases from minority businesses, including amounts expended and the percentage of total expenditures awarded to minority businesses.

4. The department shall annually prepare and submit a report to the governor and to the chief clerk of each house of the legislature, for distribution to the appropriate standing committees under s. 13.172 (3), on the total amount of money paid to and of indebtedness or other obligations underwritten by minority businesses, minority financial advisers and minority investment firms under the requirements of this subsection and ss. 16.855 (10m), 16.87 (2), 25.185, 84.075 and 565.25 (2) (a) 3. and on this state's progress toward achieving compliance with par. (b) and ss. 16.855 (10m) (a) and (10n), 16.87 (2), 25.185 and 84.075 (1).

5. In determining whether a purchase, contract or subcontract complies with the goal established under par. (b) or s. 16.855 (10m), 16.87 (2) or 25.185 the department shall include only amounts paid to minority businesses, minority financial advisers and minority investment firms certified by the department of commerce under s. 560.036 (2).

(3t) (a) In this subsection, "form" has the meaning given under s. 16.97 (5p).

(b) All commodities required to be furnished by the department which are produced at the institutions of the state shall be purchased from the institutions if the commodities conform to the specifications prepared by the department.

(c) The department of corrections shall periodically provide to the department of administration a current list of all materials, supplies, equipment or contractual services, excluding commodities, that are supplied by prison industries, as created under s. 303.01. The department of administration shall distribute the list to all designated purchasing agents under s. 16.71 (1). Except as otherwise provided in sub. (6) (am), prior to seeking bids or competitive sealed proposals with respect to the purchase of any materials, supplies, equipment or contractual services enumerated in the list, the department of administration or any other designated purchasing agent under s. 16.71 (1) shall offer prison industries the opportunity to supply the materials, supplies, equipment or contractual services if the department of corrections is able to provide them at a price comparable to one which may be obtained through competitive bidding or competitive sealed proposals and is able to conform to the specifications, provided the specifications are written in accordance with s. 16.72 (2) (d). If the department of administration or other purchasing agent is unable to determine whether the price of prison industries is comparable, it may solicit bids or competitive proposals before awarding the order or contract. This paragraph does not apply to the printing of the following forms:

1. Forms that must be completed by applicants for admission to an institution of the University of Wisconsin System or by students of such an institution who are applying for financial aid, including loans, or for a special course of study or who are adding or dropping courses, registering or withdrawing, establishing their residence or being identified or classified.

2. Forms the use of which is required by federal law.

3. Forms used by teachers to evaluate a student's academic performance.

4. Forms used by hospitals and health care providers to bill or collect from patients and 3rd parties.

5. Forms used by medical personnel in the treatment of patients.

6. Forms used to collect data from research subjects in the course of research projects administered by the board of regents of the University of Wisconsin System.

7. Forms that are not public contact forms.

(4) (a) The department shall encourage the participation of small businesses and veteran−owned businesses in the statewide purchasing program by ensuring that there are no undue impediments to such participation and by actively encouraging small businesses and veteran−owned businesses to play an active role in the solicitation of purchasing business by agencies. To that end the department shall:

1. Maintain comprehensive lists of small businesses and of veteran−owned businesses located in this state which have indicated a willingness to provide materials, supplies, equipment or contractual services to the state.

2. Develop ways of simplifying specifications and terms so that they will not impose unnecessary administrative burdens on small businesses and veteran−owned businesses located in this state which submit bids or proposals to the state.

3. Assist small businesses and veteran−owned businesses located in this state in complying with the state's competitive bidding and competitive proposal procedures.

4. Notify businesses on the lists maintained under subd. 1. of agency purchasing requests for which the businesses may wish to submit a bid or proposal.

5. By October 1 of each year, submit a report to the council on small business, veteran−owned business and minority business opportunities which evaluates the performance of small businesses located in this state in submitting bids or proposals to the state and makes recommendations for increased involvement of such businesses in submitting competitive bids and proposals under this section.

(b) The department shall seek the cooperation and assistance of the department of commerce in the performance of its duties under par. (a).

(c) In this section and s. 16.755, "small business" means a business which has had less than $1.5 million in gross annual sales in the most recent calendar or fiscal year.

(d) In this subsection and s. 16.755, "veteran−owned business" means a small business, as defined in par. (c), that is certified by the department of veterans affairs as being at least 51% owned by one or more veterans, as defined in s. 45.35 (5).

(5) The department may require of bidders, persons making proposals under sub. (2m) or contractors such sureties as, in its judgment, are deemed advisable and may decide as to their responsibility and competency. The department may require a

contractor to provide a bond furnished by a surety company authorized to do business in this state, for the proper performance of each contract.

(6) (a) Except with respect to purchases of printing and stationery, subs. (1) to (5) do not apply to the purchase of supplies, materials, equipment or contractual services from the federal government.

(am) Subsections (1) and (3t) do not apply to procurements by the department relating to information technology or telecommunications. Annually not later than October 1, the department shall report to the governor, in the form specified by the governor, concerning all procurements relating to information technology or telecommunications by the department during the preceding fiscal year that were not made in accordance with the requirements of subs. (1) and (3t).

(b) If the secretary determines that it is in the best interest of this state to do so, he or she may waive the requirements of subs. (1) to (5) and may purchase supplies, materials, equipment or contractual services, other than printing and stationery, from another state, from any county, city, village, town or other governmental body in this state or from a regional or national consortium composed of nonprofit institutions that support governmental or educational services, or through a contract established by one of those entities with one or more 3rd parties.

(bm) If the secretary determines that it is in the best interest of this state to do so, he or she may waive any requirement under subs. (1) to (5) and ss. 16.705 and 16.72 (2) (e) and (f) and (5) with respect to any contract entered into by the department of workforce development under s. 49.143, if the department of workforce development presents the secretary with a process for the procurement of contracts under s. 49.143 and the secretary approves the process.

(c) If the secretary determines that it is in the best interest of this state to do so, he or she may, with the approval of the governor, waive the requirements of subs. (1) to (5) and may purchase supplies, material, equipment, or contractual services, other than printing and stationery, from a private source other than a source specified in par. (b). Except as provided in sub. (2g) (c), if the cost of the purchase is expected to exceed $25,000, the department shall first publish a class 2 notice under ch. 985 or post a notice on the Internet at the site determined or approved by the department under sub. (1) (b) describing the materials, supplies, equipment, or contractual services to be purchased, stating the intent to make the purchase from a private source without soliciting bids or competitive sealed proposals and stating the date on which the contract or purchase order will be awarded. The date of the award shall be at least 7 days after the date of the last insertion or the date of posting on the Internet.

(d) If the governor determines that it is in the best interest of this state to do so, he or she may issue a general waiver of the requirements of subs. (1) to (5) permitting the purchase of specified materials, supplies, equipment or contractual services, except printing and stationery, from a private source. A general waiver may be issued for any period up to one year. The governor may impose any necessary or appropriate condition or restriction on the waiver.

(e) The governor or his or her designee may waive any requirement of this subchapter if the governor or his or her designee finds that there exists an emergency which threatens the public health, safety or welfare and the waiver is necessary to meet the emergency. The governor or his or her designee shall require the award of each contract under this paragraph to be made with such competition as is practicable under the circumstances. The governor or his or her designee shall file with the department a statement of facts constituting the emergency for each waiver issued under this paragraph, and a statement of the basis for selection of each contractor under the emergency procedure. This paragraph does not apply to the requirement specified in sub. (7).

(f) The department shall keep a record of each individual or general waiver under pars. (b) to (e). The record shall be open to public inspection.

(7) Stationery and printing shall be purchased from the lowest responsible bidder without regard to the amount of the purchase, except when the department of administration exercises the discretion vested in it by s. 16.82 (4).

(8) (a) 1. The department, any other designated purchasing agent under s. 16.71 (1), any agency making purchases under s. 16.74 and each authority other than the University of Wisconsin Hospitals and Clinics Authority shall, to the extent practicable, make purchasing selections using specifications developed under s. 16.72 (2) (e) to maximize the purchase of materials utilizing recycled materials and recovered materials.

2. Each agency and authority other than the University of Wisconsin Hospitals and Clinics Authority shall ensure that the average recycled or recovered content of all paper purchased by the agency or authority measured as a proportion, by weight, of the fiber content of paper products purchased in a fiscal year, is not less than 40% of all purchased paper.

(9) The department, any other designated purchasing agent under s. 16.71 (1), any agency making purchases under s. 16.74 and any authority other than the University of Wisconsin Hospitals and Clinics Authority shall, to the extent practicable, make purchasing selections using specifications prepared under s. 16.72 (2) (f).

(10) An agency that has building, fleet or energy management responsibilities shall, to the extent cost−effective and technically feasible, rely upon energy systems that utilize fuels produced in this state. In reviewing bids for the purchase of fuels or energy systems or equipment, the agency shall purchase fuel or energy systems or equipment produced in this state if the cost of the lowest responsible bid for such fuel or energy systems or equipment is no greater than the lowest responsible bid for fuel or energy systems or equipment produced outside of this state.

(10m) The department, any other designated purchasing agent under s. 16.71 (1), any agency making purchases under s. 16.74, and any authority shall not enter into any contract or order for the purchase of materials, supplies, equipment, or contractual services with a person if the name of the person, or the name of an affiliate of that person, is certified to the department by the secretary of revenue under s. 77.66.

(11) (a) In this subsection, "consumer price index" means the average of the consumer price index over each 12−month period, all items, U.S. city average, as determined by the bureau of labor statistics of the U.S. department of labor.

(b) The department may, by rule, biennially adjust the dollar amounts specified in subs. (1) (b) and (c), (2m) (b) and (c) and (6) (c) by an amount not exceeding the amount determined in accordance with this subsection. To determine the maximum adjustment, the department shall calculate the percentage difference between the consumer price index for the 12−month period ending on December 31 of the most recent odd−numbered year and the consumer price index for the base period, calendar year 1995. The department may adjust the amounts specified under subs. (1) (b) and (c), (2m) (b) and (c) and (6) (c) by an amount not exceeding that amount biennially, rounded to the nearest multiple of $1,000. If after such rounding the amounts are different than the amounts currently prescribed, the department shall by rule prescribe revised amounts, which amounts shall be in effect until a subsequent rule is promulgated under this subsection. Notwithstanding s. 227.24 (3), determinations under this subsection may be promulgated as an emergency rule under s. 227.24 without a finding of emergency.

History: 1975 c. 224; 1977 c. 418, 419; 1979 c. 34, 221, 314, 340, 355; 1979 c. 361 s. 112; 1981 c. 121 s. 20; 1983 a. 27 ss. 91, 93 to 99; 1983 a. 333 ss. 3g, 3r to 4b, 6; 1983 a. 368, 390; 1985 a. 29 ss. 122m to 124, 3200 (1); 1985 a. 180; 1987 a. 27, 119, 142, 147, 186, 399, 403; 1989 a. 31, 335, 345, 359; 1991 a. 39, 170; 1993 a. 16,

414; 1995 a. 27 ss. 368 to 382, 9116 (5); 1995 a. 225, 227, 244, 289, 432; 1997 a. 3; 1999 a. 9, 44, 197; 2001 a. 16, 38; 2003 a. 33.

Note: 1991 Wis. Act 170, which amends this section, contains an extensive prefatory note concerning veteran−owned businesses.

The proper standard for determining whether the department of administration has abused its discretion in setting a bidding requirement is whether its decision was arbitrary or unreasonable. The department is not required to hold a hearing or follow any specified procedure in adopting bid requirements. Glacier State Distribution Services, Inc. v. DOT, 221 Wis. 2d 359, 585 N.W.2d 652 (Ct. App. 1998).

The preference for Wisconsin businesses under ss. 16.75 (1) (a) and 16.855 (1) operates only in case of a tie bid. 74 Atty. Gen. 47.

16.751 Information technology purchases by investment board. The requirements of ss. 16.72 (2) (b) and (d) and 16.75 (1) (a) 1. and (2m) (g) do not apply to procurements authorized to be made by the investment board under s. 16.78 (1) for information technology purposes.

History: 1999 a. 9; 2001 a. 16.

16.752 Procurement from work centers for severely handicapped individuals. (1) DEFINITIONS. In this section:

(a) "Board" means the state use board.

(c) "Direct labor" means all labor or work involved in producing or supplying materials, supplies or equipment or performing contractual services including preparation, processing and packing, but excluding supervision, administration, inspection and shipping.

(d) "Severely handicapped individual" means an individual who has a physical, mental or emotional disability which is a substantial handicap to employment and prevents the individual from engaging in normal competitive employment.

(e) "Work center" means a charitable organization or nonprofit institution which is licensed under s. 104.07 and incorporated in this state or a unit of county government which is licensed under s. 104.07, and which is operated for the purpose of carrying out a program of rehabilitation for severely handicapped individuals and for providing the individuals with remunerative employment or other occupational rehabilitating activity of an educational or therapeutic nature, and which is engaged in the production of materials, supplies or equipment or the performance of contractual services in connection with which not less than 75% of the total hours of direct labor are performed by severely handicapped individuals.

(2) DUTIES OF THE STATE USE BOARD. The board shall:

(a) Coordinate and monitor the implementation of this section.

(b) Aid in the identification of materials, supplies, equipment and contractual services to be procured by agencies from work centers.

(c) Establish eligibility criteria for work centers participating in the program established under this section.

(d) At least annually, establish and review fair market prices for materials, supplies, equipment and contractual services to be purchased from work centers.

(e) No later than October 1, prepare and submit to the secretary an annual report concerning its activities, including:

1. A summary of materials, supplies, equipment and contractual services purchased by agencies from work centers.

2. The names of work centers participating in the program established under this section.

3. The impact of the program established under this section upon production, work stabilization and program development of, and the number of severely handicapped individuals served by, participating work centers.

(f) At least annually, conduct a review of the prices paid by agencies for the materials, supplies, equipment and contractual services provided by work centers and make any adjustments necessary to establish fair market price.

(g) Promulgate rules regarding specifications, time of delivery and designation of materials, supplies, equipment and contractual services to be supplied by work centers. The board shall maintain a list of each material, supply, piece of equipment or contractual service to be supplied by work centers, and shall assign a number to each item on the list. Specifications of the board shall be consistent with specifications prescribed by agencies for which procurements are made.

(h) Review each order and contract for the impact that the requirements of sub. (7) have on each supplier or contractor, and assure that the requirements do not affect more than 15% of the supplier's or contractor's current yearly sales or production.

(i) Prescribe a surcharge to be paid by each agency, which shall be payable to the department within a time and in accordance with a procedure specified by the board.

(7) QUALIFICATION OF WORK CENTERS. To qualify for participation under the program established under this section, a work center shall submit to the board a copy of its license under s. 104.07 together with the following documents, transmitted by a letter signed by an officer of the work center:

(a) In the case of a charitable organization or nonprofit institution:

1. A legible copy of the articles of incorporation of the organization showing the date of filing with the department of financial institutions.

2. A copy of the bylaws of the organization certified by an officer.

3. A copy of a letter from the federal internal revenue service indicating that the organization qualifies as a tax−exempt organization.

(b) In the case of a unit of county government, a copy of the ordinance or resolution of the county board of supervisors authorizing or directing the establishment of the work center.

(8) RESPONSIBILITIES OF WORK CENTERS. Each work center participating in the program established under this section shall:

(a) Furnish materials, supplies, equipment and services in strict accordance with orders issued by agencies.

(b) Make its records available for public inspection at any reasonable time.

(c) Maintain records of direct labor hours performed in the work center by each worker.

(d) Annually submit to the board a certification that it is qualified to participate in the program established under this section.

(e) Comply with applicable occupational health and safety standards prescribed by the U.S. secretary of labor, the federal occupational health and safety administration or the department of commerce.

(f) Maintain an ongoing placement program for severely handicapped individuals that includes staff which is assigned to perform personal evaluations and to maintain liaisons with appropriate community service organizations.

(g) Maintain a record for each severely handicapped individual employed by it which includes a written report prepared by a licensed physician or psychiatrist, or a qualified psychologist, reflecting the nature and extent of the disability that causes the individual to qualify as severely handicapped.

(9) PURCHASE OF RAW MATERIALS. Work centers shall seek broad competition in the purchase of raw materials and components used in the materials, supplies, equipment or services provided to agencies under this section. Work centers shall inform the board before entering into multiyear contracts for such raw materials and components.

(10) PRODUCTION OF SUCH MATERIALS, SUPPLIES AND EQUIPMENT. In the production of materials, supplies and equipment under this section, a work center shall make an appreciable contribution to the reforming of raw materials or the assembly of components thereof.

(11) VIOLATIONS. Any alleged violation of this section by a work center shall be investigated by the board. The board shall determine whether a violation has occurred. If the board deter-

mines that a violation has occurred, the board may terminate assignments to the work center or suspend assignments for such period as the board determines.

(12) PROCUREMENT REQUIREMENTS AND PROCEDURES. (a) Except as provided in pars. (c), (d), (h), (i), and (j) and as authorized under sub. (13), agencies shall obtain materials, supplies, equipment and services on the list maintained by the board under sub. (2) (g).

(b) Purchase orders shall contain the following:

1. The name, material, supply or equipment number assigned by the board, most recent specification, quantity, unit price, and place and time of delivery.

2. The type of work and location of service required, most recent specification, work to be performed, estimated volume, and time for completion.

(c) Agencies shall issue purchase orders with sufficient time for the appropriate work center to produce the materials, supplies or equipment or provide the services required.

(d) If any commodity on the list maintained under sub. (2) (g) is also produced at an institution of the state and the commodity conforms to the specifications on the list, the ordering agency shall purchase the commodity from the institution.

(e) If a specific material, supply or piece of equipment on the list maintained under sub. (2) (g) also appears on the list of materials, supplies and equipment supplied by the prison industries under s. 16.75 (3t) (c), the ordering agency shall notify and provide prison industries with the opportunity to fill the order prior to placing an order.

(h) Paragraph (a) does not apply to purchases of printing or stationery.

(i) Paragraph (a) does not apply to procurements by the department relating to information technology or telecommunications.

(j) Paragraph (a) does not apply to services purchased under a contract under s. 153.05 (2m) (a).

(13) CERTIFICATES OF EXCEPTION. (a) Grant written authorization to an ordering agency to procure materials, supplies, equipment or services on the list maintained under sub. (2) (g) from commercial sources when all of the following conditions are met:

1. The work center to which the order is assigned cannot furnish a material, supply, piece of equipment or service within the period specified in the order.

2. The material, supply, equipment or service is available from commercial sources in the quantities and at an earlier time than it is available from the work center to which the order is assigned.

(b) Issue an authorization to an ordering agency to procure materials, supplies, equipment or services from commercial sources when the quantity involved is not sufficient for the economical production or provision by the work center to which the order is assigned.

(c) Issue authorizations under pars. (a) and (b) promptly upon request of an ordering agency. The authorization shall be in the form of a certificate which shall specify the quantities and delivery period covered by the authorization. The organization shall transmit a copy of each certificate to the board.

(14) PRICES. (a) All prices included in the list maintained under sub. (2) (g) shall be determined by the board on the basis of fair market prices for materials, supplies, equipment or services similar to those supplied by work centers.

(b) Prices for materials, supplies or equipment shall include delivery and packaging, packing and marketing costs.

(c) Price changes for materials, supplies or equipment shall apply to all orders placed on or after the effective date of the change.

(d) Delivery of an order is accomplished when a shipment is received and accepted by the purchasing agency.

(15) ADJUSTMENT AND CANCELLATION OF ORDERS. If a work center fails to comply with the terms of an order from an agency, the ordering agency shall make every effort to negotiate adjustments before canceling the order.

(17) QUALITY CONTROL. (a) Materials, supplies and equipment furnished by work centers under specifications issued by an agency shall be manufactured by work centers in strict accordance with the specifications.

(b) Services provided by work centers under specifications issued by an agency shall be performed by work centers in strict accordance with the specifications. If no specifications exist, the services shall be performed by work centers in accordance with good commercial practices.

(c) If the quality of a material, supply, piece of equipment or service received from a work center is not satisfactory to the contracting agency, the agency shall advise the board and, if the board determines that the quality of the material, supply, equipment or service is unsatisfactory, the board shall suspend the eligibility of the work center which provided the material, supply or equipment or which performed the service to participate in the program established under this section.

(18) SPECIFICATION CHANGES. (a) The board may change specifications contained in the list maintained under sub. (2) (g). Each list shall contain a basic specification and the date of the latest revision.

(b) If an agency makes substantial changes in a specification on the list maintained under sub. (2) (g) the board shall assign a new item number. The agency shall notify the board of the changes prior to their effective date.

History: 1989 a. 345; 1991 a. 32, 39; 1993 a. 16, 17; 1995 a. 27 ss. 383b, 384, 9116 (5); 2001 a. 16; 2003 a. 33.

Note: See 1989 Wis. Act 345, which created this section, for a statement of legislative purpose.

16.754 Preference for American−made materials.

(1) DEFINITIONS. As used in this section:

(a) "Manufactured" means mined, produced, manufactured, fabricated or assembled.

(b) "Manufactured in the United States" means that materials are manufactured in whole or in substantial part within the United States or that the majority of the component parts thereof were manufactured in whole or in substantial part in the United States.

(c) "Materials" means any goods, supplies, equipment or any other tangible products or materials.

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

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

(2) PURCHASE PREFERENCE. Notwithstanding s. 16.75 (1) (a) 2., (2), (2m) and (6), when all other factors are substantially equal the state shall purchase materials which are manufactured to the greatest extent in the United States.

(3) EXEMPTIONS. Subsection (2) does not apply if the materials are purchased for the purpose of commercial resale or for the purpose of use in the production of goods for commercial sale. Subsection (2) does not apply to the purchase of stationery and printing materials. Subsection (2) does not apply if the department determines, under s. 16.75 (1) (a) 2., that the foreign nation or subdivision thereof in which the vendor is domiciled does not give preference to vendors domiciled in that nation or subdivision in making governmental purchases. Subsection (2) does not apply if the department or other person having contracting authority in respect to the purchase determines that:

(a) The materials are not manufactured in the United States in sufficient or reasonably available quantities; or

(b) The quality of the materials is substantially less than the quality of similar available materials manufactured outside of the United States.

History: 1979 c. 314; 1983 a. 27 s. 2202 (1); 1987 a. 27.

16.755 Council on small business, veteran−owned business and minority business opportunities. The council on small business, veteran−owned business and minority business opportunities shall:

(1) Review the extent of small business, veteran−owned business and minority business participation in purchasing by this state and its agencies.

(2) Advise the department's purchasing agent with respect to methods of increasing such participation.

(3) Advise the department's purchasing agent with respect to methods of simplifying or easing compliance with the forms and procedures used or to be used for obtaining contracts with the state for providing materials, supplies, equipment and contractual services.

(4) Advise the department concerning methods of improved compliance with any aspect of its duties under s. 16.75 (4) (a).

(5) Annually, submit a report containing any recommendations regarding the matters described in subs. (1) to (4) to the governor and the chief clerk of each house of the legislature, for distribution to the legislature under s. 13.172 (2).

History: 1977 c. 418 s. 929 (55); 1977 c. 419; 1983 a. 27, 524; 1985 a. 29 s. 3200 (1); 1987 a. 186; 1991 a. 170.

16.76 Form of contracts; continuing contracts. (1) All contracts for materials, supplies, equipment or contractual services to be provided to any agency shall run to the state of Wisconsin. Such contracts shall be signed by the secretary or an individual authorized by the secretary, except that contracts entered into directly by the legislature, the courts or a legislative service or judicial branch agency shall be signed by an individual authorized under s. 16.74 (2) (b).

(3) (a) Prices established in a continuing contract to provide materials, supplies, equipment or contractual services over a period of time may be lowered due to general market conditions, but prices shall not be subject to increase for 90 calendar days from the date of award. The contractor shall submit any proposed price increase under a continuing contract to the department at least 30 calendar days before the proposed effective date of the price increase. Any price increase shall be limited to fully documented cost increases to the contractor which the contractor demonstrates to be industrywide. The conditions under which price increases may be granted shall be expressed in bidding documents and contracts.

(b) The department may accept, negotiate or reject any proposed price increase. Upon rejection, the contractor may exercise any termination clause which has been incorporated into the contract.

(4) (a) In this subsection, "master lease" means an agreement entered into by the department on behalf of one or more agencies to obtain property or services under which the department makes or agrees to make periodic payments.

(ag) The department may pay or agree to pay under a master lease a sum substantially equivalent to or in excess of the aggregate value of property or services obtained and it may be agreed that the department or one or more agencies will become, or for no other or nominal consideration has the option to become, the owner of property obtained or to be obtained under a master lease upon full compliance with its terms.

(b) Except as provided in par. (h), the department may enter into a master lease whenever the department determines that it is advantageous to the state to do so. If the master lease provides for payments to be made by the state from moneys that have not been appropriated at the time that the master lease is entered into, the master lease shall contain the statement required under s. 16.75 (3).

(c) Payments under a master lease may include interest payable at a fixed or variable rate as the master lease may provide. The department may enter into agreements and ancillary arrangements which the department determines to be necessary to facilitate the use of a master lease.

(d) The department may delegate to other persons the authority and responsibility to take actions necessary and appropriate to implement agreements and ancillary arrangements under par. (c).

(e) The department may grant a perfected security interest in property obtained or to be obtained under a master lease. The department shall record and preserve evidence of the security interest in its offices at all times during which the master lease is in effect.

(f) The department may appoint one or more fiscal agents for each master lease. Each fiscal agent shall be an incorporated bank or trust company authorized by the laws of the United States or of the state in which it is located to do business as a banking or trust company. The department shall periodically require competitive proposals, under procedures established by the department, for fiscal agent services under this paragraph. There may be deposited with a fiscal agent, in a special account for such purpose only, a sum estimated to be sufficient to enable the fiscal agent to make all payments which will come due under the master lease not more than 15 days after the date of deposit. The department may make such other provisions respecting fiscal agents as it considers necessary or useful and may enter into a contract with any fiscal agent containing such terms, including compensation, and conditions in regard to the fiscal agent as it considers necessary or useful.

(g) Sections 16.705 and 16.75 do not apply to agreements or ancillary agreements under par. (c) or contracts for fiscal agent services under par. (f).

(h) A master lease may not be used to obtain a facility for use or occupancy by the state or an agency or instrumentality of the state or to obtain an internal improvement.

(j) If a master lease is used to finance payments to be made under an energy conservation construction project as provided in s. 16.858 (2), payments under the lease may not be conditioned upon any payment required to be made by the contractor pursuant to an energy conservation audit.

History: 1973 c. 333; 1977 c. 196 s. 130 (3); 1979 c. 34; 1983 a. 27; 1985 a. 29; 1987 a. 119, 142; 1989 a. 31; 1991 a. 39; 1993 a. 496; 1995 a. 27; 1999 a. 9.

16.765 Nondiscriminatory contracts. (1) Contracting agencies, the University of Wisconsin Hospitals and Clinics Authority, the Fox River Navigational System Authority, and the Bradley Center Sports and Entertainment Corporation shall include in all contracts executed by them a provision obligating the contractor not to discriminate against any employee or applicant for employment because of age, race, religion, color, handicap, sex, physical condition, developmental disability as defined in s. 51.01 (5), sexual orientation as defined in s. 111.32 (13m) or national origin and, except with respect to sexual orientation, obligating the contractor to take affirmative action to ensure equal employment opportunities.

(2) Contracting agencies, the University of Wisconsin Hospitals and Clinics Authority, the Fox River Navigational System Authority, and the Bradley Center Sports and Entertainment Corporation shall include the following provision in every contract executed by them: "In connection with the performance of work under this contract, the contractor agrees not to discriminate against any employee or applicant for employment because of age, race, religion, color, handicap, sex, physical condition, developmental disability as defined in s. 51.01 (5), sexual orientation or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Except with respect to sexual orientation, the contractor further agrees to take affirmative action to ensure equal employment opportunities. The contractor agrees

to post in conspicuous places, available for employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of the nondiscrimination clause".

(3) Subsections (1) and (2) shall not apply to contracts to meet special requirements or emergencies, if approved by the department.

(4) Contracting agencies, the University of Wisconsin Hospitals and Clinics Authority, the Fox River Navigational System Authority, and the Bradley Center Sports and Entertainment Corporation shall take appropriate action to revise the standard government contract forms under this section.

(5) The head of each contracting agency and the boards of directors of the University of Wisconsin Hospitals and Clinics Authority, the Fox River Navigational System Authority, and the Bradley Center Sports and Entertainment Corporation shall be primarily responsible for obtaining compliance by any contractor with the nondiscrimination and affirmative action provisions prescribed by this section, according to procedures recommended by the department. The department shall make recommendations to the contracting agencies and the boards of directors of the University of Wisconsin Hospitals and Clinics Authority, the Fox River Navigational System Authority, and the Bradley Center Sports and Entertainment Corporation for improving and making more effective the nondiscrimination and affirmative action provisions of contracts. The department shall promulgate such rules as may be necessary for the performance of its functions under this section.

(6) The department may receive complaints of alleged violations of the nondiscrimination provisions of such contracts. The department shall investigate and determine whether a violation of this section has occurred. The department may delegate this authority to the contracting agency, the University of Wisconsin Hospitals and Clinics Authority, the Fox River Navigational System Authority, or the Bradley Center Sports and Entertainment Corporation for processing in accordance with the department's procedures.

(7) When a violation of this section has been determined by the department, the contracting agency, the University of Wisconsin Hospitals and Clinics Authority, the Fox River Navigational System Authority, or the Bradley Center Sports and Entertainment Corporation, the contracting agency, the University of Wisconsin Hospitals and Clinics Authority, the Fox River Navigational System Authority, or the Bradley Center Sports and Entertainment Corporation shall:

(a) Immediately inform the violating party of the violation.

(b) Direct the violating party to take action necessary to halt the violation.

(c) Direct the violating party to take action necessary to correct, if possible, any injustice to any person adversely affected by the violation.

(d) Direct the violating party to take immediate steps to prevent further violations of this section and to report its corrective action to the contracting agency, the University of Wisconsin Hospitals and Clinics Authority, the Fox River Navigational System Authority, or the Bradley center sports and entertainment corporation.

(8) If further violations of this section are committed during the term of the contract, the contracting agency, the Fox River Navigational System Authority, or the Bradley Center Sports and Entertainment Corporation may permit the violating party to complete the contract, after complying with this section, but thereafter the contracting agency, the Fox River Navigational System Authority, or the Bradley Center Sports and Entertainment Corporation shall request the department to place the name of the party on the ineligible list for state contracts, or the contracting agency, the Fox River Navigational System Authority, or the Bradley Center Sports and Entertainment Corporation may terminate the contract without liability for the uncompleted portion or any materials or services purchased or paid for by the contracting party for use in completing the contract.

(9) The names of parties who have had contracts terminated under this section shall be placed on an ineligible list for state contracts, maintained by the department. No state contract may be approved and let to any party on such list of ineligible contractors. The department may remove the name of any party from the ineligible list of contractors if the department determines that the contractor's employment practices comply with this section and provide adequate safeguards for its observance.

(10) The department shall refer any individual complaints of discrimination which are subject to investigation under subch. II of ch. 111 to the department of workforce development.

(11) A violation by a prime contractor shall not impute to a subcontractor nor shall a violation by a subcontractor impute to a contractor.

History: 1975 c. 94, 189, 275, 422; 1977 c. 29, 418; 1981 c. 112; 1981 c. 334 s. 25 (2); 1981 c. 391 s. 210; 1985 a. 26; 1985 a. 29 s. 3200 (1); 1995 a. 27 ss. 386 to 389, 9130 (4); 1995 a. 225; 1997 a. 3; 2001 a. 16.

Cross Reference: See also ch. Adm 50, Wis. adm. code.

Cities, counties, and other local governmental entities are not "contracting agencies" under sub. (1). 68 Atty. Gen. 306.

A county may enact an ordinance requiring its contractors to agree to a policy of nondiscrimination in employment, even though the ordinance provides broader protection than state and federal laws. 70 Atty. Gen. 64.

16.767 Setoffs. All amounts owed by this state under this subchapter are subject to being set off under s. 73.12.

History: 1985 a. 29.

16.77 Audit of bills; illegal contracts; actions to recover. (1) No bill or statement for work or labor performed under purchase orders or contracts issued by the secretary or the secretary's designated agents, and no bill or statement for supplies, materials, equipment or contractual services purchased for and delivered to any agency may be paid until the bill or statement is approved through a preaudit or postaudit process determined by the secretary. This subsection does not apply to purchases made directly by the courts, the legislature or a legislative service or judicial branch agency under s. 16.74.

(2) Whenever any officer or any subordinate of an officer contracts for the purchase of supplies, material, equipment or contractual services contrary to ss. 16.705 to 16.82 or the rules promulgated pursuant thereto, the contract is void, and any such officer or subordinate is liable for the cost thereof, and if such supply, material, equipment or contractual services so unlawfully purchased have been paid for out of public moneys, the amount thereof may be recovered in the name of the state in an action filed by the attorney general against the officer or subordinate and his or her bonders. Such cause of action is deemed to have arisen in Dane County, and summons shall be served therein as in civil actions.

History: 1979 c. 221; 1981 c. 20 s. 2202 (1) (c); 1985 a. 29; 1985 a. 332 s. 251 (5); 1987 a. 119; 1991 a. 39.

16.78 Purchases from department relating to information technology or telecommunications. (1) Every agency other than the board of regents of the University of Wisconsin System or an agency making purchases under s. 16.74 shall make all purchases of materials, supplies, equipment, and contractual services relating to information technology or telecommunications from the department, unless the department requires the agency to purchase the materials, supplies, equipment, or contractual services pursuant to a master contract established under s. 16.972 (2) (h), or grants written authorization to the agency to procure the materials, supplies, equipment, or contractual services under s. 16.75 (1) or (2m), to purchase the materials, supplies, equipment, or contractual services from another agency or to provide the materials, supplies, equipment, or contractual services to itself. The board of regents of the University of Wisconsin System may make purchases of materials, supplies, equipment, and contractual services relating to information technology or telecommunications from the department.

(2) Sections 16.705 to 16.767 and 16.77 (1) do not apply to the purchase of materials, supplies, equipment, or contractual services by any agency from the department under sub. (1).

History: 1991 a. 39; 2001 a. 16, 104; 2003 a. 33.

16.79 Duties of department of administration. (1) The department shall distribute so many copies of the Wisconsin reports as may be required by the state law librarian to make the exchanges provided for by law with other states and territories.

(2) The department shall distribute in pamphlet form copies of the constitution and such laws as may be required to meet the public demand, including the election laws. The department shall distribute election manuals, forms and supplies specified by the elections board. The laws, manuals, forms and supplies shall be sold by the department at cost, including distribution cost as determined under s. 35.80. The elections board shall inform the department in writing as to which election manuals, forms and supplies shall be offered for distribution under this subsection.

History: 1971 c. 82; 1973 c. 334 s. 57; 1979 c. 34; 1983 a. 484; 1985 a. 29; 1989 a. 192.

16.82 Powers of department of administration. In addition to other powers vested in the department of administration, it and its duly authorized representatives:

(1) Shall have access at all reasonable times to all state offices.

(2) May examine all books, records, papers and documents in any such office or institution as pertain directly or indirectly to the purchase of, control of, or distribution of supplies, materials and equipment.

(3) May require any officer to furnish any and all reasonable data, information or statement relating to the work of the officer's department.

(4) (a) May produce or contract to have produced, printing of classes 1, 3 and 4, and excerpts from the statutes under class 2, and all materials offered by state agencies for production.

(b) May determine the form, style, quantity and method of reproduction, when not specifically prescribed by law, of all materials offered by state agencies for production. Any state agency which objects to the determination made under this paragraph may appeal the decision of the department to the governor.

(c) Agencies performing work under this section shall make reports as are required to the department which shall compile and prepare such summary reports as the joint committee on finance requests.

(d) May, during a period when a contract for any class or subclass of public printing has expired and a new contract for the following biennium has not been entered into under ch. 35, obtain public printing from private printers at prevailing commercial rates, or may produce public printing.

(e) In deciding whether to use the discretion under pars. (a) and (d) to produce graphic material, the department shall take into consideration the urgency of the work and the relative cost of production by the department as against the cost of outside work.

(f) The cost of work done under pars. (a) to (e) shall be charged to the agency ordering the work.

(g) This subsection and s. 35.015 shall be liberally construed so as to effectuate the legislature's intent to vest broad discretion in the department to determine what public printing in the classes covered and what materials offered by state agencies for production shall be done by the state itself, and what shall be contracted. Such liberal construction shall extend to the department's determination to use the power conferred, to the determination of what work is to be included in the classes covered, and to the determination of whether a given process is similar to those enumerated.

(h) To further legislative intent, the department shall impose all practical restraint on the capability for production by the state of the classes enumerated consistent with s. 16.001.

(5) Shall develop and implement a comprehensive group transportation program for state employees, in cooperation with all agencies, as defined in s. 16.52 (7), and shall promote and encourage participation in the group transportation program. The program may include car pooling and van pooling service. In addition, the department shall promote and encourage alternate means of transportation for state, municipal and federal employees and persons in the private sector including but not limited to mass transit and bicycle commuting. The department may provide contract group transportation of state employees from designated pickup points to work sites and return in the absence of convenient and public scheduled transportation. Any driver of a van that is utilized by the department for a van pool shall have completed a driver safety training course approved by the department. Nonstate employees may be permitted to participate in van pools when necessary in order to provide viable van pool service for state employees. Group transportation shall be provided for a fee which recovers the full cost of administration, maintenance, operation, insurance and depreciation of the group transportation program, plus interest for general purpose revenues utilized for the program, except as provided in s. 16.843 (2) (bm). The department shall calculate interest recoverable under this subsection by applying the average earnings rate of the state investment fund for each quarter to the average general purpose revenues utilized under s. 20.903 (2) (b) from the appropriation under s. 20.505 (1) (im) for group transportation purposes in the same quarter. No less often than annually, the department shall assess the interest payable under this subsection as of the most recently completed quarter and shall deposit the amounts collected into the general fund. No person is deemed to be in the course of employment while utilizing group transportation.

(6) May provide any services to a local professional baseball park district created under subch. III of ch. 229, for compensation to be agreed upon between the department and the district, if the district has entered into a lease agreement with the department under sub. (7), except that the department shall not act as a general contractor for any construction work undertaken by the district. No order or contract to provide any such services is subject to s. 16.705, 16.75 (1) to (5) and (8) to (10), 16.752, 16.754 or 16.765.

(7) May enter into a lease agreement with a local professional baseball park district created under subch. III of ch. 229 for the lease of land or other property granted to the state and especially dedicated by the grant to use for a professional baseball park. The lease agreement may be for such rental payments and for such term as the secretary determines.

History: 1971 c. 125; 1975 c. 39 s. 732 (1); 1977 c. 29; 1979 c. 34, 221; 1981 c. 350; 1983 a. 333; 1985 a. 29; 1989 a. 31; 1991 a. 39, 316; 1995 a. 47, 56; 1999 a. 83.

16.83 State capitol and executive residence board. (1) PURPOSE. The purpose of the state capitol and executive residence board is to direct the continuing and consistent maintenance of the property, decorative furniture and furnishings of the capitol and executive residence.

(2) POWERS AND DUTIES. No renovation, repairs except repairs of an emergency nature, installation of fixtures, decorative items or furnishings for the grounds and buildings of the capitol or executive residence may be performed by or become the property of the state by purchase wholly or in part from state funds, or by gift, loan or otherwise until approved by the board as to design, structure, composition and appropriateness. The board shall:

(a) Annually thoroughly investigate the state of repair of the capitol and executive residence.

(b) Project the necessary personnel, materials and supplies required annually to maintain the executive residence appropriately both for its public functions and as the residence of the governor, and make specific budget recommendations to the department of administration to accomplish this purpose.

(c) Ensure the architectural and decorative integrity of the buildings, fixtures, decorative items, furnishings and grounds of the capitol and executive residence by setting standards and criteria for subsequent repair, replacement and additions.

(cm) Accept for the state donations or loans of works of art or other decorative items and fixtures consistent with par. (c) to be used at the state capitol.

(d) Accept for the state donations or loans of furnishings, works of art or other decorative items and fixtures consistent with par. (c).

(e) Accept for the state all gifts, grants and bequests to the state capitol restoration fund, and authorize expenditures from the appropriation under s. 20.505 (4) (r) for the purposes of maintenance, restoration, preservation and rehabilitation of the buildings and grounds of the state capitol, or of artifacts, documents and other historical objects or resources located within and around the state capitol, and for the purpose of the acquisition of replacement or reacquisition of original artifacts, documents and other historical objects or resources, including statuary and works of art, consistent with par. (c), for the state capitol.

(3) SWIMMING POOL PROHIBITED. The board may not approve the construction or maintenance of a swimming pool on the grounds of or in the executive residence.

(4) FOUNDATION. The board may organize or cooperate in the organization of a private foundation to be operated for the purposes specified in sub. (2) (e).

History: 1979 c. 34, 221; 1993 a. 477, 491.

16.835 Offices and rooms in capitol. The office of the governor shall be located in the capitol. The attorney general, lieutenant governor and supreme court shall each keep a room in the capitol. The circular room on the 2nd floor of the capitol located between the assembly and senate chambers shall be made available for the use of the capitol press corps.

History: 1977 c. 3, 447; 1983 a. 27; 1989 a. 31; 1997 a. 237.

16.838 Historically significant furnishings. (1) DEFINITIONS. In this section:

(a) "Agency" has the meaning given in s. 16.045 (1) (a).

(b) "Authority" means a body created under ch. 231, 232, 233, 234, 235, or 237.

(c) "Historically significant furnishings" means furniture, fixtures, decorative objects or other items that are or were associated with the current or any prior state capitol and that possess historical significance.

(2) TITLE. Title to historically significant furnishings in the possession of any agency or authority, including the senate and assembly, is vested in the department.

(3) ACQUISITION. The department may acquire any historically significant furnishing by purchase or gift. The department shall pay for any such furnishing from the appropriation under s. 20.855 (3) (c).

(4) TRANSFER OF POSSESSION. The department shall take possession of historically significant furnishings to which the department has title whenever the department is directed to do so by the joint committee on legislative organization. If a ceding agency or authority requires a replacement for a furnishing that is transferred to the department's possession, the department shall pay for a suitable replacement from the appropriation under s. 20.855 (3) (c).

(5) RESTORATION. The department shall restore any historically significant furnishing in its possession prior to relocation of the furnishing to the capitol if the joint committee on legislative organization so directs. The department shall pay the cost of such restoration from the appropriation under s. 20.855 (3) (c).

(6) LOCATION. The department shall locate historically significant furnishings in its possession at the places in the capitol specified by the joint committee on legislative organization.

History: 1999 a. 4; 2001 a. 16.

16.84 Real estate and physical plant management; protection of persons. The department shall:

(1) Have charge of, operate, maintain and keep in repair the state capitol building, the executive residence, the light, heat and power plant, the state office buildings and their power plants, the grounds connected therewith, and such other state properties as are designated by law. All costs of such operation and maintenance shall be paid from the appropriations under s. 20.505 (5) (ka) and (kb), except for debt service costs paid under s. 20.866 (1) (u). The department shall transfer moneys from the appropriation under s. 20.505 (5) (ka) to the appropriation account under s. 20.505 (5) (kc) sufficient to make principal and interest payments on state facilities and payments to the United States under s. 13.488 (1) (m).

(2) Appoint such number of police officers as is necessary to safeguard all public property placed by law in the department's charge, and provide, by agreement with any other state agency, police and security services at buildings and facilities owned, controlled or occupied by the other state agency. The governor or the department may, to the extent it is necessary, authorize police officers employed by the department to safeguard state officers, state employees or other persons. A police officer who is employed by the department and who is performing duties that are within the scope of his or her employment as a police officer has the powers of a peace officer under s. 59.24, except that the officer has the arrest powers of a law enforcement officer under s. 968.07 regardless of whether the violation is punishable by forfeiture or criminal penalty. The officer may exercise the powers of a peace officer and the arrest powers of a law enforcement officer while located anywhere within this state. Nothing in this subsection limits or impairs the duty of the chief and each police officer of the police force of the municipality in which the property is located to arrest and take before the proper court or magistrate persons found in a state of intoxication or engaged in any disturbance of the peace or violating any state law in the municipality in which the property is located, as required by s. 62.09 (13).

(3) Contract for protection relating to ch. 565, if so requested.

(5) Have responsibility, subject to approval of the governor, for all functions relating to the leasing, acquisition, allocation and utilization of all real property by the state, except where such responsibility is otherwise provided by the statutes. In this connection, the department shall, with the governor's approval, require physical consolidation of office space utilized by any executive branch agency having fewer than 50 authorized full−time equivalent positions with office space utilized by another executive branch agency, whenever feasible. The department shall lease or acquire office space for legislative offices or legislative service agencies at the direction of the joint committee on legislative organization. In this subsection, "executive branch agency" has the meaning given in s. 16.70 (4).

(6) Require of the several agencies of state government all information necessary for the planning and forecasting of the space needs of state government on a comprehensive long−range basis. To this end the department shall cooperate with the building commission in order that the projected program of new construction will conform with the state's long−range building plans.

(7) Approve administrative district boundaries of the several state agencies unifying them where possible in order to facilitate the acquisition and maintenance of suitable district headquarters in the several parts of the state.

(8) Let concessions for periods not exceeding 2 years in the capitol and state office buildings, under such terms and conditions as will in its judgment be most favorable to the state, and in accordance with s. 47.03 (4), (5), (7) and (11).

(9) Prepare a Wisconsin state capitol guide book containing information regarding the state capitol and grounds, to be sold as near cost as practicable.

(10) Approve the design, structure, composition, location and arrangements made for the care and maintenance of all public

monuments, memorials, or works of art which shall be constructed by or become the property of the state by purchase wholly or in part from state funds, or by gift or otherwise. "Work of art" means any painting, portrait, mural decoration, stained glass, statue, bas−relief, ornament, tablets, fountain or any other article or structure of a permanent character intended for decoration or commemoration. This subsection does not apply to public monuments, memorials or works of art which are or will become property of the University of Wisconsin System or the historical society.

(12) Provide for the establishment of procedures for the operation of the department's facility operations and maintenance appropriation under s. 20.505 (5) (ka) so that:

(a) There is a uniform revenue billing and expenditure allocation process for all state buildings whose operation and maintenance costs are financed from this appropriation;

(b) Expenditure projections are made at a uniform time for all buildings in setting revenue billing rates; and

(c) Whenever revenue billing rates need to be adjusted, the changes are made on a uniform basis for all buildings.

(13) Establish bicycle storage racks adjacent to the capitol and all state office buildings.

(14) Provide interagency mail delivery service for agencies, as defined in s. 16.70 (1e). The department may charge agencies for this service. Any moneys collected shall be credited to the appropriation account under s. 20.505 (1) (kb).

History: 1971 c. 183; 1975 c. 41 s. 52; 1977 c. 418; 1979 c. 34, 221; 1981 c. 314; 1983 a. 36 s. 96 (4); 1983 a. 435 s. 7; 1983 a. 524; 1985 a. 135 s. 83 (5); 1987 a. 27; 1989 a. 31; 1991 a. 39, 269; 1995 a. 27, 174; 2001 a. 16; 2003 a. 33.

Cross Reference: See also ch. Adm 2, Wis. adm. code.

16.841 Madison child care facilities and services. (1) In this section:

(a) "Agency" has the meaning given in s. 16.70 (1e).

(b) "Child care provider" means a provider licensed under s. 48.65, certified under s. 48.651 or established or contracted for under s. 120.13 (14).

(2) The department shall contract with one or more child care providers to supplement the cost of providing suitable space for child care services to be offered to the children of employees of agencies whose work stations are located in an area designated by the department comprising the central portion of the city of Madison.

(3) The department may lease space or provide space in any state−owned or state−leased building to be used by a child care provider under a contract specified in sub. (2) or may contribute to space costs incurred by a child care provider under such a contract for the purpose of providing child care services to children specified in sub. (2). Prior to leasing space or providing space to a child care provider in any state−owned facility that is not constructed specially for the use of a particular agency, the department shall obtain concurrence of the building commission under s. 13.48 (2) (b) 4.

(4) The department shall assess the costs of providing child care facilities to agencies whose employees are eligible to place their children in a facility operated by a child care provider who contracts with the department under sub. (2). The assessment shall be made on an equitable basis as determined by the department. The department shall deposit assessment receipts in the appropriation account under s. 20.505 (5) (ka).

(5) The department may permit children, other than children of employees specified in sub. (2), to receive child care services at a child care facility established under sub. (3) if all children who are eligible to receive services under sub. (2) are first provided an opportunity for services.

History: 1991 a. 39, 315; 1995 a. 289; 2003 a. 33.

16.842 State capitol view preservation. (1) Except as authorized under this section, no portion of any building or structure located within one mile of the center of the state capitol building may exceed the elevation of 1,032.8 feet above sea level as established by the U.S. coast and geodetic survey.

(2) This section does not apply to any building or structure erected prior to April 28, 1990.

(3) The city of Madison may grant exceptions to the application of sub. (1) for flagpoles, communications towers, church spires, elevator penthouses, screened air conditioning equipment or chimneys, subject to approval of any plan commission created under s. 62.23 (1).

History: 1989 a. 222.

16.843 Capitol and state office buildings parking regulations. (1) (a) Except as provided in par. (b), the parking of motor vehicles at the curb on the capitol park side of the 4 streets surrounding the state capitol park shall be subject to any police regulation that may be enacted by the city of Madison designating the manner of such parking or limiting the length of time which motor vehicles may be so parked in such public streets in the city.

(b) Eight areas, for the parking of motor vehicles at the curb on the capitol park side of the 4 streets surrounding the state capitol park, each area as near as lawfully permissible to each near side of the intersections of the streets with the driveways leading to the capitol building, are reserved for the parking of motor vehicles by those persons designated in sub. (3) and only emergency police regulations or city ordinances of the city of Madison are applicable to such areas. The number of motor vehicles to be parked in each area shall be designated in a parking plan approved by the joint committee on legislative organization. The department of administration shall mark and post the areas and number the parking spaces therein. Parking of motor vehicles in these areas is permitted only by persons whose motor vehicles are identified as specified in sub. (4), and the parking therein of any other vehicle is prohibited and any violation of this prohibition shall be punished as in sub. (2).

(2) (a) Except as authorized in sub. (3), the parking of any motor vehicle in any of the 4 driveways of the capitol park leading to the capitol building is prohibited. Parking of any motor vehicle on the grounds of any of the state office buildings shall be in accordance with rules and orders established by the department.

(b) The department shall establish a schedule of fees for parking during the state office hours specified in s. 230.35 (4) (f) at every state−owned office building for which the department has managing authority and which is located in a municipality served by an urban mass transit system for which state operating assistance is provided under s. 85.20, if the mass transit system serves a street which passes within 500 feet of the building. In addition, the department shall establish a schedule of fees for parking located in the city of Madison. The department may establish a schedule of fees for parking during other hours at any state−owned office building located in a municipality served by an urban mass transit system for which state operating assistance is provided under s. 85.20. In addition, the department may establish a schedule of fees for parking at other state facilities located in such a municipality.

(bm) Fees established under this subsection for parking at every facility, except the parking specified in par. (cm), shall be established so that the total amount collected equals the total costs of:

1. Administration of the parking program;

2. Promotion of alternate transportation programs under s. 16.82 (5); and

3. Parking facility maintenance and operation.

(c) Notwithstanding par. (bm), except as provided in s. 13.488 (1) (L), fees need not be imposed by the department for parking in a facility at any state−owned office building in a fiscal year, except the parking specified in par. (cm), if the department determines that, for any fiscal year:

1. Operating expenditures, including administration, collection and maintenance costs, necessitated solely by the imple-

mentation of paid parking at the facility in the preceding fiscal year exceeded gross parking revenues for that year; or

2. Estimated operating expenditures, including administration, collection and maintenance costs, necessitated solely by the implementation of paid parking at the facility will exceed the estimated gross parking revenues for that year.

(cm) Fees established under this subsection for parking located in the city of Madison shall be set so that all costs of land acquisition and construction, financing, administration, maintenance and operation are recovered from fee revenue. The department shall review and establish fees under this paragraph on an annual basis such that the costs of administration, maintenance and operation are fully recovered on an annual basis and the costs of land acquisition, construction and financing are fully recovered at the earliest possible time.

(d) Any person violating this subsection or any rule or order adopted pursuant thereto may be required to forfeit not less than $5 nor more than $25.

(3) The following persons or their designees may park motor vehicles identified as provided by sub. (4) in assigned parking stalls and spaces in the parking areas designated in subs. (1) (b) and (2):

(a) Legislators and constitutional officers.

(b) Officers of the senate and assembly.

(c) Such state officers and employees as the governor directs, not to exceed 15.

(4) To facilitate the administration of sub. (3), the state protective service shall procure numbered identification tags which correspond with the numbered parking stalls and spaces, and shall issue such tags to applicants eligible under sub. (3) in accordance with the parking plan approved by the joint committee on legislative organization under sub. (1).

(5) Notwithstanding the limited allocation of parking areas for state purposes under sub. (1), the enforcement of parking regulations on the capitol park side of the 4 streets surrounding the state capitol park is vested exclusively in the designated employees of the state protective service.

History: 1975 c. 41, 267, 422; Stats. 1975 s. 16.843; 1979 c. 34, 221; 1981 c. 20; 1983 a. 174; 1985 a. 29; 1991 a. 269.

Cross Reference: See also ch. Adm 1, Wis. adm. code.

16.844 Burning bituminous coal near capitol. (1) It shall be unlawful to burn any bituminous coal for heating, power or any other purpose or purposes within any of the following blocks surrounding the capitol park in the city of Madison: Blocks 64, 65, 66, 67, 68, 71, 72, 73, 74, 75, 76, 77, 82, 83, 84, 85, 88, 89, 90, 91, 98, 99, 100, 101, 102, 103, 104, 105, 107, 108, 109 and 110 or in the streets or alleys adjoining said blocks, except in smoke preventing furnaces of such an efficiency that no smoke shall be visible emitting from the top or outlet of the stack or chimney.

(2) Any person who shall cause, allow, or permit bituminous coal to be burned in violation of this section shall forfeit the sum of $25 for each day or part thereof during which such violation continues.

(3) The secretary of administration, with the assistance of the department of justice, shall institute proper proceedings to collect fines for and restrain violations of this section.

(4) The limitations contained in this section are imposed for the protection of the state capitol and its contents.

History: 1975 c. 41 s. 51; 1989 a. 222 s. 3; Stats. 1989 s. 16.844.

16.845 Use of state facilities. (1) RULE; PENALTY. Except as elsewhere expressly prohibited, the managing authority of any facility owned by the state or by the University of Wisconsin Hospitals and Clinics Authority or leased from the state by the Fox River Navigational System Authority may permit its use for free discussion of public questions, or for civic, social, recreational or athletic activities. No such use shall be permitted if it would unduly burden the managing authority or interfere with the prime use of such facility. The applicant for use shall be liable to the state, to the Fox River Navigational System Authority, or to the University of Wisconsin Hospitals and Clinics Authority for any injury done to its property, for any expense arising out of any such use and for such sum as the managing authority may charge for such use. All such sums payable to the state shall be paid into the general fund and credited to the appropriation account for the operation of the facility used. The managing authority may permit such use notwithstanding the fact that a reasonable admission fee may be charged to the public. Whoever does or attempts to do an act for which a permit is required under this section without first obtaining the permit may be fined not more than $100 or imprisoned not more than 30 days or both. This subsection applies only to those facilities for which a procedure for obtaining a permit has been established by the managing authority.

(2) DEFINITIONS. In this section:

(a) "Facility" includes buildings and surrounding and connecting grounds.

(b) "Managing authority" means the board, commission, department or officer responsible by law for the management of the particular facility.

History: 1971 c. 183; 1995 a. 27; 2001 a. 16.

A group of churches is entitled to a permit under this section to use the capitol grounds for a civic or social activity even if the content of program is partly religious in nature. 68 Atty. Gen. 217.

16.846 Rules relating to use, care and preservation of property under department control. (1) (a) The department shall promulgate under ch. 227, and shall enforce or have enforced, rules of conduct for property leased or managed by the department. Unless the rule specifies a penalty as provided under par. (b), a person found guilty of violating a rule promulgated under this subsection shall be fined not more than $100 or imprisoned for not more than 30 days or both.

(b) A rule promulgated under par. (a) may provide that a person who violates the rule is subject to one of the following:

1. A lesser criminal penalty than the criminal penalty specified in par. (a).

2. A forfeiture of not more than $500.

(2) A forfeiture under sub. (1) (b) 2. may be sued for and collected in the name of the department before any court having jurisdiction of such action. An action for a forfeiture under sub. (1) (b) 2. may be brought by the department, by the department of justice at the request of the department, or by a district attorney.

(3) All fines imposed and collected under this section shall be transmitted to the county treasurer for disposition in accordance with s. 59.25 (3) (f) and (j). All forfeitures, including forfeitures of posted bail, if any, imposed and collected under this section shall be transmitted to the county treasurer for disposition in accordance with ss. 778.13 and 778.17.

History: 1995 a. 174; 1997 a. 35.

Cross Reference: See also s. Adm 2.14, Wis. adm. code.

16.847 Energy efficiency program. (1) DEFINITIONS. In this section:

(b) "State facilities" means all property owned and operated by the state for the purpose of carrying out usual state functions, including each institution within the University of Wisconsin System.

(c) "Utility expenses" means expenses incurred to provide heating, cooling and electricity to a state facility.

(8) REPAYMENT AGREEMENTS. The department may annually transfer repayments under agreements to obtain loans from the energy efficiency fund under s. 16.847 (6), 1999 stats., from the appropriations specified in the agreements to the general fund. The amount of each annual repayment shall equal the amount of annual savings in utility expenses realized as a result of the energy efficiency project that was funded by a loan. The department shall determine the amount of annual savings in utility expenses realized as a result of an energy efficiency project.

History: 1991 a. 269; 1993 a. 16, 414; 1995 a. 27; 1997 a. 237; 2001 a. 16, 104.

SUBCHAPTER V

ENGINEERING

16.85 Department of administration; powers, duties. The department of administration shall exercise the powers and duties prescribed by ss. 16.85 to 16.91:

(1) To take charge of and supervise all engineering or architectural services or construction work as defined in s. 16.87 performed by, or for, the state, or any department, board, institution, commission or officer thereof, including nonprofit−sharing corporations organized for the purpose of assisting the state in the construction and acquisition of new buildings or improvements and additions to existing buildings as contemplated under ss. 13.488, 36.09 and 36.11, except the engineering, architectural and construction work of the department of transportation, the engineering service performed by the department of commerce, department of revenue, public service commission, department of health and family services and other departments, boards and commissions when the service is not related to the maintenance, and construction and planning of the physical properties of the state. The department shall not authorize construction work for any state office facility in the city of Madison after May 11, 1990, unless the department first provides suitable space for a day care center primarily for use by children of state employees.

(2) To furnish engineering, architectural, project management and other building construction services whenever requisitions therefor are presented to the department by any agency. The department may deposit moneys received from the provision of these services in the account under s. 20.505 (1) (kc) or in the general fund as general purpose revenue — earned. In this subsection, "agency" means an office, department, independent agency, institution of higher education, association, society or other body in state government created or authorized to be created by the constitution or any law, which is entitled to expend moneys appropriated by law, including the legislature and the courts, but not including an authority created in ch. 231, 233, 234, or 237.

(3) To act and assist any department, board, commission or officer requesting such cooperation and assistance, in letting contracts for engineering or architectural work authorized by law and in supervising the work done thereunder;

(4) To approve the appointment of a chief operating engineer for each state−owned or operated heating, cooling or power plant and pumping station, to provide for the methods of operating the plants and stations and to design records and forms for reporting accurately the cost per unit of product or service. The superintendent or other person having charge of each plant or station shall not only report to the agency which operates the plant or station but to the secretary in the manner and at such times as the secretary determines. In this subsection, "agency" has the meaning given under sub. (2).

(5) To promote the use of energy conservation methods in state−owned facilities, to implement and refine a statewide energy monitoring system and to develop and implement initiatives of replacing fossil fuels with renewable energy fuels.

(6) To approve the appointment of a principal engineer or architect for departments, boards and commissions and when such continuous service is needed. No such engineer or architect shall be employed without the written approval of the secretary.

(7) To rebuild and repair discarded machinery of the several state institutions when found feasible, and put the same back into service in the same department or in any other state department, and upon requisition to furnish services and material and loan equipment at fair rentals based on the cost thereof, in connection with the construction, operation and maintenance of heating and power plants, utilities and equipment.

(8) The secretary or the secretary's designated assistants shall make a biennial inspection of each building of each institution of the state. The secretary may delegate this responsibility to the board, commission or officer in charge of such institution.

(10) To prepare in cooperation with the state agencies concerned, plans for the future growth and development of various state institutions and to serve as technical adviser to the building commission in connection with the development of the state long−range building program provided in ss. 13.48 and 13.482.

(11) The secretary may delegate any of the work under this subchapter to the various state agencies when the secretary determines that the best interests of the state will be served. All such delegation will be in writing and accompanied by the proper rules and guidelines the agencies must follow to ensure performance to the satisfaction of the secretary.

(12) To review and approve plans and specifications for any building or structure that is constructed for the benefit of the University of Wisconsin System or any institution thereof, and to periodically review the progress of any such building or structure during construction to assure compliance with the approved plans and specifications.

(13) To assist, upon request, any local exposition district under subch. II of ch. 229 in the preparation of the statement required under s. 229.46 (5) (a) or the specifications required under s. 229.46 (5) (b).

(14) To review and approve the design and specifications of any construction or improvement project of the University of Wisconsin Hospitals and Clinics Authority on state−owned land, to approve the decision to construct any such construction or improvement project and to periodically review the progress of the project during construction to assure compliance with the approved design and specifications. This subsection does not apply to any construction or improvement project of the authority that costs less than the amount that is required to be specified in the lease agreement between the authority and the board of regents of the University of Wisconsin System under s. 233.04 (7) (d).

(15) Provide or contract for the provision of professional engineering, architectural, project management and other building construction services on behalf of school districts for the installation or maintenance of electrical and computer network wiring. The department shall assess fees for services provided under this subsection and shall credit all revenues received to the appropriation account under s. 20.505 (1) (im).

(16) To review and approve the design and specifications of any rehabilitation or repair project of the Fox River Navigational System Authority on state−owned land, to approve the decision to proceed with the project, and to periodically review the progress of the project during construction to assure compliance with the approved design and specifications.

History: 1971 c. 42; 1973 c. 90; 1973 c. 335 s. 13; 1977 c. 29 s. 1654 (8) (c); 1979 c. 221; 1983 a. 36 s. 96 (4); 1985 a. 29; 1987 a. 142, 399; 1989 a. 31, 336; 1991 a. 39, 269, 316; 1993 a. 263; 1995 a. 27 ss. 398 to 400, 9116 (5), 9126 (19), 9130 (4); 1997 a. 27; 1999 a. 197; 2001 a. 16.

Cross Reference: See also ch. Adm 20, Wis. adm. code.

16.851 Plans for state buildings, structures or facilities. Except as the department otherwise provides by rule, records of the department containing plans or specifications for any state−owned or state−leased building, structure or facility, or any proposed state−owned or state−leased building, structure or facility, are not subject to the right of public inspection or copying under s. 19.35 (1). If the department transfers any records containing any such plans or specifications to any other authority as defined in s. 19.32 (1), the department shall require the authority to agree in writing not to make the record available for public inspection or copying except as the department otherwise permits by rule.

History: 1995 a. 27.

16.854 Services provided to professional baseball park districts. (1) In this section:

(a) "Minority business" has the meaning given in s. 560.036 (1) (e).

(b) "Minority group member" has the meaning given in s. 560.036 (1) (f).

(c) "Women's business" means a sole proprietorship, partnership, joint venture or corporation that is at least 51% owned, controlled and actively managed by women.

(2) Subject to the requirements of s. 16.82 (7), the department may, upon request of any local professional baseball park district, if the district has entered into a lease agreement with the department under s. 16.82 (7), take charge of and supervise engineering or architectural services or construction work, as defined in s. 16.87, performed by, or for, the district for compensation to be agreed upon between the department and the district. In connection with such services or work, the department may furnish engineering, architectural, project management and other building construction services whenever requisitions therefor are presented to the department by the district. If the district has entered into a lease agreement with the department under s. 16.82 (7), the department may also assist the district, upon request of the district, in letting contracts for engineering, architectural or construction work authorized by law and in supervising the work done thereunder. The department may award any such contract for any combination or division of work it designates and may consider any factors in awarding a contract including price, time for completion of work and the qualifications and past performance of a contractor. In awarding contracts under this section for the construction of baseball park facilities, as defined in s. 229.65 (1), the department shall ensure that any person who is awarded a contract agrees, as a condition to receiving the contract, that his or her goal shall be to ensure that at least 25% of the employees hired because of the contract will be minority group members and at least 5% of the employees hired because of the contract will be women. It shall also be a goal of the department to ensure that at least 25% of the aggregate dollar value of contracts awarded for the construction of such facilities in the following areas are awarded to minority businesses and at least 5% of the aggregate dollar value of contracts awarded for the construction of such facilities in the following areas are awarded to women's businesses:

(a) Contracts for the construction of baseball park facilities.

(b) Contracts for professional services related to the construction of baseball park facilities.

(c) Contracts for the development of baseball park facilities.

(3) It shall be a goal of the department, with regard to each of the contracts described under sub. (2) (a), (b) and (c), to award at least 25% of the dollar value of such contracts to minority businesses and at least 5% of the dollar value of such contracts to women's businesses. Sections 16.85, 16.855 and 16.87 do not apply to services provided or contracted by the department under this section.

History: 1995 a. 56.

16.855 Construction project contracts. (1) The department shall let by contract to the lowest qualified responsible bidder all construction work when the estimated construction cost of the project exceeds $30,000, except for construction work authorized under s. 16.858 and except as provided in sub. (10m) or s. 13.48 (19). If a bidder is not a Wisconsin firm and the department determines that the state, foreign nation or subdivision thereof in which the bidder is domiciled grants a preference to bidders domiciled in that state, nation or subdivision in making governmental purchases, the department shall give a preference over that bidder to Wisconsin firms, if any, when awarding the contract, in the absence of compelling reasons to the contrary. The department may enter into agreements with states, foreign nations and subdivisions thereof for the purpose of implementing this subsection.

(2) Except for projects authorized under s. 16.858, whenever the estimated construction cost of a project exceeds $30,000, or if less and in the best interest of the state, the department shall:

(a) Advertise for proposals by publication of a class 1 notice, under ch. 985, in the official state newspaper. Similar notices may be placed in publications likely to inform potential bidders of the project. The department may solicit bids from qualified contractors to insure adequate competition. All advertisements shall contain the following information:

1. Location of work and the name of the owner.
2. Scope of the work.
3. Amount of bid guarantee required.
4. Date, time and place of bid opening.
5. Date, and place where plans will be available.

(b) 1. Require that a guarantee of not less than 10% of the amount of the bid shall be included with each bid submitted guaranteeing the execution of the contract within 10 days of offering, if offered within 30 days after the date set for the opening thereof. The parties may agree to extend the time for offering of the contract beyond 30 days after the opening of bids.

2. If the federal government participates in a state project, the bid guarantee required in this paragraph controls, unless the federal government makes a specific provision for a different bid guarantee.

(c) Publicly open and read aloud, at the time and place specified in the notice, all bids. Within a reasonable time after opening, tabulations of all bids received shall be available for public inspection.

(d) Not allow or make any correction or alteration of a bid, except as provided in sub. (6).

(3) At any time prior to the published time of opening, a bid may be withdrawn on written request submitted to the department by the bidder or the bidder's agent, without prejudice to the right of the bidder to file a new bid.

(4) If a bid contains an error, omission or mistake, the bidder may limit liability to the amount of the bidder's bid guarantee by giving written notice of intent not to execute the contract to the department within 72 hours of the bid opening. The department of administration, with the approval of the attorney general, may settle and dispose of cases and issues arising under this subsection. However, if no such settlement is obtained, the bidder is not entitled to recover the bid guarantee unless the bidder proves in the circuit court for Dane County that in making the mistake, error or omission the bidder was free from negligence.

(5) Any or all bids may be rejected if, in the opinion of the department, it is in the best interest of the state. The reasons for rejection shall be given to the bidder or bidders in writing.

(6) Nothing contained in this section shall prevent the department from negotiating deductive changes in the lowest qualified bid.

(7) The department may issue contract change orders, if they are deemed to be in the best interests of the state.

(9) The department may require bidders to submit sworn statements as to financial ability, equipment and experience in construction and require such other information as may be necessary to determine their competency.

(10) When the department believes that it is in the best interests of the state to contract for certain articles or materials available from only one source, it may contract for said articles or materials without the usual statutory procedure, after a publication of a class 1 notice, under ch. 985, in the official state newspaper.

(10m) (a) In awarding construction contracts the department shall attempt to ensure that 5% of the total amount expended in each fiscal year is awarded to contractors and subcontractors which are minority businesses, as defined under s. 16.75 (3m) (a). The department may award any contract to a minority business that submits a qualified responsible bid that is no more than 5% higher than the apparent low bid.

(b) Upon completion of any contract, the contractor shall report to the department any amount of the contract that was subcontracted to minority businesses.

(c) The department shall maintain and annually publish data on contracts awarded to minority businesses under this subsection and ss. 16.87 and 84.075.

(10n) (a) In this subsection, "minority group member" has the meaning given in s. 560.036 (1) (f).

(b) The department shall enter into a memorandum of understanding with the state fair park board which shall specify procedures for construction work and professional services contracts to be performed for the state fair park board under which any person who is awarded such a contract shall agree, as a condition to receiving the contract, that his or her goal shall be to ensure that at least 25% of the employees hired because of the contract will be minority group members and at least 5% of the employees hired because of the contract will be women.

(10p) For each proposed construction project, the department shall ensure that the specifications require the use of recovered materials and recycled materials, as defined under s. 16.70 (11) and (12), to the extent that such use is technically and economically feasible.

(11) A contractor shall be liable for any damages to another contractor working on the same project caused by reason of the former's default, act or nonperformance.

(12) Nothing contained in this section shall be construed so as to make contracts let under this section subject to s. 66.0901.

(13) (a) A list of subcontractors shall not be required to be submitted with the bid. The department may require the prime contractor to submit in writing the names of prospective subcontractors for the department's approval before the award of a contract to the prime contractor.

(b) All subcontractors must be approved in writing by the department prior to their employment. Requests for approval of prospective subcontractors shall be in writing.

(c) Changes may be made in the list of subcontractors, with the agreement of the department and the prime contractor, when in the opinion of the department it is in the best interests of the state to require the change.

(14) (a) If the estimated construction cost of a project exceeds $100,000 and bids are required to be solicited under sub. (2), the department shall take both single bids and separate bids on any division of the work that it designates. If the estimated construction cost of a project does not exceed $100,000 and bids are required to be solicited under sub. (2), the department may take single bids or separate bids on any division of the work that it designates. If the department awards contracts by the division of work, the department shall award the contracts according to the division of work selected for bidding. Except as provided in sub. (10m) (a), the department shall award all contracts to the lowest qualified responsible bidder or bidders that result in the lowest total construction cost for the project.

(b) The state is not liable to a prime contractor for damage from delay caused by another prime contractor if the department takes reasonable action to require the delaying prime contractor to comply with its contract. If the state is not liable under this paragraph, the delayed prime contractor may bring an action for damages against the delaying prime contractor.

(15) The department shall promulgate rules to implement the advertising and award of contracts.

(16) (a) This section does not apply to contracts between the state and federal government or any agency thereof, or with any political subdivision of the state. Subject to the approval of the governor, the requirements of this section may be waived in emergency situations involving the public health, welfare or safety or with respect to contracting with public utilities, but only when any such waiver is deemed by the governor to be in the best interests of the state.

(b) 1. In this paragraph, "agency" has the meaning given in s. 16.70 (1e).

2. In emergency situations, the governor may approve repairs and construction in lieu of building commission approval under s. 13.48 (10), and for such purposes, may authorize the expenditure of up to $250,000 from the state building trust fund or from other available moneys appropriated to an agency derived from any revenue source. The governor shall report any such authorization to the building commission at its next regular meeting following the authorization.

(17) This section does not apply to any project on which the work is to be performed by inmates or patients in institutions under the jurisdiction of the department of corrections or the department of health and family services working under the supervision or with the assistance of state employees.

(18) This section shall not apply to restoration or reconstruction of the state capitol building, historic structures at the old world Wisconsin site and at Heritage Hill state park when the department determines that a waiver of this section would serve the best interests of this state.

(19) As the work progresses under any contract for construction the department, from time to time, shall grant to the contractor an estimate of the amount and proportionate value of the work done, which shall entitle the contractor to receive the amount thereof, less the retainage, from the proper fund. On all construction projects, the retainage shall be an amount equal to 10% of said estimate until 50% of the work has been completed. At 50% completion, no additional amounts shall be retained, and partial payments shall be made in full to the contractor unless the architect or engineer certifies that the job is not proceeding satisfactorily. At 50% completion or any time thereafter when the progress of the work is not satisfactory, additional amounts may be retained but in no event shall the total retainage be more than 10% of the value of the work completed. Upon substantial completion of the work, an amount retained may be paid to the contractor. For the purposes of this section, estimates may include any fabricated or manufactured materials and components specified, previously paid for by contractor and delivered to the work or properly stored and suitable for incorporation in the work embraced in the contract. This subsection does not apply to contracts awarded under s. 16.858.

(20) This section does not apply to construction work performed by University of Wisconsin System students when the construction work performed is a part of a curriculum and where the work is course−related for the student involved. Prior approval of the building commission must be obtained for all construction projects to be performed by University of Wisconsin System students.

(21) This section does not apply to contracts by the department of natural resources for construction work related to hazardous substance spill response under s. 292.11 or environmental repair under s. 292.31.

(22) The provisions of this section, except sub. (10m), do not apply to construction work for any project the estimated construction cost of which does not exceed $100,000 if the project is constructed in accordance with policies and procedures prescribed by the building commission under s. 13.48 (29). If the estimated construction cost of any project is at least $30,000, and the building commission elects to utilize the procedures prescribed under s. 13.48 (29) to construct the project, the department shall provide adequate public notice of the project and the procedures to be utilized to construct the project on a publicly accessible computer site.

History: 1971 c. 125; 1973 c. 47; 1975 c. 39, 199, 390; 1977 c. 418; 1979 c. 34; 1981 c. 20; 1983 a. 27 ss. 104g to 105, 2202 (1); 1983 a. 390 s. 6; 1985 a. 29; 1985 a. 332 s. 251 (1); 1987 a. 27, 292; 1989 a. 31; 1991 a. 39, 316; 1995 a. 27 ss. 400p, 9126 (19); 1995 a. 227; 1997 a. 27, 306; 1999 a. 150 s. 672; 1999 a. 197; 2001 a. 103; 2003 a. 33.

Cross Reference: See also ch. Adm 21, Wis. adm. code.

Under subs. (2) (a) 2. and (14), the department has authority to create a division of work not limited to traditional trade practices, which may include work divisions other than the four enumerated in the statute if the new division involves a specialized area of construction, e.g., elevator work that is commonly designated a division,

although it involves the electrical trade. Breiby v. Dept. of Administration, 55 Wis. 2d 16, 197 N.W.2d 737 (1972).

A bid proposal asking for the name of a subcontractor is contrary to sub. (13) (a), and the request is invalid. 61 Atty. Gen. 224.

The preference for Wisconsin businesses under ss. 16.75 (1) (a) and 16.855 (1) operates only in case of a tie bid. 74 Atty. Gen. 47.

16.858 Energy conservation audits and construction projects. (1) The department may contract with a qualified contractor for an energy conservation audit to be performed at any state−owned building, structure or facility. Under the contract, the contractor shall prepare a report containing a description of the physical modifications to be performed to the building, structure or facility that are required to effect specific future energy savings within a specified period and a determination of the minimum savings in energy usage that will be realized by the state from making these modifications within that period. After review of the audit report and subject to approval under s. 13.48 (10), where required, the department may contract with the contractor for construction work to be performed at the building, structure or facility for the purpose of realizing potential savings of future energy costs identified in the audit if, in the judgment of the department, the anticipated savings to the state after completion of the work will enable recovery of the costs of the work within a reasonable period of time.

(2) (a) A contract under sub. (1) may provide for the construction work to be financed by the state or by the contractor. The contract shall provide for the state to pay a stated amount, which shall include any financing costs incurred by the contractor. The stated amount may not exceed the minimum savings determined under the audit to be realized by the state within the period specified in the audit. The state shall make payments under the contract as the savings identified in the audit are realized by the state, in the amounts actually realized, but not to exceed the lesser of the stated amount or the actual amount of the savings realized by the state within the period specified in the audit. If the department provides financing for construction work, the department may finance any portion of the cost of the work under a master lease entered into as provided under s. 16.76 (4). If the department provides financing for the construction work and the stated amount to be paid by the state under the contract is greater than the amount of the savings realized by the state within the period specified in the audit under sub. (1), the contract shall require the contractor to remit the difference to the department.

(b) The department shall charge the cost of payments made by the state to the contractor to the applicable appropriation for fuel and utility costs at the building, structure or facility where the work is performed in the amounts equivalent to the savings that accrue to the state under that appropriation from expenditures not made as a result of the construction work, as determined by the department in accordance with the contract. The department may also charge its costs for negotiation, administration and financing of the contract to the same appropriation.

(3) Any contract under sub. (1) shall include a provision stating in substance that payments under the contract are contingent upon available appropriations.

(4) No later than January 1 of each year, the secretary shall report to the cochairpersons of the joint committee on finance identifying any construction work for which the department has contracted under this section for which final payment has not been made as of the date of the preceding report, together with the actual energy cost savings realized by the state as a result of the contract to date, or the estimated energy cost savings to be realized by the state if the total savings to be realized in the audit under sub. (1) have not yet been realized, the date on which the state made its final payment under the contract or, if the final payment has not been made, the latest date on which the state is obligated to make its final payment under the contract, and any amount that remains payable to the state under the contract.

History: 1997 a. 27; 1999 a. 9.

16.865 Department of administration; statewide risk management coordination. The department shall:

(1) Be responsible for statewide risk management coordination in order to:

(a) Protect the state from losses which are catastrophic in nature and minimize total cost to the state of all activities related to the control of accidental loss.

(b) Place emphasis on the reduction of loss through professional attention to scientific loss control techniques and by motivational incentives, prompt claims payments and other loss prevention measures.

(2) Identify and evaluate exposure to loss to the state, its employees or injury to the public by reason of fire or other accidents and fortuitous events at state−owned properties or facilities.

(3) Recommend changes in procedures, program conditions or capital improvement for all agencies which would satisfactorily eliminate or reduce the existing exposure.

(4) Manage the state employees' worker's compensation program and the statewide self−funded programs to protect the state from losses of and damage to state property and liability.

(5) Arrange appropriate insurance contracts for the transfer of risk of loss on the part of the state or its employees, to the extent such loss cannot reasonably be assumed by the individual agencies or the self−funded programs. The placement of insurance may be by private negotiation rather than competitive bid, if such insurance has a restricted number of interested carriers. The department shall approve all insurance purchases.

(6) Train, upgrade and guide appropriate personnel in the agencies in implementation of sound risk management practices.

(7) Have the authority to contract for investigative and adjustment services as provided in s. 20.865 (1) (fm) which can be performed more economically or efficiently by such contract.

(8) Annually in each fiscal year, allocate as a charge to each agency a proportionate share of the estimated costs attributable to programs administered by the agency to be paid from the appropriation under s. 20.505 (2) (k). The department may charge premiums to agencies to finance costs under this subsection and pay the costs from the appropriation on an actual basis. The department shall deposit all collections under this subsection in the appropriation account under s. 20.505 (2) (k). Costs assessed under this subsection may include judgments, investigative and adjustment fees, data processing and staff support costs, program administration costs, litigation costs and the cost of insurance contracts under sub. (5). In this subsection, "agency" means an office, department, independent agency, institution of higher education, association, society or other body in state government created or authorized to be created by the constitution or any law, which is entitled to expend moneys appropriated by law, including the legislature and the courts, but not including an authority created in ch. 231, 232, 233, 234, 235, or 237.

(9) Notwithstanding s. 20.001 (3) (c), if the department makes any payment from the appropriation under s. 20.505 (2) (a), lapse to the general fund from the appropriation account under s. 20.505 (2) (k) an amount equal to the payment. The department shall effect the lapse required under this subsection in accordance with a schedule determined by the department, but the total amount of each lapse shall be effected no later than 6 years after the date of the payment to which it relates.

History: 1973 c. 333; 1975 c. 81, 189, 422; 1977 c. 29; 1977 c. 196 s. 130 (3); 1979 c. 34, 221; 1981 c. 20; 1985 a. 29; 1987 a. 399; 1989 a. 125; 1991 a. 39; 1993 a. 16; 1995 a. 27; 2001 a. 16; 2003 a. 33.

16.87 Approval of contracts by secretary and governor; audit. (1) In this section:

(a) "Construction work" includes all labor and materials used in the framing or assembling of component parts in the erection, installation, enlargement, alteration, repair, moving, conversion,

razing, demolition or removal of any appliance, device, equipment, building, structure or facility.

(b) "Environmental consultant services" includes services provided by environmental scientists, engineers and other experts.

(c) "Limited trades work" has the meaning given under s. 16.70 (7).

(2) A contract for engineering services or architectural services or a contract involving an expenditure of $10,000 or more for construction work, or $30,000 or more for limited trades work, to be done for or furnished to the state or a department, board, commission or officer of the state is exempt from the requirements of ss. 16.705 and 16.75. The department shall attempt to ensure that 5% of the total amount expended under this section in each fiscal year is paid to minority businesses, as defined under s. 16.75 (3m) (a).

(3) Except as provided in sub. (4), a contract under sub. (2) is not valid or effectual for any purpose until it is endorsed in writing and approved by the secretary or the secretary's designated assistant and, if the contract involves an expenditure over $60,000, approved by the governor. Except as provided in sub. (4), no payment or compensation for work done under any contract involving $2,500 or more, except a highway contract, may be made unless the written claim is audited and approved by the secretary or the secretary's designee. Any change order to a contract requiring approval under this subsection requires the prior approval by the secretary or the secretary's designated assistant and, if the change order involves an expenditure over $60,000, the approval of the governor.

(4) This section does not apply to contracts by the department of natural resources for environmental consultant services or engineering services for hazardous substance spill response under s. 292.11 or environmental repair under s. 292.31, or for environmental consultant services to assist in the preparation of an environmental impact statement or to provide preapplication services under s. 23.40.

History: 1973 c. 90; 1975 c. 39, 199; 1977 c. 418; 1979 c. 221 ss. 68, 81, 82; 1983 a. 27; 1983 a. 390 s. 6; 1985 a. 29 s. 3202 (1); 1989 a. 31; 1991 a. 39; 1995 a. 227; 1999 a. 197; 2001 a. 16.

16.875 Setoffs. All amounts owed by this state under this subchapter are subject to being set off under s. 73.12.

History: 1985 a. 29.

16.88 Charges against projects. The cost of services furnished pursuant to s. 16.85 (2) to (4), (6) and (7) shall be charged to and paid out of available funds for the respective projects, whenever in the judgment of the secretary the charges are warranted and the cost of the services can be ascertained with reasonable accuracy.

16.89 Construction and services controlled by this chapter. No department, independent agency, constitutional office or agent of the state shall employ engineering, architectural or allied services or expend money for construction purposes on behalf of the state, except as provided in this chapter.

History: 1981 c. 390; 1983 a. 27.

16.895 State−owned or operated heating, cooling or power plants. (1) In this section, "agency" has the meaning given under s. 16.52 (7).

(2) The department may:

(a) Prepare all specifications, bid and administer contracts for the purchase of fuels for all state−owned or operated heating, cooling or power plants.

(b) Coordinate the state fuel and utility management program to maximize the economy of operations of the program.

(c) Determine the method of operation of state−owned or operated heating, cooling or power plants, including maintenance standards and policies concerning utilization of alternative fuels and energy conservation.

(d) Assure compliance with federal and state laws, federal regulations and state administrative rules applicable to state−owned or operated heating, cooling or power plants.

(e) Delegate to any agency the department's authority under par. (c) or (d) and approve all expenditures of the agency under par. (c) or (d).

(f) Review and approve rates charged by any agency for the sale of fuel, water, sewage treatment service, electricity, heat or chilled water under s. 16.93, and the rates at which any agency charges its appropriations for fuel, water, sewage treatment service, electricity, heat or chilled water that the agency provides to itself.

(g) Provide for emissions testing, waste product disposal and fuel quality testing at state−owned or operated heating, cooling or power plants, and secure permits that are required for operation of the plants.

(h) Periodically assess to agencies their proportionate cost of the expenses incurred by the department under this subsection and ss. 16.85 (4), 16.90, 16.91 and 16.92 in accordance with a method of apportionment determined by the department.

History: 1989 a. 31 ss. 135, 140.

16.90 Fuel for state heating, cooling or power plants. (1) In this section, "agency" has the meaning given in s. 16.52 (7).

(2) The secretary shall:

(a) Prepare all specifications for contracts for the purchase of fuel for each state−owned or operated heating, cooling or power plant. All such specifications where feasible shall provide for purchase of such fuel on a heating value and quality basis and may provide for an adjustment of the base price of any fuel as a result of changes in production or transportation costs during the term of a contract.

(b) Distribute fuel purchased by the department or any agency to agencies that require it, and reallocate such fuel between agencies in the event of a shortage.

(c) Set standards for storage of fuel by agencies.

(d) Test all fuel purchased for each state−owned or operated heating, cooling or power plant wherein the annual requirement is in excess of 12,500 therms and where purchased on a heating value and quality basis.

(e) Promulgate such rules as the secretary considers necessary, not inconsistent with this section, to promote efficiency, energy conservation and economy in the testing, handling and use of fuel for state−owned or operated heating, cooling or power plants.

History: 1989 a. 31, 359.

16.91 Contracts for fuel. (1) In this section, "agency" has the meaning given under s. 16.52 (7).

(2) No contract for the purchase of fuel for any state−owned or operated heating or heating and power plant wherein the annual requirement is in excess of 12,500 therms is binding unless purchased upon specifications furnished by the secretary. A contract for fuel may be for any term deemed to be in the best interests of the state, but the term and any provisions for renewal or extension shall be incorporated in the bid specifications and the contract document.

(3) Payments for fuel delivered under contracts specified in sub. (2) and for delivery costs shall be made upon vouchers approved by the secretary. Upon being audited and paid, the department shall charge each purchase against the appropriation to the agency which has jurisdiction over the facility at which the fuel is used. The secretary shall report on a quarterly basis to each such agency the total amount of payments charged under this subsection to each of its appropriations and facilities. Approval of the

payments by the agency whose appropriation is charged is not required.

History: 1979 c. 34; 1989 a. 31.

16.92 Purchase of fuel, electricity, heat and chilled water. (1) In this section, "agency" has the meaning given in s. 16.52 (7).

(2) Each agency shall utilize the most cost−effective means of procurement of fuel, electricity, heat and chilled water.

History: 1989 a. 31.

16.93 Sale of fuel or utility service. (1) In this section, "agency" has the meaning given under s. 16.52 (7).

(2) Except as provided in sub. (3), any agency, with the approval of the department, may sell fuel, water, sewage treatment service, electricity, heat or chilled water to another agency, a federal agency, a local government or a private entity.

(3) Prior to contracting for the sale of any fuel or extending any water, sewage treatment, electrical, heating or chilled water service to a new private entity after August 9, 1989, an agency shall contact each public utility that serves the area in which the private entity is located and that is engaged in the sale of the same fuel or utility service. If a public utility so contacted objects to the proposed sale and commits to provide the fuel or service, the agency shall not contract for the sale.

History: 1989 a. 31.

SUBCHAPTER VI

STATE PLANNING AND ENERGY

16.95 Powers and duties. The department shall, through a system of comprehensive long−range planning, promote the development and the maximum wise use of the energy, natural and human resources of the state. It shall:

(1) Collect, analyze, interpret and, in cooperation with the other state agencies, maintain the comprehensive data needed for effective state agency planning and effective review of those plans by the governor and the legislature.

(2) Perform research to evaluate and measure alternative objectives and administrative actions.

(3) Stimulate and encourage all state agencies to comprehensively plan and advance proposals for their area of state government services, and assist the state agencies to develop a necessary planning capacity.

(4) Prepare and maintain plans for those state agencies which do not have an adequate planning capacity, at the request and in cooperation with those agencies.

(5) Advise and assist state agencies in their development and maintenance of comprehensive plans, providing them with technical and program information, and advising them of the impact of related plans of other state agencies.

(6) Stimulate the consideration and possible use of creative techniques and actions that may better accomplish the objectives of this section.

(7) Evaluate the plans of all state agencies, identify both duplication and program gaps in the plans and measure the agency plans with the state goals enacted by the governor and the legislature.

(8) Advise and assist the governor and the legislature in establishing long−range development policies and programs in considering state agency plans with regard to those policies and programs.

(9) Develop and submit to the governor's office and to the appropriate standing committees of the legislature, as determined by the speaker of the assembly and the president of the senate on or before September 1 of each even−numbered year a 5−year and 10−year plan for the resolution of the energy needs of low−income households. The department shall consult with the public service commission, the department of health and family services and other agencies and groups related to low−income energy assistance. The department shall include in each plan, without limitation due to enumeration, items such as target populations, income eligibility, goals and funding.

(10) Assist in implementing agency plans in accordance with policies and programs established by the governor and the legislature.

(11) Administer federal planning grants for state planning, when so designated by the governor pursuant to s. 16.54. The department may contract with other state agencies for the preparation of all or part of a facet of the state plan which is financed in whole or in part by federal planning grants.

(12) Prepare and maintain contingency plans for responding to critical energy shortages so that when the shortages occur they can be dealt with quickly and effectively.

(13) Implement the priorities under s. 1.12 (4) in designing the department's energy programs and in awarding grants or loans for energy projects.

(14) By rule, establish a standardized method for measuring the energy efficiency of the state's economy to be used in preparing the report under sub. (15). In establishing the methodology, the department shall consider methodologies currently in use for this purpose, including the methodology used by the world bank.

(15) Before April 1 annually, submit a report to the legislature under s. 13.172 (3) regarding progress made in meeting the energy efficiency goal under s. 1.12 (3) (a).

(16) Require public utilities to provide the department with energy billing and use data regarding public schools, if the department determines that the data would facilitate any effort by the department to administer or provide energy assistance for public schools, including any effort to direct energy assistance to public schools with the highest energy costs.

History: 1977 c. 29; 1985 a. 29; 1993 a. 414; 1995 a. 27 s. 9126 (19); 2001 a. 16.

16.955 Energy administration. (1) INFORMATION. If the governor determines that a disruption of energy supplies poses a serious risk to the economic well−being, health or welfare of the citizens of this state, the governor may issue an order declaring an energy alert. Upon declaration of an energy alert by the governor, the department may issue general or special orders, as defined in s. 101.01 (7), or promulgate emergency rules under ch. 227 to compel disclosure of information required for purposes of this section. Any person, or agent of the person, who produces, imports or sells, coal or other forms of fuel, other than electricity, natural gas or wood, who is subject to an emergency rule or general or special order of the department within reasonable time limits specified in the order shall file or furnish such reports, information, data, copies of extracts of originals as the department deems necessary relating to existing and future energy supplies, including but not limited to record of sales in years for 1970 and thereafter, storage capacity, supplies on hand and anticipated supplies, and anticipated demand. To the extent that the reports and data requested by the department are presently available from other state or federal agencies, the department shall coordinate its data reporting requirements with the agencies to avoid duplication of reporting.

(2) INFORMATION TO BE CONFIDENTIAL. All information furnished under sub. (1) shall be considered confidential and may be compiled or published only for purposes of general statistical comparison. The information may be disclosed to agencies of the state or of the federal government, under the same or similar rules of confidentiality.

(3) PENALTIES AND JUDICIAL RELIEF. (a) Any person, or agent of a person, who produces, imports or sells, coal or other forms of fuel, other than electricity, natural gas or wood, who fails to provide information requested by the department at the time and in the manner specified by the department shall forfeit an amount not to exceed $1,000. Each day the violation of this section continues

from the day notice has been received constitutes a separate offense.

(b) Upon request of the department, the attorney general or the district attorney of the proper county may aid in any investigation, enforce any request of the department for information under this section or seek forfeitures for violations of this section.

(c) Upon request of the department, the attorney general or the district attorney of the proper county may apply to any court of competent jurisdiction for a temporary or permanent injunction restraining any person from violating this section.

(d) The remedies under this section shall not be exclusive.

(4) HEARINGS; EVIDENCE; WITNESS FEES. (a) The department or any of its authorized agents may, in relation to any matter arising under this section, conduct hearings, administer oaths, issue subpoenas and take testimony.

(b) The witnesses subpoenaed by the department or its agent and officers who serve subpoenas shall be entitled to the fees allowed in courts of record. The fees shall be audited and paid by the state in the same manner as other expenses of the department are audited and paid. No witness subpoenaed at the instance of any party other than the department is entitled to payment of fees by the state, unless the department certifies that the testimony of the witness was material.

(c) Any person who unlawfully fails to attend as a witness or refuses to testify may be compelled to do so as provided in s. 885.12.

(d) A record of all hearings shall be kept by the department. All hearings shall be public.

History: 1977 c. 29; 1979 c. 19; 1983 a. 189 s. 329 (4); 1985 a. 236; 1989 a. 359; 1995 a. 27.

Cross Reference: See also ch. Adm 40, Wis. adm. code.

16.957 Utility public benefits. (1) DEFINITIONS. In this section:

(bm) "Commission" means the public service commission.

(c) "Commitment to community program" means a program by a municipal utility or retail electric cooperative for low−income assistance or an energy conservation program by a municipal utility or retail electric cooperative.

(cm) "Council" means the council on utility public benefits created under s. 15.107 (17).

(d) "Customer application of renewable resources" means the generation of electricity from renewable resources that takes place on the premises of a customer or member of an electric provider.

(e) "Division of housing" means the department.

(f) "Electric provider" means an electric utility or retail electric cooperative.

(g) "Electric utility" means a public utility that owns or operates a retail electric distribution system.

(h) "Energy conservation program" means a program for reducing the demand for natural gas or electricity or improving the efficiency of its use during any period.

(i) "Fiscal year" has the meaning given in s. 655.001 (6).

(k) "Local unit of government" means the governing body of any county, city, town, village or county utility district or the elected tribal governing body of a federally recognized American Indian tribe or band.

(L) "Low−income assistance" means assistance to low−income households for weatherization and other energy conservation services, payment of energy bills or early identification or prevention of energy crises.

(m) "Low−income household" means any individual or group of individuals in this state who are living together as one economic unit and for whom residential electricity is customarily purchased in common or who make undesignated payments for electricity in the form of rent, and whose household income is not more than 150% of the poverty line as determined under 42 USC 9902 (2).

(n) "Low−income need" means the amount obtained by subtracting from the total low−income energy bills in a fiscal year the product of 2.2% of the estimated average annual income of low−income households in this state in that fiscal year multiplied by the estimated number of low−income households in this state in that fiscal year.

(o) "Low−income need percentage" means the percentage that results from dividing the sum of the following by the amount of low−income need in fiscal year 1998−99:

1. The total amount received by the department for low−income funding under 42 USC 6861 to 6873 and 42 USC 8621 to 8629 in fiscal year 1997−98.

1m. The amount of the portion of the public benefits fee for fiscal year 1999−2000 that is specified in sub. (4) (c) 1. The amount specified in this subdivision shall not be subject to the reduction under 1999 Wisconsin Act 9, section 9101 (1zv) (a).

2. The total amount expended by utilities under s. 196.374 related to low−income assistance.

3. Fifty percent of the amount of public benefits fees that municipal utilities and retail electric cooperatives are required to charge under sub. (5) (a) in fiscal year 1999−2000. The amount specified in this subdivision shall not be subject to the reduction under 1999 Wisconsin Act 9, section 9101 (1zv) (c).

(p) "Low−income need target" means the product of the low−income need percentage multiplied by low−income need in a fiscal year.

(q) "Municipal utility" means an electric utility that is owned wholly by a municipality and that owns a retail distribution system.

(qm) "Public utility" has the meaning given in s. 196.01 (5).

(r) "Renewable resource" has the meaning given in s. 196.378 (1) (h).

(s) "Retail capacity" means the total amount of electricity that an electric provider is capable of delivering to its retail customers or members and that is supplied by electric generating facilities owned or operated by the electric provider or any other person. "Retail capacity" does not include any electricity that is not used to satisfy the electric provider's retail load obligations.

(t) "Retail electric cooperative" means a cooperative association that is organized under ch. 185 for the purpose of providing electricity at retail to its members only and that owns or operates a retail electric distribution system.

(u) "Total low−income energy bills" means the total estimated amount that all low−income households are billed for residential electricity, natural gas and heating fuel in a fiscal year.

(v) "Wholesale electric cooperative" means a cooperative association that is organized under ch. 185 for the purpose of providing electricity at wholesale to its members only.

(w) "Wholesale supplier" means a wholesale electric cooperative or a municipal electric company, as defined in s. 66.0825 (3) (d), that supplies electricity at wholesale to a municipal utility or retail electric cooperative.

(x) "Wholesale supply percentage" means the percentage of a municipal utility's or retail electric cooperative's retail capacity in a fiscal year that is supplied by a wholesale supplier.

(2) DEPARTMENT DUTIES. In consultation with the council, the department shall do all of the following:

(a) *Low−income programs.* After holding a hearing, establish programs to be administered by the department for awarding grants from the appropriation under s. 20.505 (3) (r) to provide low−income assistance. In each fiscal year, the amount awarded under this paragraph shall be sufficient to ensure that an amount equal to 47% of the sum of the following is spent for weatherization and other energy conservation services:

1. All moneys received from the federal government under 42 USC 6861 to 6873 and 42 USC 8621 to 8629 in a fiscal year.

2. All moneys spent in a fiscal year for low−income programs established under s. 196.374.

3. All moneys spent in a fiscal year on programs established under this paragraph.

4. Fifty percent of the moneys collected in public benefits fees under sub. (5).

(b) *Energy conservation and efficiency and renewable resource programs.* 1. Subject to subd. 2., after holding a hearing, establish programs for awarding grants from the appropriation under s. 20.505 (3) (s) for each of the following:

a. Proposals for providing energy conservation or efficiency services. In awarding grants under this subd. 1. a., the department shall give priority to proposals directed at the sectors of energy conservation or efficiency markets that are least competitive and at promoting environmental protection, electric system reliability, or rural economic development. In each fiscal year, 1.75% of the appropriation under s. 20.505 (3) (s) shall be awarded in grants for research and development proposals regarding the environmental impacts of the electric industry.

b. Proposals for encouraging the development or use of customer applications of renewable resources, including educating customers or members about renewable resources or encouraging uses of renewable resources by customers or members or encouraging research technology transfers. In each fiscal year, the department shall ensure that 4.5% of the appropriation under s. 20.505 (3) (s) is awarded in grants under this subd. 1. b.

2. For each fiscal year after fiscal year 2003−04, determine whether to continue, discontinue or reduce any of the programs established under subd. 1. and determine the total amount necessary to fund the programs that the department determines to continue or reduce under this subdivision. The department shall notify the commission if the department determines under this subdivision to reduce funding by an amount that is greater than the portion of the public benefits fee specified in sub. (4) (c) 2. The notice shall specify the portion of the reduction that exceeds the amount of public benefits fees specified in sub. (4) (c) 2.

(c) *Rules.* Promulgate rules establishing all of the following:

1. Eligibility requirements for low−income assistance under programs established under par. (a). The rules shall prohibit a person who receives low−income assistance from a municipal utility or retail electric cooperative under a program specified in sub. (5) (d) 2. b. or 3. a. from receiving low−income assistance under programs established under par. (a).

2. Requirements and procedures for applications for grants awarded under programs established under par. (a) or (b) 1.

2m. Criteria for the selection of proposals by a corporation specified in sub. (3) (b).

2n. Criteria for making the determination under par. (b) 2. Rules promulgated under this subdivision shall require the department to determine whether the need for a program established under par. (b) 1. is satisfied by the private sector market and, if so, whether the program should be discontinued or reduced.

4. Requirements for electric utilities to allow customers to include voluntary contributions to assist in funding a program established under par. (a) or (b) 1. with bill payments for electric service. The rules may require an electric utility to provide a space on an electric bill in which a customer may indicate the amount of a voluntary contribution and the customer's preference regarding whether a contribution should be used for a program established under par. (a) or (b) 1. a. or b. The rules shall establish requirements and procedures for electric utilities to pay to the department any voluntary contributions included with bill payments and to report to the department customer preferences regarding use of the contributions. The department shall deposit all contributions received under this paragraph in the utility public benefits fund.

5. A method for estimating total low−income energy bills, average annual income of low−income households and the number of low−income households in a fiscal year for the purpose of determining the amount of low−income need in the fiscal year.

(d) *Other duties.* 1. For each fiscal year after fiscal year 1998−99, determine the low−income need target for that fiscal year.

2. Encourage customers or members to make voluntary contributions to assist in funding the programs established under pars. (a) and (b) 1. The department shall deposit all contributions received under this paragraph in the utility public benefits fund.

3. Deposit all moneys received under sub. (4) (a) or (5) (c) or (d) in the utility public benefits fund.

4. Provide for an annual independent audit and submit an annual report to the legislature under s. 13.172 (2) that describes each of the following:

a. The expenses of the department, other state agencies and grant recipients in administering or participating in the programs under pars. (a) and (b).

b. The effectiveness of the programs under par. (a) in providing assistance to low−income individuals.

c. The effectiveness of the programs under par. (b) in reducing demand for electricity and increasing the use of renewable resources owned by customers or members.

d. Any other issue identified by the department, council, governor, speaker of the assembly or majority leader of the senate.

(3) CONTRACTS. (a) The department shall, on the basis of competitive bids, contract with community action agencies described in s. 46.30 (2) (a) 1., nonstock, nonprofit corporations organized under ch. 181 or local units of government to provide services under the programs established under sub. (2) (a).

(b) The department shall, on the basis of competitive bids, contract with one or more nonstock, nonprofit corporations organized under ch. 181 to administer the programs established under sub. (2) (b) 1., including soliciting proposals, processing grant applications, selecting, based on criteria specified in rules promulgated under sub. (2) (c) 2m., proposals for the department to make awards and distributing grants to recipients.

(c) In selecting proposals and awarding grants under sub. (2) (b), the department or a nonprofit corporation specified in par. (b) may not discriminate against an electric provider or its affiliate or a wholesale electric supplier or its affiliate solely on the basis of its status as an electric provider, wholesale electric supplier or affiliate.

(4) ELECTRIC UTILITIES. (a) *Requirement to charge public benefits fees.* Each electric utility, except for a municipal utility, shall charge each customer a public benefits fee in an amount established in rules promulgated by the department under par. (b). An electric utility, except for a municipal utility, shall collect and pay the fees to the department in accordance with the rules promulgated under par. (b). The public benefits fees collected by an electric utility shall be considered trust funds of the department and not income of the electric utility.

(am) *Electric bills.* An electric utility shall include a public benefits fee in the fixed charges for electricity in a customer's bill and shall provide the customer with an annual statement that identifies the annual charges for public benefits fees and describes the programs for which fees are used.

(b) *Rules.* In consultation with the council, the department shall promulgate rules that establish the amount of a public benefits fee under par. (a). Fees established in rules under this paragraph may vary by class of customer, but shall be uniform within each class, and shall satisfy each of the following:

1. The fees may not be based on the kilowatt−hour consumption of electricity by customers.

2. Seventy percent of the total amount of fees charged by an electric provider may be charged to residential customers and 30% of the total may be charged to nonresidential customers.

3. The fees shall allow an electric provider to recover the reasonable and prudent expenses incurred by the electric provider in complying with this section.

(c) *Amount of public benefits fees.* A fee established in rules promulgated under par. (b) shall satisfy each of the following:

1. 'Low−income funding.' In fiscal year 1999−2000, a portion of the public benefits fee shall be an amount that, when added to 50% of the estimated public benefits fees charged by municipal utilities and retail electric cooperatives under sub. (5) (a) for that fiscal year, shall equal $24,000,000. In each fiscal year after fiscal year 1999−2000, a portion of the public benefits fee shall be an amount that, when added to the sum of the following shall equal the low−income need target for that fiscal year determined by the department under sub. (2) (d) 1.:

a. Fifty percent of the estimated public benefits fees charged by municipal utilities and retail electric cooperatives under sub. (5) (a) for that fiscal year.

b. All moneys received under 42 USC 6861 to 6873 and 42 USC 8621 to 8629 for that fiscal year.

c. The total amount spent on programs or contributed to the commission by utilities under s. 196.374 (3) for that fiscal year for low−income assistance.

2. 'Energy conservation and efficiency and renewable resource funding.' For fiscal year 1999−2000, a portion of the public benefits fee shall be in an amount that, when added to 50% of the estimated public benefits fees charged by municipal utilities and retail electric cooperatives under sub. (5) (a) for that fiscal year, shall equal $20,000,000. In each fiscal year after fiscal year 1999−2000, a portion of the public benefits fee shall be the amount determined under this subdivision for fiscal year 1999−2000, except that if the department determines to reduce or discontinue a program under sub. (2) (b) 2., the department shall reduce the amount accordingly.

3. 'Limitation on electric bill increases.' For the period beginning on October 29, 1999, and ending on June 30, 2008, the total increase in a customer's electric bills that is based on the requirement to pay public benefits fees, including any increase resulting from an electric utility's compliance with this section, may not exceed 3% of the total of every other charge for which the customer is billed for that period or $750 per month, whichever is less.

(5) MUNICIPAL UTILITIES AND RETAIL ELECTRIC COOPERATIVES. (a) *Requirement to charge public benefits fees.* Each retail electric cooperative and municipal utility shall charge a monthly public benefits fee to each customer or member in an amount that is sufficient for the retail electric cooperative or municipal utility to collect an annual average of $16 per meter. A retail electric cooperative or municipal utility may determine the amount that a particular class of customers or members is required to pay under this paragraph and may charge different fees to different classes of customers or members.

(am) *Public benefits fee restriction.* Notwithstanding par. (a), for the period beginning on October 29, 1999, and ending on June 30, 2008, the total increase in a customer's or member's electric bills that is based on the requirement to pay public benefits fees, including any increase resulting from a retail electric cooperative's or municipal utility's compliance with this section, may not exceed 3% of the total of every other charge for which the member or customer is billed for that period or $750 per month, whichever is less.

(b) *Election to contribute to department programs.* 1. No later than October 1, 2000, each municipal utility or retail electric cooperative shall notify the department whether it has elected to contribute to the programs established under sub. (2) (a) or (b) 1. for a 3−year period.

2. No later than every 3rd year after the date specified in subd. 1., each municipal utility or retail electric cooperative shall notify the department whether it has elected to contribute to the programs established under sub. (2) (a) or (b) 1. for a 3−year period.

(c) *Full contribution.* If a municipal utility or retail electric cooperative elects under par. (b) 1. or 2. to contribute to the programs established both under sub. (2) (a) and under sub. (2) (b) 1., it shall pay 100% of the public benefits fees that it charges under par. (a) to the department in each fiscal year of the 3−year period for which it has made the election.

(d) *Partial contributions and commitment to community spending.* A municipal utility or retail electric cooperative not specified in par. (c) shall do one of the following:

1. If the municipal utility or retail electric cooperative elects to contribute only to the programs established under sub. (2) (a), the municipal utility or retail electric cooperative shall, in each fiscal year of the 3−year period for which it elects to contribute under par. (b) 1. or 2., do all of the following:

a. Pay 50% of the public benefits fees that it charges under par. (a) to the department.

b. Spend 50% of the public benefits fees that it charges under par. (a) on energy conservation programs.

2. If the municipal utility or retail electric cooperative elects to contribute only to the programs established under sub. (2) (b) 1., the municipal utility or retail electric cooperative shall, in each fiscal year of the 3−year period for which it elects to contribute under par. (b) 1. or 2., do all of the following:

a. Pay 50% of the public benefits fees that it charges under par. (a) to the department.

b. Spend 50% of the public benefits fees that it charges under par. (a) on programs for low−income assistance.

3. If the municipal utility or retail electric cooperative elects not to contribute to any of the programs established under sub. (2) (a) or (b) 1., the municipal utility or retail electric cooperative shall, in each fiscal year of the 3−year period for which it elects not to contribute under par. (b) 1. or 2., do all of the following:

a. Spend 50% of the public benefits fees that it charges under par. (a) on programs for low−income assistance.

b. Spend 50% of the public benefits fees that it charges under par. (a) on energy conservation programs.

(e) *Wholesale supplier credit.* If a wholesale supplier has established a program for low−income assistance or an energy conservation program, a municipal utility or retail electric cooperative that is a customer or member of the wholesale supplier may do any of the following:

1. Include an amount equal to the product of the municipal utility's or retail electric cooperative's wholesale supply percentage and the amount that the wholesale supplier has spent on low−income assistance in a fiscal year in calculating the amount that the municipal utility or retail electric cooperative has spent on low−income assistance in that fiscal year under par. (d) 2. b. or 3. a.

2. Include an amount equal to the product of the municipal utility's or retail electric cooperative's wholesale supply percentage and the amount that the wholesale supplier has spent on energy conservation programs or customer applications of renewable resources in a fiscal year in calculating the amount that the municipal utility or retail electric cooperative has spent on energy conservation programs under par. (d) 1. b. or 3. b.

(f) *Joint programs.* Municipal utilities or retail electric cooperatives may establish joint commitment to community programs, except that each municipal utility or retail electric cooperative that participates in a joint program is required to comply with the spending requirements under par. (d).

(g) *Reports.* 1. For each fiscal year, each municipal utility and retail electric cooperative that does not pay 100% of the public benefits fee that it charges under par. (a) to the department under par. (c) shall file a report with the department that describes each of the following:

a. An accounting of public benefits fees charged to customers or members under par. (a) in the fiscal year and expenditures on commitment to community programs under par. (d), including

any amounts included in the municipal utility's or retail electric cooperative's calculations under par. (e).

b. A description of commitment to community programs established by the municipal utility or retail electric cooperative in the fiscal year.

2. The department shall maintain reports filed under subd. 1. for at least 6 years.

History: 1999 a. 9; 2001 a. 16, 30; 2003 a. 33.
Cross Reference: See also chs. Adm 43, 44, and 45, Wis. adm. code.

16.958 Air quality improvement program. (1) In this section:

(a) "Eligible electric provider" means a generator public utility or a generator electric cooperative that provides electric service to customers or members in the midcontinent area of this state.

(b) "Generator electric cooperative" means an electric cooperative, as defined in s. 76.48 (1g) (c), that generates electricity.

(c) "Generator public utility" means a public utility, as defined in s. 196.01 (5), that generates electricity.

(d) "Initial compliance date" means the date specified in a notice by the department of natural resources under s. 285.48 (2) by which electric generating facilities in the midcontinent area of this state are required to comply with initial nitrogen oxide emission reduction requirements.

(e) "Midcontinent area" means the geographic area served by the Mid−Continent Area Power Pool reliability council of the North American Electric Reliability Council.

(2) If the department of natural resources makes a notification to the department of administration under s. 285.48 (2), the department of administration shall do each of the following:

(a) In each fiscal year of the 10−year period that commences on July 1 of the fiscal year ending before the initial compliance date, transfer $2,500,000, or the lesser amount specified in a notice under s. 285.48 (3) (d) 4., from the utility public benefits fund to the air quality improvement fund.

(b) From the air quality improvement fund, award grants to eligible electric providers to be used for the purpose of complying with requirements under state or federal law to reduce nitrogen oxide emissions in the midcontinent area of this state pursuant to a state implementation plan. An eligible electric provider that is a public utility may receive no more than $500,000 per year in grants under this paragraph.

(c) Promulgate rules for awarding grants under par. (b). The rules shall require an applicant for a grant to identify the reduction in nitrogen oxide emissions that the applicant is capable of achieving with the grant.

(3) An eligible electric provider that is awarded a grant under sub. (2) (b) may assign the grant to a 3rd party if the 3rd party uses the grant for the purpose of reducing nitrogen oxide emissions and the eligible electric provider demonstrates to the satisfaction of the department of administration that the 3rd party is capable of achieving the reduction in nitrogen oxide emissions identified in the eligible electric provider's application for the grant.

History: 1999 a. 9.

16.959 Wind energy. The department shall:

(1) Promote the use of wind energy systems. "Wind energy system" means equipment which converts and then transfers or stores energy from the wind into usable forms of energy.

(2) Gather and disseminate information on wind characteristics and the economic feasibility of using wind energy systems in the state.

(3) Offer assistance to persons interested in installing a wind energy conversion system.

(4) Train University of Wisconsin−Extension staff to assist persons interested in siting wind energy conversion systems.

(5) Publish a list, at intervals not to exceed 6 months, of reputable manufacturers and distributors of wind energy conversion systems in the upper midwest region of the United States.

History: 1987 a. 142; 2001 a. 103.

16.96 Population estimates. The department of administration shall periodically make population estimates and projections. These population determinations shall be deemed to be the official state population estimates and projections. These determinations shall be used for all official estimate and projection purposes, except where otherwise directed by statute, but do not supersede s. 990.01 (29). The department shall:

(1) Annually make estimates of the current number of persons residing in each municipality and county of the state, and periodically make projections of the anticipated future population of the state, counties and municipalities.

(2) Prepare population estimates for purposes of state revenue sharing distribution under ch. 79. For this purpose:

(a) On or before August 10 of each year, the department shall make its preliminary population determinations and shall notify the clerk of each municipality and county of its preliminary population determinations. The reference date for all population determinations for state shared revenue distribution purposes shall be January 1.

(b) Municipalities and counties believing that population determinations under par. (a) are based upon incorrect information may, no later than September 15 of the same year in which the determination is made, challenge the determination by filing their specific objections, and evidence in support thereof, with the department. If the challenge is denied by the department, the municipality or county may appeal the denial, by October 1 of the same year, by notifying the department that the appellant intends to have a special census conducted by the U.S. bureau of the census in support of the appeal under par. (dm).

(c) On or before October 10 of each year, the department shall make any necessary adjustments in its population determinations for the November distribution, and shall notify the clerk of any affected municipality or county of these adjustments. The adjusted population determinations shall be consistent with the methods used statewide for population determinations, and adjustments from the August 10 population determinations shall be made only to accommodate corrected information.

(cm) The July preliminary distribution shall be based on the final population determination of the previous year.

(d) Except as authorized in pars. (dm) and (e), the population determinations shall be based upon the last previous federal decennial or special census or other official statewide census and shall take into consideration growth rates of municipalities.

(dm) The results of special censuses conducted for municipalities and counties under contract with the U.S. bureau of the census shall be used as a basis for the respective population determinations on August 10 if the final certified results of such censuses are received by the department before July 1 in the year in which the determination is made. The results of special censuses conducted for municipalities and counties under contract with the U.S. bureau of the census shall be used as a basis for the respective population determinations on October 10 if the final certified results of such censuses are received by the department before October 1 in the year in which the determination is made. If a municipality or county notifies the department in writing by October 1 of its intention to contract for a special census with the U.S. bureau of the census in support of a challenge to the August 10 population determination, and if the final certified results of such a special census are received by the department before July 15 in the following year, the department shall adjust the preceding October 10 population estimate to reflect the results of the special census. If a municipality or county notifies the department of its intention to contract for a special census but the results are not received by

July 15 in the following year, the department may use the best information from the most recent federal census. The department shall report the adjusted population determination to the department of revenue before August 1 of the year subsequent to the challenge. The department shall prorate census results for census dates occurring after the reference date of any population determination back to the reference date of the estimate for all municipalities and counties under par. (a). Upon receiving an adjusted population determination, the department of revenue shall correct shared revenue distributions under subch. I of ch. 79 according to s. 79.08. If a municipality contracts with the U.S. bureau of the census for a special census, the municipality shall assure that the results of such special census are certified to the department not later than 30 days after the release of the census results by the U.S. bureau of the census.

(e) Before August 1 of the year following the year in which a federal decennial census is taken, the department shall adjust the October 10 population determinations of the decennial census year to correspond to the final federal decennial census results as reported to an agency of the state by the U.S. bureau of the census under 13 USC 141 (c). The department may use preliminary results from the decennial census for any municipality or a county for which the final results are not available before August 1 of the year following the decennial census year. The department shall prorate each population determination adjustment from the decennial census date back to the reference date of the estimate for all municipalities and counties under par. (a) in the decennial census year. The department shall report the adjusted population determination to the department of revenue before August 1 of the year following the federal decennial census year. Upon receiving an adjusted population determination, the department of revenue shall correct shared revenue distributions under subch. I of ch. 79 according to s. 79.08.

(f) Persons who are members in the Wisconsin Veterans Home at King shall be considered residents of the town of Farmington and of Waupaca County and persons who are members in the Wisconsin veterans facility in southeastern Wisconsin shall be considered residents of the town of Dover and of Racine County for purposes of the state revenue sharing distribution under subch. I of ch. 79.

(3) (a) Establish a demographic services center for the purpose of developing and administering systems needed to carry out the functions of the department under subs. (1) and (2), maintaining a current repository of appropriate published and computer retrievable federal census information and cooperating with state agencies and regional planning agencies so that the department's population estimates, projections and published reports are useful for planning and other purposes for which they are required. The center shall coordinate population information development and use. The center shall provide assistance to and encourage and coordinate efforts by state and local agencies, regional planning agencies and private businesses and associations to inform the public regarding the federal census process and the importance of obtaining a complete, accurate federal decennial census. The department may enter into agreements with state and local agencies or regional planning agencies for their assistance in the preparation of population estimates, projections and forecasts.

(b) Maintain and keep current throughout the decade the maps of congressional and legislative district boundaries received from the legislative reference bureau under s. 13.92 (1) (a) 6. and provide copies thereof to the elections board.

(c) Serve as the state's liaison to the U.S. bureau of the census to facilitate accurate federal decennial census counts in this state.

History: 1971 c. 215; 1973 c. 37, 333; 1975 c. 189; 1977 c. 29 ss. 93 to 95, 1648 (1), (3); 1979 c. 34; 1981 c. 20; 1983 a. 29; 1987 a. 142; 1989 a. 31; 1991 a. 39, 269; 1999 a. 63.

Cross Reference: See also s. Adm 3.01, Wis. adm. code.

16.964 Office of justice assistance. (1) The office of justice assistance shall:

(a) Serve as the state planning agency under the juvenile justice and delinquency prevention act of 1974, P.L. 93−415.

(b) Prepare a state comprehensive juvenile justice improvement plan on behalf of the governor. The plan shall be submitted to the joint committee on finance in accordance with s. 16.54 and to the appropriate standing committees of each house of the legislature as determined by the presiding officer of each house. The plan shall be updated periodically and shall be based on an analysis of the state's juvenile justice needs and problems.

(c) Recommend appropriate legislation in the criminal and juvenile justice field to the governor and the legislature.

(d) Cooperate with and render technical assistance to state agencies and units of local government and public or private agencies relating to the criminal and juvenile justice system.

(e) Apply for contracts or receive and expend for its purposes any appropriation or grant from the state, a political subdivision of the state, the federal government or any other source, public or private, in accordance with the statutes.

(f) Maintain a statistical analysis center to serve as a clearing house of justice system data and information and conduct justice system research and data analysis under this section.

(g) Collect information concerning the number and nature of offenses known to have been committed in this state and such other information as may be useful in the study of crime and the administration of justice. The office may determine any other information to be obtained regarding crime and justice system statistics. The information shall include data requested by the federal bureau of investigation under its system of uniform crime reports for the United States.

(h) Furnish all reporting officials with forms or instructions or both that specify the nature of the information required under par. (g), the time it is to be forwarded, the method of classifying and any other matters that facilitate collection and compilation.

(2) All persons in charge of law enforcement agencies and other criminal and juvenile justice system agencies shall supply the office with the information described in sub. (1) (g) on the basis of the forms or instructions or both to be supplied by the office under sub. (1) (g).

(3) The governor shall appoint an executive director under s. 15.105 (19) outside of the classified service.

(4) In regard to any grant the office makes to any local unit of government for which the state is providing matching funds from moneys under s. 20.505 (6) (kp), the local unit of government shall provide matching funds equal to at least 10%. This subsection does not apply to grants made to improve the enforcement of laws regarding controlled substances commonly known as club drugs, including ecstasy, and to educate the public regarding the nature and impact of those controlled substances and the criminal penalties that apply to possessing, manufacturing, distributing, or delivering them unlawfully.

(5) (a) The office shall provide grants from the appropriation under s. 20.505 (6) (c) to cities to employ additional uniformed law enforcement officers whose primary duty is beat patrolling. A city is eligible for a grant under this subsection in fiscal year 1994−95 if the city has a population of 25,000 or more. A city may receive a grant for a calendar year if the city applies for a grant before September 1 of the preceding calendar year. Grants shall be awarded to the 10 eligible cities submitting an application for a grant that have the highest rates of violent crime index offenses in the most recent full calendar year for which data is available under the uniform crime reporting system of the federal bureau of investigation.

(b) A city applying to the office for a grant under this subsection shall include a proposed plan of expenditure of the grant moneys. The grant moneys that a city receives under this subsection may be used for salary and fringe benefits only. Except as provided in par. (c), the positions for which funding is sought must be created on or after April 21, 1994, and result in a net increase in

the number of uniformed law enforcement officers assigned to beat patrol duties.

(c) During the first 6 months of the first year of a grant, a city may, with the approval of the office, use part of the grant for the payment of salary and fringe benefits for overtime provided by uniformed law enforcement officers whose primary duty is beat patrolling. A city may submit a request to the office for a 3−month extension of the use of the grant for the payment of overtime costs. To be eligible to use part of the first year's grant for overtime costs, the city shall provide the office with all of the following:

1. The reasons why uniformed law enforcement officers assigned to beat patrol duties need to work overtime.

2. The status of the hiring and training of new uniformed law enforcement officers who will have beat patrol duties.

3. Documentation that a sufficient amount of the grant for the first year will be available, during the period remaining after the payment of overtime costs, to pay the salary and fringe benefits of the same number of uniformed officers whose primary duty is beat patrolling that the grant originally planned to pay.

(d) The office shall develop criteria which, notwithstanding s. 227.10 (1), need not be promulgated as rules under ch. 227, for use in determining the amount to grant to cities under this subsection. The office may not award an annual grant in excess of $150,000 to any city. The office shall review any application and plan submitted under par. (b) to determine if that application and plan meet the requirements of this subsection. The grant that a city receives under this subsection may not supplant existing local resources.

(e) A city may receive a grant for 3 consecutive years without submitting a new application each year. For each year that a city receives a grant, the city shall provide matching funds of at least 25% of the amount of the grant.

(f) The office may make grants to additional cities with a population of 25,000 or more after fiscal year 1994−95. Eligibility for grants under this paragraph shall be determined and allocations made as provided in this subsection.

(6) (a) In this subsection, "tribe" means a federally recognized American Indian tribe or band in this state.

(b) From the appropriation under s. 20.505 (6) (ks), the office shall provide grants to tribes to fund tribal law enforcement operations. To be eligible for a grant under this subsection, a tribe must submit an application for a grant to the office that includes a proposed plan for expenditure of the grant moneys. The office shall review any application and plan submitted to determine whether that application and plan meet the criteria established under par. (c). The office shall review the use of grant money provided under this subsection to ensure that the money is used according to the approved plan.

(c) The office shall develop criteria and procedures for use in administering this subsection. Notwithstanding s. 227.10 (1), the criteria and procedures need not be promulgated as rules under ch. 227.

(7) (a) From the appropriation under s. 20.505 (6) (kq), the office shall provide grants to counties to fund county law enforcement services. The office may make a grant to a county under this subsection only if all of the following apply:

1. The county borders one or more federally recognized Indian reservations.

2. The county has not established a cooperative county−tribal law enforcement program under s. 165.90 with each federally recognized Indian tribe or band that has a reservation bordering the county.

3. The county demonstrates a need for the law enforcement services to be funded with the grant.

4. The county submits an application for a grant and a proposed plan that shows how the county will use the grant moneys to fund law enforcement services.

(b) The office shall review an application and plan submitted under par. (a) 4. to determine if the application and plan meet the requirements of par. (a) 1. to 3. and the criteria established under par. (c). The office may not award an annual grant in excess of $50,000 to any county under this subsection.

(c) The office shall develop criteria and procedures for use in administering this subsection. Notwithstanding s. 227.10 (1), the criteria and procedures need not be promulgated as rules under ch. 227.

(8) (a) From the appropriations under s. 20.505 (6) (d) and (kj), the office shall allocate $500,000 in each fiscal year to enter into a contract with an organization to provide services in a county having a population of 500,000 or more for the diversion of youths from gang activities into productive activities, including placement in appropriate educational, recreational and employment programs. Notwithstanding s. 16.75, the office may enter into a contract under this paragraph without soliciting bids or proposals and without accepting the lowest responsible bid or offer.

(b) From the appropriation under s. 20.505 (6) (km), the office may not distribute more than $300,000 in each fiscal year to the organization that it has contracted with under par. (a) for alcohol and other drug abuse education and treatment services for participants in that organization's youth diversion program.

(c) From the appropriations under s. 20.505 (6) (d) and (kj), the office shall allocate $150,000 in each fiscal year to enter into a contract with an organization to provide services in Racine County, $150,000 in each fiscal year to enter into a contract with an organization to provide services in Kenosha County, $150,000 in each fiscal year to enter into a contract with an organization that is located in ward 1 in the city of Racine to provide services in Racine County, and $150,000 in each fiscal year to enter into a contract with an organization to provide services in Brown County, for the diversion of youths from gang activities into productive activities, including placement in appropriate educational, recreational, and employment programs, and for alcohol or other drug abuse education and treatment services for participants in that organization's youth diversion program. The organization that is located in ward 1 in the city of Racine shall have a recreational facility, shall offer programs to divert youths from gang activities, may not be affiliated with any national or state association, and may not have entered into a contract under s. 301.265 (3), 1995 stats. Notwithstanding s. 16.75, the office may enter into a contract under this paragraph without soliciting bids or proposals and without accepting the lowest responsible bid or offer.

(9) From the appropriations under s. 20.505 (6) (kp) and (p), the office of justice assistance shall provide $185,000 annually to the department of health and family services to distribute the following grants for children's community programs:

(a) A grant in the amount of $80,000 in each fiscal year to the Career Youth Development Center in the city of Milwaukee for the operation of a minority youth substance abuse treatment program.

(b) A grant in the amount of $5,000 in each fiscal year to the Milwaukee Police Athletic League to purchase sports and recreational equipment for a gymnasium facility located at 2449 N. 36th Street in the city of Milwaukee and for a gymnasium facility located at 2544 N. 30th Street in the city of Milwaukee, and to contribute to the operating expenses of those gymnasium facilities.

(c) A grant in the amount of $50,000 in each fiscal year to court−appointed special advocate programs that are recognized by a chief judge of a judicial administrative district under s. 48.07 (5) to perform advocacy services in proceedings under s. 48.13.

(d) A grant in the amount of $50,000 in each fiscal year to the Children's Safe House Child Care Program in Kenosha County for the operation of that program.

History: 1987 a. 27; 1989 a. 31, 122; 1991 a. 39; 1993 a. 193; 1997 a. 252; 1999 a. 9 ss. 110, 110j, 2294m; 2001 a. 16 ss. 3349d, 3350, 3351d; 2003 a. 33 ss. 230, 1159, 1161, 1163, 1165.

16.965 Planning grants to local governmental units. (1) In this section:

(a) "Local governmental unit" means a county, city, village, town or regional planning commission.

(b) "Smart growth area" means an area that will enable the development and redevelopment of lands with existing infrastructure and municipal, state and utility services, where practicable, or that will encourage efficient development patterns that are both contiguous to existing development and at densities that have relatively low municipal, state governmental and utility costs.

(2) From the appropriations under s. 20.505 (1) (cm) and (if), the department may provide grants to local governmental units to be used to finance the cost of planning activities, including contracting for planning consultant services, public planning sessions and other planning outreach and educational activities, or for the purchase of computerized planning data, planning software or the hardware required to utilize that data or software. The department shall require any local governmental unit that receives a grant under this section to finance a percentage of the cost of the product or service to be funded by the grant from the resources of the local governmental unit. The department shall determine the percentage of the cost to be funded by a local governmental unit based on the number of applications for grants and the availability of funding to finance grants for the fiscal year in which grants are to be provided. A local governmental unit that desires to receive a grant under this subsection shall file an application with the department. The application shall contain a complete statement of the expenditures proposed to be made for the purposes of the grant. No local governmental unit is eligible to receive a grant under this subsection unless the local governmental unit agrees to utilize the grant to finance planning for all of the purposes specified in s. 66.1001 (2).

(3) Prior to awarding a grant to a local governmental unit under sub. (2), the department shall forward a statement of the expenditures proposed to be made under the grant to the Wisconsin land council for its written approval. The council may approve or disapprove any proposed grant.

Note: Sub. (3) is repealed eff. 9−1−05 by 1999 Wis. Act 9.

(4) In determining whether to approve a proposed grant, preference shall be accorded to applications of local governmental units that contain all of the following elements:

(a) Planning efforts that address the interests of overlapping or neighboring jurisdictions.

(b) Planning efforts that contain a specific description of the means by which all of the following local, comprehensive planning goals will be achieved:

1. Promotion of the redevelopment of lands with existing infrastructure and public services and the maintenance and rehabilitation of existing residential, commercial and industrial structures.

2. Encouragement of neighborhood designs that support a range of transportation choices.

3. Protection of natural areas, including wetlands, wildlife habitats, lakes, woodlands, open spaces and groundwater resources.

4. Protection of economically productive areas, including farmland and forests.

5. Encouragement of land uses, densities and regulations that promote efficient development patterns and relatively low municipal, state governmental and utility costs.

6. Preservation of cultural, historic and archaeological sites.

7. Encouragement of coordination and cooperation among nearby units of government.

8. Building of community identity by revitalizing main streets and enforcing design standards.

9. Providing an adequate supply of affordable housing for individuals of all income levels throughout each community.

10. Providing adequate infrastructure and public services and an adequate supply of developable land to meet existing and future market demand for residential, commercial and industrial uses.

11. Promoting the expansion or stabilization of the current economic base and the creation of a range of employment opportunities at the state, regional and local levels.

12. Balancing individual property rights with community interests and goals.

13. Planning and development of land uses that create or preserve varied and unique urban and rural communities.

14. Providing an integrated, efficient and economical transportation system that affords mobility, convenience and safety and that meets the needs of all citizens, including transit−dependent and disabled citizens.

(c) Planning efforts that identify smart growth areas.

(d) Planning efforts, including subsequent updates and amendments, that include development of implementing ordinances, including ordinances pertaining to zoning, subdivisions and land division.

(e) Planning efforts for which completion is contemplated within 30 months of the date on which a grant would be awarded.

(f) Planning efforts that provide opportunities for public participation throughout the planning process.

(5) The Wisconsin land council may promulgate rules specifying the methodology whereby precedence will be accorded to applications in awarding grants under sub. (2).

Note: Sub. (5) is repealed eff. 9−1−05 by 1999 Wis. Act. 9.

History: 1999 a. 9, 148, 185; 2001 a. 16, 30, 105; 2003 a. 33 s. 2813.

Cross Reference: See also ch. Adm 48, Wis. adm. code.

16.9651 Transportation planning grants to local governmental units. (1) In this section, "local governmental unit" means a county, city, village, town or regional planning commission.

(2) From the appropriation under s. 20.505 (1) (z), the department may provide grants to local governmental units to be used to finance the cost of planning activities related to the transportation element, as described in s. 66.1001 (2) (c), of a comprehensive plan, as defined in s. 66.1001 (1) (a), including contracting for planning consultant services, public planning sessions, and other planning outreach and educational activities, or for the purchase of computerized planning data, planning software, or the hardware required to utilize that data or software. The department may require any local governmental unit that receives a grant under this section to finance not more than 25% of the cost of the product or service to be funded by the grant from the resources of the local governmental unit. Prior to awarding a grant under this section, the department shall forward a detailed statement of the proposed expenditures to be made under the grant to the secretary of transportation and obtain his or her written approval of the proposed expenditures.

History: 1999 a. 9; 2001 a. 30.

Cross Reference: See also ch. Adm 48, Wis. adm. code.

16.966 Land information support. (1) In this section, "state agency" has the meaning given for "agency" under s. 16.045 (1) (a).

Note: Sub. (1) is repealed eff. 9−1−05 by 1997 Wis. Act 27.

(2) The department may assess any state agency for any amount that it determines to be required for the functions of the Wisconsin land council under s. 16.023. For this purpose, the department may assess state agencies on a premium basis and pay costs incurred on an actual basis. The department shall credit all moneys received from state agencies under this subsection to the appropriation account under s. 20.505 (1) (ks).

Note: Sub. (2) is repealed eff. 9−1−05 by 1997 Wis. Act 27.

(3) The department may develop and maintain geographic information systems relating to land in this state for the use of governmental and nongovernmental units.

(4) The department shall provide staff services to the land information board.

Note: Sub. (4) is repealed eff. 7−1−05 by 1997 Wis. Act 27.

History: 1997 a. 27; 2003 a. 33 s. 2811; 2003 a. 48 s. 11.

16.967 Land information program. (1) DEFINITIONS. In this section:

(a) "Board" means the land information board.

(b) "Land information" means any physical, legal, economic or environmental information or characteristics concerning land, water, groundwater, subsurface resources or air in this state. "Land information" includes information relating to topography, soil, soil erosion, geology, minerals, vegetation, land cover, wildlife, associated natural resources, land ownership, land use, land use controls and restrictions, jurisdictional boundaries, tax assessment, land value, land survey records and references, geodetic control networks, aerial photographs, maps, planimetric data, remote sensing data, historic and prehistoric sites and economic projections.

(c) "Land information system" means an orderly method of organizing and managing land information and land records.

(d) "Land records" means maps, documents, computer files and any other information storage medium in which land information is recorded.

(e) "Systems integration" means land information that is housed in one jurisdiction or jurisdictional subunit and is available to other jurisdictions, jurisdictional subunits, public utilities and other private sector interests.

(3) BOARD DUTIES. The board shall direct and supervise the land information program and serve as the state clearinghouse for access to land information. In addition, the board shall:

(a) Provide technical assistance and advice to state agencies and local governmental units with land information responsibilities.

(b) Maintain and distribute an inventory of land information available for this state, land records available for this state and land information systems.

(c) Prepare guidelines to coordinate the modernization of land records and land information systems.

(d) Review project applications received under sub. (7) and determine which projects are approved.

(e) Review for approval a countywide plan for land records modernization prepared under s. 59.72 (3) (b).

(4) FUNDING REPORT. The board shall identify and study possible program revenue sources or other revenue sources for the purpose of funding the operations of the board, including grants to counties under sub. (7).

(5) FEES. All fees received under s. 59.72 (5) (a) shall be credited to the appropriation under s. 20.505 (1) (ij).

(6) REPORTS. By March 31 of each year, the department of administration, the department of agriculture, trade and consumer protection, the department of commerce, the department of health and family services, the department of natural resources, the department of tourism, the department of revenue, the department of transportation, the board of regents of the University of Wisconsin System, the public service commission and the board of curators of the historical society shall each submit to the board a plan to integrate land information to enable such information to be readily translatable, retrievable and geographically referenced for use by any state, local governmental unit or public utility. The plans shall include the information that will be needed by local governmental units to prepare comprehensive plans containing the planning elements required under s. 66.1001 (2). Upon receipt of this information, the board shall integrate the information to enable the information to be used to meet land information data needs. The integrated information shall be readily translatable, retrievable, and geographically referenced to enable members of the public to use the information.

(7) AID TO COUNTIES. (a) A county board that has established a county land information office under s. 59.72 (3) may apply to the board on behalf of any local governmental unit, as defined in s. 59.72 (1) (c), located wholly or partially within the county for a grant for any of the following projects:

1. The design, development and implementation of a land information system that contains and integrates, at a minimum, property and ownership records with boundary information, including a parcel identifier referenced to the U.S. public land survey; tax and assessment information; soil surveys, if available; wetlands identified by the department of natural resources; a modern geodetic reference system; current zoning restrictions; and restrictive covenants.

2. The preparation of parcel property maps that refer boundaries to the public land survey system and are suitable for use by local governmental units for accurate land title boundary line or land survey line information.

3. The preparation of maps that include a statement documenting accuracy if the maps do not refer boundaries to the public land survey system and that are suitable for use by local governmental units for planning purposes.

4. Systems integration projects.

5. To support technological developments and improvements for the purpose of providing Internet−accessible housing assessment and sales data.

(b) Grants shall be paid from the appropriation under s. 20.505 (1) (ij). A grant under this subsection may not exceed $100,000. The board may award more than one grant to a county board.

(8) ADVICE; COOPERATION. In carrying out its duties under this section, the board may seek advice and assistance from the University of Wisconsin System, state agencies, local governmental units and other experts involved in collecting and managing land information. State agencies shall cooperate with the board in the coordination of land information collection.

(9) TECHNICAL ASSISTANCE; EDUCATION. The board may provide technical assistance to counties and conduct educational seminars, courses or conferences relating to land information. The board shall charge and collect fees sufficient to recover the costs of activities authorized under this subsection.

(10) MEMORANDUM OF UNDERSTANDING. The board shall enter into a memorandum of understanding with the Wisconsin land council to ensure cooperation between the board and the council and to avoid duplication of activities.

(11) SOIL SURVEYS AND MAPPING. The board may conduct soil surveys and soil mapping activities.

Note: Sub. (11) is repealed eff. 9−1−05 by 1999 Wis. Act 9.

Note: This section is repealed eff. 7−1−05 by 1997 Wis. Act 27.

History: 1989 a. 31, 339; 1991 a. 39; 1993 a. 16; 1995 a. 27 ss. 403, 9116 (5), 9126 (19); 1995 a. 201; 1997 a. 27; 1999 a. 9; 2001 a. 16; 2003 a. 33 ss. 2811, 2813; 2003 a. 48 s. 11.

Cross Reference: See also s. Adm 47.01, Wis. adm. code.

16.968 Groundwater survey and analysis. The department shall allocate funds for programs of groundwater survey and analysis to the department of natural resources and the geological and natural history survey following review and approval of a mutually agreed upon division of responsibilities concerning groundwater programs between the department of natural resources and the geological and natural history survey, a specific expenditure plan and groundwater data collection standards consistent with the purposes of s. 16.967. State funds allocated under this section shall be used to match available federal funds prior to being used for solely state−funded activities.

Note: This section is amended eff. 7−1−05 by 1997 Wis. Act 27 to read:

16.968 Groundwater survey and analysis. The department shall allocate funds for programs of groundwater survey and analysis to the department of natural resources and the geological and natural history survey following review and approval of a mutually agreed upon division of responsibilities concerning groundwater programs between the department of natural resources and the geological and natural history survey, a specific expenditure plan and ground-

water data collection standards. State funds allocated under this section shall be used to match available federal funds prior to being used for solely state−funded activities.

History: 1979 c. 34; 1997 a. 27; 2003 a. 33 s. 2811; 2003 a. 48 s. 11.

16.969 Fees for certain high−voltage transmission lines. (1) In this section:

(a) "Commission" means the public service commission.

(b) "High−voltage transmission line" means a high−voltage transmission line, as defined in s. 196.491 (1) (f), that is designed for operation at a nominal voltage of 345 kilovolts or more.

(2) The department shall promulgate rules that require a person who is issued a certificate of public convenience and necessity by the commission under s. 196.491 (3) for a high−voltage transmission line to pay the department the following fees:

(a) An annual impact fee in an amount equal to 0.3% of the cost of the high−voltage transmission line, as determined by the commission under s. 196.491 (3) (gm).

(b) A one−time environmental impact fee in an amount equal to 5% of the cost of the high−voltage transmission line, as determined by the commission under s. 196.491 (3) (gm).

(3) (a) The department shall distribute the fees that are paid by a person under the rules promulgated under sub. (2) (a) to each town, village and city that is identified by the commission under s. 196.491 (3) (gm) in proportion to the amount of investment that is allocated by the commission under s. 196.491 (3) (gm) to each such town, village and city.

(b) The fee that is paid by a person under the rules promulgated under sub. (2) (b) shall be distributed as follows:

1. The department shall pay 50% of the fee to each county that is identified by the commission under s. 196.491 (3) (gm) in proportion to the amount of investment that is allocated by the commission under s. 196.491 (3) (gm) to each such county.

2. The department shall pay 50% of the fee to each town, village and city that is identified by the commission under s. 196.491 (3) (gm) in proportion to the amount of investment that is allocated by the commission under s. 196.491 (3) (gm) to each such town, village and city.

(4) A county, town, village, or city that receives a distribution under sub. (3) (b) may use the distribution only for park, conservancy, wetland or other similar environmental programs, unless the commission approves a different use under this subsection. A county, town, village, or city that receives a distribution may request in writing at any time that the commission approve a different use. The commission shall make a decision no later than 14 days after receiving such a request. The commission shall approve a request if it finds that the request is in the public interest.

History: 1999 a. 9; 2003 a. 89.

Cross Reference: See also Adm 46, Wis. adm. code.

SUBCHAPTER VII

INFORMATION TECHNOLOGY

16.97 Definitions. In this subchapter:

(1m) "Agency" has the meaning given in s. 16.70 (1e).

(2) "Authority" has the meaning given in s. 16.70 (2).

(2m) "Board" means the information technology management board.

(3) "Computer services" means any services in which a computer is utilized other than for personal computing purposes.

(4) "Data processing" means the delivery of information processing services.

(5m) "Executive branch agency" has the meaning given in s. 16.70 (4).

(5p) "Form" means any written material, by whatever means printed, generated or reproduced, with blank spaces left for the entry of additional information to be used for the purpose of providing information, collecting information or requiring action in any transaction involving this state.

(5s) "Forms management" means the system of providing forms to accomplish necessary operations efficiently and economically, including analysis and design of forms, improvement of methods of procurement, distribution and disposition of forms and improvement of methods to keep to a reasonable level the public's duty to report. "Forms management" includes the elimination of unnecessary forms and of unnecessary data collection and standardizing, consolidating and simplifying forms and related procedures.

(6) "Information technology" means the electronic processing, storage and transmission of information including data processing and telecommunications.

(6m) "Information technology portfolio" means information technology systems, applications, infrastructure, and information resources and human resources devoted to developing and maintaining information technology systems.

(7) "Local governmental unit" means a political subdivision of this state, a special purpose district in this state, an instrumentality or corporation of such a political subdivision or special purpose district, a combination or subunit of any of the foregoing or an instrumentality of the state and any of the foregoing.

(8) "Personal computing" means utilizing a computer that is located at the same work station where the input or output of data is conducted.

(8m) "Public contact form" means a form generated and used by any agency in transactions between the agency and a member of the public.

(9) "Supercomputer" means a special purpose computer that performs in a scientific environment and that is characterized by a very high processing speed and power.

(10) "Telecommunications" means all services and facilities capable of transmitting, switching, or receiving information in any form by wire, radio, or other electronic means.

History: 2001 a. 16 ss. 346, 347, 348, 1027; Stats. 2001 s. 22.01; 2003 a. 33 ss. 232, 752 to 756; Stats. 2003 s. 16.97.

16.971 Responsibilities of department. (2) The department shall:

(a) Ensure that an adequate level of information technology services is made available to all agencies by providing systems analysis and application programming services to augment agency resources, as requested. The department shall also ensure that executive branch agencies, other than the board of regents of the University of Wisconsin System, make effective and efficient use of the information technology resources of the state. The department shall, in cooperation with agencies, establish policies, procedures and planning processes, for the administration of information technology services, which executive branch agencies shall follow. The policies, procedures and processes shall address the needs of agencies, other than the board of regents of the University of Wisconsin System, to carry out their functions. The department shall monitor adherence to these policies, procedures and processes.

(ae) Except as provided in sub. (2m), review and approve, modify or reject all forms approved by a records and forms officer for jurisdiction, authority, standardization of design and nonduplication of existing forms. Unless the department rejects for cause or modifies the form within 20 working days after receipt, it is considered approved. The department's rejection of any form is appealable to the public records board. If the head of an agency certifies to the department that the form is needed on a temporary basis, approval by the department is not required.

(am) Make as cost effective as possible the procurement and use of forms by agencies.

(ap) Prescribe a forms management program for agencies.

(b) Develop and maintain information technology resource planning and budgeting techniques at all levels of state government.

(c) Develop and maintain procedures to ensure information technology resource planning and sharing between executive branch agencies. The procedures shall ensure the interconnection of information technology resources of executive branch agencies, if interconnection is consistent with the strategic plans formulated under pars. (L) and (m).

(d) Develop review and approval procedures which encourage timely and cost−effective hardware, software, and professional services acquisitions, and review and approve the acquisition of such items and services under those procedures.

(e) Collect, analyze and interpret, in cooperation with agencies, that data necessary to assist the information technology resource planning needs of the governor and legislature.

(f) Provide advice and assistance during budget preparation concerning information technology resource plans and capabilities.

(g) Ensure that management reviews of information technology organizations are conducted.

(h) Gather, interpret and disseminate information on new technological developments, management techniques and information technology resource capabilities and their possible effect on current and future management plans to all interested parties.

(i) Ensure that a level of information technology services are provided to all agencies that are equitable in regard to resource availability, cost and performance.

(j) Ensure that all executive branch agencies develop and operate with clear guidelines and standards in the areas of information technology systems development and that they employ good management practices and cost−benefit justifications.

(k) Ensure that all state data processing facilities develop proper privacy and security procedures and safeguards.

(L) Require each executive branch agency, other than the board of regents of the University of Wisconsin System, to adopt and submit to the department, in a form specified by the department, no later than March 1 of each year, a strategic plan for the utilization of information technology to carry out the functions of the agency in the succeeding fiscal year for review and approval under s. 16.976.

(Lm) No later than 60 days after enactment of each biennial budget act, require each executive branch agency, other than the board of regents of the University of Wisconsin System, that receives funding under that act for an information technology development project to file with the department an amendment to its strategic plan for the utilization of information technology under par. (L). The amendment shall identify each information technology development project for which funding is provided under that act and shall specify, in a form prescribed by the department, the benefits that the agency expects to realize from undertaking the project.

(m) Assist in coordination and integration of the plans of executive branch agencies relating to information technology approved under par. (L) and, using these plans and the statewide long−range telecommunications plan under s. 16.979 (2) (a), formulate and revise biennially a consistent statewide strategic plan for the use and application of information technology. The department shall, no later than September 15 of each even−numbered year, submit the statewide strategic plan to the cochairpersons of the joint committee on information policy and technology and the governor.

(n) Maintain an information technology resource center to provide appropriate technical assistance and training to small agencies.

(2m) The following forms are not subject to review or approval by the department:

(a) Forms that must be completed by applicants for admission to an institution of the University of Wisconsin System or by students of such an institution who are applying for financial aid, including loans, or for a special course of study or who are adding or dropping courses, registering or withdrawing, establishing their residence or being identified or classified.

(b) Forms the use of which is required by federal law.

(c) Forms used by teachers to evaluate a student's academic performance.

(d) Forms used by hospitals and health care providers to bill or collect from patients and 3rd parties.

(e) Forms used by medical personnel in the treatment of patients.

(f) Forms used to collect data from research subjects in the course of research projects administered by the board of regents of the University of Wisconsin System.

(g) Forms used by the department of corrections in the investigation or processing of persons either under the control or custody of the department or under investigation by a court.

(gm) Forms relating to youth corrections used by the department of health and family services in the investigation or processing of persons either under the control or custody of the department or under investigation by a court.

(h) Forms that are not public contact forms.

(3) (a) The department shall notify the joint committee on finance in writing of the proposed acquisition of any information technology resource that the department considers major or that is likely to result in a substantive change of service, and that was not considered in the regular budgeting process and is to be financed from general purpose revenues or corresponding revenues in a segregated fund. If the cochairpersons of the committee do not notify the department that the committee has scheduled a meeting for the purpose of reviewing the proposed acquisition within 14 working days after the date of the department's notification, the department may approve acquisition of the resource. If, within 14 working days after the date of the department's notification, the cochairpersons of the committee notify the department that the committee has scheduled a meeting for the purpose of reviewing the proposed acquisition, the department shall not approve acquisition of the resource unless the acquisition is approved by the committee.

(b) The department shall promptly notify the joint committee on finance in writing of the proposed acquisition of any information technology resource that the department considers major or that is likely to result in a substantive change in service, and that was not considered in the regular budgeting process and is to be financed from program revenues or corresponding revenues from program receipts in a segregated fund.

(4) (a) The department may license or authorize executive branch agencies to license computer programs developed by executive branch agencies to the federal government, other states and municipalities. Any agency other than an executive branch agency may license a computer program developed by that agency to the federal government, other states and municipalities.

(b) Annual license fees may be established at not more than 25% of the program development cost and shall be credited to the agency which developed the program.

(c) In this subsection:

1. "Computer programs" are the processes for the treatment and verbalization of data.

2. "Municipality" has the meaning designated in s. 66.0901 (1) (a).

(6) Notwithstanding sub. (2), the revisor of statutes shall approve the specifications for preparation and schedule for delivery of computer databases containing the Wisconsin statutes.

(9) In conjunction with the public defender board, the director of state courts, the departments of corrections and justice and dis-

trict attorneys, the department may maintain, promote and coordinate automated justice information systems that are compatible among counties and the officers and agencies specified in this subsection, using the moneys appropriated under s. 20.505 (1) (ja), (kp) and (kq). The department shall annually report to the legislature under s. 13.172 (2) concerning the department's efforts to improve and increase the efficiency of integration of justice information systems.

(11) The department may charge executive branch agencies for information technology development and management services provided to them by the department under this section.

(13) Provide secured correctional facilities, school districts, and cooperative educational service agencies with telecommunications access under s. 16.997 and contract with telecommunications providers to provide that access.

(14) Provide private colleges, technical college districts, public library boards, public library systems, and public museums with telecommunications access under s. 16.997 and contract with telecommunications providers to provide that access.

(15) Provide private schools with telecommunications access under s. 16.997 and contract with telecommunications providers to provide that access.

(16) Provide the Wisconsin Center for the Blind and Visually Impaired and the Wisconsin Educational Services Program for the Deaf and Hard of Hearing with telecommunications access under s. 16.997 and contract with telecommunications providers to provide that access.

History: 1971 c. 261; Stats. 1971 s. 16.96; Stats. 1971 s. 16.97; 1975 c. 39; 1977 c. 29; 1977 c. 196 s. 130 (3); 1979 c. 34, 221; 1981 c. 20; 1987 a. 142; 1989 a. 31; 1991 a. 39 ss. 180b, 192b; Stats. 1991 s. 16.971; 1993 a. 16; 1995 a. 27 ss. 324, 331, 408 to 423m, 9126 (19); 1995 a. 417; 1997 a. 27, 36; 1999 a. 9, 29, 32; 1999 a. 150 s. 672; 1999 a. 185, 186; 2001 a. 16 ss. 349 to 360; Stats. 2001 s. 22.03; 2001 a. 104; 2003 a. 33 ss. 234d to 238d, 757 to 767; Stats. 2003 s. 16.971.

16.972 Powers of the department. (1) In this section:

(ag) "Qualified museum" means a nonprofit or publicly owned museum that has an educational mission.

(b) "Qualified postsecondary institution" means a regionally accredited 4−year nonprofit college or university having its regional headquarters and principal place of business in this state or a tribally controlled college located in this state.

(c) "Qualified private school" means a private school, as defined in s. 115.001 (3r), operating elementary or high school grades.

(d) "Qualified zoo" means a bona fide publicly owned zoo that has an educational mission.

(2) The department may:

(a) Provide such telecommunications services to agencies as the department considers to be appropriate.

(b) Provide such computer services and telecommunications services to local governmental units and the broadcasting corporation and provide such telecommunications services to qualified private schools, postsecondary institutions, museums and zoos, as the department considers to be appropriate and as the department can efficiently and economically provide. The department may exercise this power only if in doing so it maintains the services it provides at least at the same levels that it provides prior to exercising this power and it does not increase the rates chargeable to users served prior to exercise of this power as a result of exercising this power. The department may charge local governmental units, the broadcasting corporation, and qualified private schools, postsecondary institutions, museums and zoos, for services provided to them under this paragraph in accordance with a methodology determined by the department. Use of telecommunications services by a qualified private school or postsecondary institution shall be subject to the same terms and conditions that apply to a municipality using the same services. The department shall prescribe eligibility requirements for qualified museums and zoos to receive telecommunications services under this paragraph.

(c) Provide such supercomputer services to agencies, local governmental units and entities in the private sector as the department considers to be appropriate and as the department can efficiently and economically provide. The department may exercise this power only if in doing so it maintains the services it provides at least at the same levels that it provides prior to exercising this power and it does not increase the rates chargeable to users served prior to exercise of this power as a result of exercising this power. The department may charge agencies, local governmental units and entities in the private sector for services provided to them under this paragraph in accordance with a methodology determined by the department.

(d) Undertake such studies, contract for the performance of such studies, and appoint such councils and committees for advisory purposes as the department considers appropriate to ensure that the department's plans, capital investments and operating priorities meet the needs of agencies local governmental units and entities in the private sector served by the department. The department may compensate members of any council or committee for their services and may reimburse such members for their actual and necessary expenses incurred in the discharge of their duties.

(e) Provide technical services to agencies in making hardware acquisitions to be used for computer services.

(f) Acquire, operate, and maintain any information technology equipment or systems required by the department to carry out its functions, and provide information technology development and management services related to those information technology systems. The department may assess executive branch agencies, other than the board of regents of the University of Wisconsin System, for the costs of equipment or systems acquired, operated, maintained, or provided or services provided under this paragraph in accordance with a methodology determined by the department. The department may also charge any agency for such costs as a component of any services provided by the department to the agency.

(g) Assume direct responsibility for the planning and development of any information technology system in the executive branch of state government outside of the University of Wisconsin System that the department determines to be necessary to effectively develop or manage the system, with or without the consent of any affected executive branch agency. The department may charge any executive branch agency for the department's reasonable costs incurred in carrying out its functions under this paragraph on behalf of that agency.

(h) Establish master contracts for the purchase of materials, supplies, equipment, or contractual services relating to information technology or telecommunications for use by agencies, authorities, local governmental units, or entities in the private sector. The department may require any executive branch agency, other than the board of regents of the University of Wisconsin System, to make any purchases of materials, supplies, equipment, or contractual services relating to information technology or telecommunications that are included under the contract pursuant to the terms of the contract.

(i) Accept gifts, grants, and bequests, to be used for the purposes for which made, consistently with applicable laws.

History: 2001 a. 16 ss. 361 to 365, 1029; Stats. 2001 s. 22.05; 2003 a. 33 ss. 768 to 776; Stats. 2003 s. 16.972.

16.973 Duties of the department. The department shall:

(1) Provide or contract with a public or private entity to provide computer services to agencies. The department may charge agencies for services provided to them under this subsection in accordance with a methodology determined by the department.

(2) Promulgate methodologies for establishing all fees and charges established or assessed by the department under this subchapter.

(3) Facilitate the implementation of statewide initiatives, including development and maintenance of policies and programs

to protect the privacy of individuals who are the subjects of information contained in the databases of agencies, and of technical standards and sharing of applications among agencies and any participating local governmental units or entities in the private sector.

(4) Ensure responsiveness to the needs of agencies for delivery of high−quality information technology processing services on an efficient and economical basis, while not unduly affecting the privacy of individuals who are the subjects of the information being processed by the department.

(5) Utilize all feasible technical means to ensure the security of all information submitted to the department for processing by agencies, local governmental units and entities in the private sector.

(6) With the advice of the ethics board, adopt and enforce standards of ethical conduct applicable to its paid consultants which are similar to the standards prescribed in subch. III of ch. 19, except that the department shall not require its paid consultants to file statements of economic interests.

(7) Prescribe and revise as necessary performance measures to ensure financial controls and accountability, optimal personnel utilization, and customer satisfaction for all information technology functions in the executive branch outside of the University of Wisconsin System and annually, no later than March 31, report to the joint committee on information policy and technology and the board concerning the performance measures utilized by the department and the actual performance of the department and the executive branch agencies measured against the performance measures then in effect.

(8) Offer the opportunity to local governmental units to voluntarily obtain computer or supercomputer services from the department when those services are provided under s. 16.972 (2) (b) or (c), and to voluntarily participate in any master contract established by the department under s. 16.972 (2) (h) or in the use of any informational system or device provided by the department under 16.974 (3).

(9) In consultation with the department of veterans affairs, administer a program to increase outreach to veterans regarding veterans services and benefits, and to provide training to employees of the department of veterans affairs and county veterans service officers.

History: 2001 a. 16 ss. 367 to 369, 1030 to 1030m; 2003 a. 33 ss. 777 to 781; Stats. 2003 s. 16.973.

16.974 Powers of the department. The department may:

(1) Establish and collect assessments and charges for all authorized services provided by the department, subject to applicable agreements under sub. (2).

(2) Subject to s. 16.972 (2) (b), enter into and enforce an agreement with any agency, any authority, any unit of the federal government, any local governmental unit, or any entity in the private sector to provide services authorized to be provided by the department to that agency, authority, unit, or entity at a cost specified in the agreement.

(3) Develop or operate and maintain any system or device facilitating Internet or telephone access to information about programs of agencies, authorities, local governmental units, or entities in the private sector, or otherwise permitting the transaction of business by agencies, authorities, local governmental units, or entities in the private sector by means of electronic communication. The department may assess executive branch agencies, other than the board of regents of the University of Wisconsin System, for the costs of systems or devices relating to information technology or telecommunications that are developed, operated, or maintained under this subsection in accordance with a methodology determined by the department. The department may also charge any agency, authority, local governmental unit, or entity in the private sector for such costs as a component of any services provided by the department to that agency, authority, local governmental unit, or entity.

(5) Review and approve, approve with modifications, or disapprove any proposed contract for the purchase of materials, supplies, equipment, or contractual services relating to information technology or telecommunications by an executive branch agency, other than the board of regents of the University of Wisconsin System.

History: 2001 a. 16; 2003 a. 33 ss. 782 to 785c; Stats. 2003 s. 16.974.

16.975 Access to information. The department shall withhold from access under s. 19.35 (1) all information submitted to the department by agencies, authorities, units of the federal government, local governmental units or entities in the private sector for the purpose of processing. The department may not process such information without the consent of the agency, authority, unit or other entity which submitted the information and may not withhold such information from the agency, authority, unit or other entity or from any other person authorized by the agency, authority, unit or entity to have access to the information. The agency, authority, unit or other entity submitting the information remains the custodian of the information while it is in the custody of the department and access to such information by that agency, authority, unit or entity or any other person shall be determined by that agency, authority, unit or other entity and in accordance with law.

History: 1991 a. 39; 1995 a. 27; 2001 a. 16 s. 372; Stats. 2001 s. 22.11; 2003 a. 33 s. 786; Stats. 2003 s. 16.975.

16.976 Strategic plans for executive branch agencies. **(1)** As a part of each proposed strategic plan submitted under s. 16.971 (2) (L), the department shall require each executive branch agency to address the business needs of the agency and to identify all proposed information technology development projects that serve those business needs, the priority for undertaking such projects, and the justification for each project, including the anticipated benefits of the project. Each proposed plan shall identify any changes in the functioning of the agency under the plan. In each even−numbered year, the plan shall include identification of any information technology development project that the agency plans to include in its biennial budget request under s. 16.42 (1).

(2) Each proposed strategic plan shall separately identify the initiatives that the executive branch agency plans to undertake from resources available to the agency at the time that the plan is submitted and initiatives that the agency proposes to undertake that would require additional resources.

(3) Following receipt of a proposed strategic plan from an executive branch agency, the department shall, before June 1, notify the agency of any concerns that the department may have regarding the plan and provide the agency with its recommendations regarding the proposed plan. The department may also submit any concerns or recommendations regarding any proposed plan to the board for its consideration. The board shall then consider the proposed plan and provide the department with its recommendations regarding the plan. The executive branch agency may submit modifications to its proposed plan in response to any recommendations.

(4) Before June 15, the department shall consider any recommendations provided by the board under sub. (3) and shall then approve or disapprove the proposed plan in whole or in part.

(5) No executive branch agency, other than the board of regents of the University of Wisconsin System, may implement a new or revised information technology development project authorized under a strategic plan until the implementation is approved by the department in accordance with procedures prescribed by the department.

(6) The department shall consult with the joint committee on information policy and technology in providing guidance for planning by executive branch agencies.

History: 2001 a. 16; 2003 a. 33 ss. 787 to 791; Stats. 2003 s. 16.976.

16.977 Information technology portfolio management. With the assistance of executive branch agencies and the advice of the board, the department shall manage the information technology portfolio of state government in accordance with a management structure that includes all of the following:

(1) Criteria for selection of information technology assets to be managed.

(2) Methods for monitoring and controlling information technology development projects and assets.

(3) Methods to evaluate the progress of information technology development projects and the effectiveness of information technology systems, including performance measurements for the information technology portfolio.

History: 2001 a. 16; 2003 a. 33 ss. 792, 793; Stats. 2003 s. 16.977.

16.978 Information technology management board. **(1)** The board shall provide the department with its recommendations concerning any elements of the strategic plan of an executive branch agency that are referred to the board under s. 16.976 (3).

(2) The board may advise the department with respect to management of the information technology portfolio of state government under s. 16.977.

(3) The board may, upon petition of an executive branch agency, review any decision of the department under this subchapter affecting that agency. Upon review, the board may affirm, modify, or set aside the decision. If the board modifies or sets aside the decision of the department, the decision of the board stands as the decision of the department and the decision is not subject to further review or appeal.

(4) The board may monitor progress in attaining goals for information technology and telecommunications development set by the department or executive branch agencies, other than the board of regents of the University of Wisconsin System, and may make recommendations to the department or agencies concerning appropriate means of attaining those goals.

History: 2001 a. 16; 2003 a. 33 ss. 794, 795; Stats. 2003 s. 16.978.

16.9785 Purchases of computers by teachers. The department shall negotiate with private vendors to facilitate the purchase of computers and other educational technology, as defined in s. 24.60 (1r), by public and private elementary and secondary school teachers for their private use. The department shall attempt to make available types of computers and other educational technology under this section that will encourage and assist teachers in becoming knowledgeable about the technology and its uses and potential uses in education.

History: 1995 a. 27, 225; 1997 a. 27; 2001 a. 16, s. 308; Stats. 2001 s. 22.19; 2003 a. 33 s. 796; Stats. 2003 s. 16.9785.

16.979 Telecommunications operations and planning. **(2)** POWERS AND DUTIES. The department shall ensure maximum utility, cost−benefit and operational efficiency of all telecommunications systems and activities of this state, and those which interface with cities, counties, villages, towns, other states and the federal government. The department, with the assistance and cooperation of all other agencies, shall:

(a) Develop and maintain a statewide long−range telecommunications plan, which will serve as a major element for budget preparation, as guidance for technical implementation and as a means of ensuring the maximum use of shared systems by agencies when this would result in operational or economic improvements or both.

(b) Develop policy, standards and technical and procedural guidelines to ensure a coordinated and cost−effective approach to telecommunications system acquisition and utilization.

(c) Maintain a comprehensive inventory of all state−owned or leased telecommunications equipment and services.

(d) Monitor overall state expenditures for telecommunications systems and prepare an annual financial report on such expenditures.

(e) Review the operation of all telecommunications systems of this state to ensure technical sufficiency, adequacy and consistency with goals and objectives.

(f) Perform the functions of agency telecommunications officer for those agencies with no designated focal point for telecommunications planning, coordination, technical review and procurement.

(3) PRIVATE COLLEGE AND UNIVERSITY PARTICIPATION IN STATE TELECOMMUNICATIONS NETWORK. The department may allow regionally accredited 4−year nonprofit colleges and universities that are incorporated in this state or that have their regional headquarters and principal place of business in this state to participate in any telecommunications network administered by the department.

History: 1977 c. 418; 1993 a. 246; 1997 a. 150; 2001 a. 16 ss. 375 to 380; Stats. 2001 s. 22.41; 2003 a. 33 ss. 797 to 800; Stats. 2003 s. 16.979.

SUBCHAPTER VIII

FEDERAL RESOURCE ACQUISITION

16.98 Federal resource acquisition. **(1)** The department shall engage in such activities as the secretary deems necessary to ensure the maximum utilization of federal resources by state agencies and institutions and other eligible organizations and units of government, including community development corporations as defined in s. 234.94 (2). The department shall acquire excess and surplus real and personal property at such cost to the recipient as is necessary to amortize expenditures for transportation, packing, crating, handling and program overhead, except that the department may transfer any excess or surplus personal property to the department of tourism, upon request of the department of tourism, at no cost, subject to any limitation or restriction imposed by federal law.

(2) The department may, in accordance with federal law, operate warehouses and otherwise provide for the temporary storage of property being transferred.

(3) All proceeds from the sale of land, buildings, supplies and equipment received under this section shall be credited to the appropriation under s. 20.505 (1) (im) or (ka). Such proceeds may be used for the purchase of lands and buildings or for construction or improvement of buildings for the purpose of storing and handling excess and surplus property.

(4) From the appropriation under s. 20.505 (1) (fo), the department may provide grants to any organization with which the department contracts to operate the program under sub. (1).

History: 1971 c. 215; 1977 c. 29; 1979 c. 34 s. 2102 (1) (b), (c); 1983 a. 106; 1987 a. 27, 399; 1997 a. 27; 1999 a. 9.

16.981 Transfer of appropriations. On June 30 of each fiscal year, the department shall determine the amount within the appropriation under s. 20.505 (1) (im) by which total expenditures for the operation of warehouses and distribution centers under the federal resource acquisition program have exceeded income attributable to that operation under that appropriation as of that date. Immediately prior to the end of the fiscal year, the department shall transfer to the appropriation under s. 20.505 (1) (im) an amount equal to that excess from the unencumbered balances in the appropriation under s. 20.505 (1) (a). If the excess exceeds the unencumbered balance in any fiscal year, the department shall transfer all of the unencumbered balance. If the unencumbered balance exceeds the excess in any fiscal year, the department shall transfer an amount equal to the excess.

History: 1987 a. 27.

SUBCHAPTER IX

TECHNOLOGY FOR EDUCATIONAL ACHIEVEMENT

16.99 Definitions. In this subchapter:

(1d) "Charter school sponsor" means an entity described under s. 118.40 (2r) (b) that is sponsoring a charter school.

(1m) "Data line" means a data circuit that provides direct access to the Internet.

(2g) "Educational agency" means a school district, charter school sponsor, secured correctional facility, private school, cooperative educational service agency, technical college district, private college, public library system, public library board, public museum, the Wisconsin Center for the Blind and Visually Impaired, or the Wisconsin Educational Services Program for the Deaf and Hard of Hearing.

(3) "Educational technology" means technology used in the education or training of any person or in the administration of an elementary or secondary school and related telecommunications services.

(3d) "Political subdivision" means any city, village, town, or county.

(3g) "Private college" means a private, regionally accredited, 4−year, nonprofit college or university that is incorporated in this state or that has its regional headquarters and principal place of business in this state or a tribally controlled college in this state.

(3j) "Private school" has the meaning given in s. 115.001 (3r).

(3m) "Public library system" has the meaning given in s. 43.01 (5).

(3p) "Public museum" means a nonprofit or publicly owned museum located in this state that is accredited by the American Association of Museums or an educational center that is affiliated with such a museum.

(3r) "Secured correctional facility" means the Southern Oaks Girls School, the Ethan Allen School, the Youth Leadership Training Center, and the Lincoln Hills School.

(4) "Telecommunications" has the meaning given in s. 16.97 (10).

(5) "Universal service fund" means the trust fund established under s. 25.95.

(6) "Video link" means a 2−way interactive video circuit.

History: 1997 a. 27; 1999 a. 9 ss. 949 to 952, 2320 to 2322; 2001 a. 16, 57, 104, 105; 2003 a. 33 ss. 238n, 238p, 1036d to 1050d; Stats. 2003 s. 16.99.

16.993 Technology for educational achievement in Wisconsin; departmental duties. The department shall do all of the following:

(1) In cooperation with school districts, cooperative educational service agencies, the technical college system board, and the board of regents of the University of Wisconsin System, promote the efficient, cost−effective procurement, installation, and maintenance of educational technology by school districts, cooperative educational service agencies, technical college districts, and the University of Wisconsin System.

(2) Identify the best methods of providing preservice and in−service training for teachers related to educational technology.

(3) Enter into cooperative purchasing agreements under s. 16.73 (1) under which participating school districts and cooperative educational service agencies may contract for their professional employees to receive training concerning the effective use of educational technology.

(4) In cooperation with the board of regents of the University of Wisconsin System, the technical college system board, the department of public instruction and other entities, support the development of courses for the instruction of professional employees who are licensed by the state superintendent of public instruction concerning the effective use of educational technology.

(5) Provide telecommunications access to educational agencies under the program established under s. 16.997.

(6) No later than October 1 of each even−numbered year, submit a biennial report concerning the department's activities under this subchapter to the governor, and to the appropriate standing committees of the legislature under s. 13.172 (3).

(7) Purchase educational technology materials, supplies, equipment, and contractual services for school districts, cooperative educational service agencies, technical college districts, and the board of regents of the University of Wisconsin System under s. 16.72 (8), and establish standards and specifications for purchases of educational technology hardware and software by school districts, cooperative educational service agencies, technical college districts, and the board of regents of the University of Wisconsin System.

(8) Purchase educational technology equipment for use by school districts, cooperative educational service agencies, and public educational institutions in this state and permit the districts, agencies, and institutions to purchase or lease the equipment, with an option to purchase the equipment at a later date. This subsection does not require the purchase or lease of any educational technology equipment from the department.

(9) Administer, modify, or rescind any grant or award made by the Wisconsin Advanced Telecommunications Foundation to fund a project described in s. 14.28 (3) (a) 1. to 5., 1999 stats., to the extent allowed under a contract for making the grant or award.

(10) Coordinate an annual conference on educational technology, hosted by the governor, for elementary, secondary, and postsecondary educators and establish a schedule of fees for attending the conference, which fees may not exceed the actual costs incurred in conducting the conference. All fees collected under this subsection shall be credited to the appropriation account under s. 20.505 (4) (hc).

History: 1997 a. 27, 237; 1999 a. 9; 2001 a. 16, 104; 2003 a. 33 ss. 238pm, 1053d to 1063; Stats. 2003 s. 16.993.

16.995 Educational technology infrastructure financial assistance. (1) FINANCIAL ASSISTANCE AUTHORIZED. The department may provide financial assistance under this section to school districts from the proceeds of public debt contracted under s. 20.866 (2) (zc) and to public library boards from the proceeds of public debt contracted under s. 20.866 (2) (zcm). Financial assistance under this section may be used only for the purpose of upgrading the electrical wiring of school and library buildings in existence on October 14, 1997, and installing and upgrading computer network wiring. The department may not provide any financial assistance under this section after July 26, 2003.

(2) FINANCIAL ASSISTANCE APPLICATIONS, TERMS, AND CONDITIONS. The department shall establish application procedures for, and the terms and conditions of, financial assistance under this section. The department shall make a loan to a school district or public library board, or to a municipality on behalf of a public library board, in an amount equal to 50% of the total amount of financial assistance for which the department determines the school district or public library board is eligible and provide a grant to the school district or public library board for the remainder of the total. The terms and conditions of any financial assistance under this section may include the provision of professional building construction services under s. 16.85 (15). The department shall determine the interest rate on loans under this section. The interest rate shall be as low as possible but shall be sufficient to fully pay all interest expenses incurred by the state in making the loans and to provide reserves that are reasonably expected to be required in the judgment of the department to ensure against losses arising from delinquency and default in the repayment of the loans. The term of a loan under this section may not exceed 10 years.

(3) REPAYMENT OF LOANS. The department shall credit all moneys received from school districts for repayment of loans under this section to the appropriation account under s. 20.505 (4) (ha). The department shall credit all moneys received from public library boards or from municipalities on behalf of public library boards for repayment of loans under this section to the appropriation account under s. 20.505 (4) (hb).

(3m) PUBLIC DEBT REPAYMENT. To the extent that sufficient moneys are available in the appropriation account under s. 20.505 (4) (mp) after payment of the administrative expenses specified in s. 20.505 (4) (mp), the department shall use those available moneys to reimburse s. 20.505 (4) (es) and (et) for the payment of principal and interest costs incurred in financing educational technology infrastructure financial assistance under this section and to make full payment of the amounts determined by the building commission under s. 13.488 (1) (m).

(4) FUNDING FOR FINANCIAL ASSISTANCE. The department, subject to the limits of s. 20.866 (2) (zc) and (zcm), may request that the building commission contract public debt in accordance with ch. 18 to fund financial assistance under this section.

History: 1997 a. 27, 41; 1999 a. 9; 2001 a. 16, 104; 2003 a. 33 ss. 238q, 1068d to 1072d; Stats. 2003 s. 16.995.

16.997 Educational telecommunications access program. (1) Except as provided in s. 196.218 (4t), the department shall promulgate rules establishing an educational telecommunications access program to provide educational agencies with access to data lines and video links.

(2) The rules promulgated under sub. (1) shall do all of the following:

(a) Allow an educational agency to make a request to the department for access to either one data line or one video link, except that any educational agency may request access to additional data lines if the agency shows to the satisfaction of the department that the additional data lines are more cost−effective than a single data line and except that a school district that operates more than one high school or a public library board that operates more than one library facility may request access to both a data line and a video link and access to more than one data line or video link.

(b) Establish eligibility requirements for an educational agency to participate in the program established under sub. (1), including a requirement that a charter school sponsor use data lines and video links to benefit pupils attending the charter school and a requirement that Internet access to material that is harmful to children, as defined in s. 948.11 (1) (b), is blocked on the computers of secured correctional facilities that are served by data links and video links subsidized under this section.

(c) Establish specifications for data lines and video links for which access is provided to an educational agency under the program established under sub. (1).

(d) Require an educational agency to pay the department not more than $250 per month for each data line or video link that is provided to the educational agency under the program established under sub. (1), except that the charge may not exceed $100 per month for each data line or video link that relies on a transport medium that operates at a speed of 1.544 megabits per second.

(e) Include the protections specified in s. 196.209 (4) (a) and (b).

(f) Ensure that secured correctional facilities that receive access under this section to data lines and video links use them only for educational purposes.

(2g) An educational agency that is provided access to a data line under the program established under sub. (1) may not do any of the following:

(a) Provide access to the data line to any business entity, as defined in s. 13.62 (5).

(b) Request access to an additional data line for purposes of providing access to bandwidth to a political subdivision under a shared service agreement under sub. (2r) (a).

(2r) (a) A public library board that is provided access to a data line under the program established under sub. (1) may enter into a shared service agreement with a political subdivision that provides the political subdivision with access to any excess bandwidth on the data line that is not used by the public library board, except that a public library board may not sell, resell, or transfer in consideration for money or anything of value to a political subdivision access to any excess bandwidth. A shared service agreement under this paragraph is not valid unless the agreement allows the public library board to cancel the agreement at any time after providing notice to the political subdivision.

(b) A political subdivision that obtains access to bandwidth under a shared service agreement under par. (a) may not receive compensation for providing any other person with access to the bandwidth.

(c) A public library board shall provide the department with written notice within 30 days after entering into or modifying a shared service agreement under par. (a).

(3) The department shall prepare an annual report on the status of providing data lines and video links that are requested under sub. (2) (a) and the impact on the universal service fund of any payment under contracts under s. 16.974.

(4) If the federal communications commission promulgates or modifies rules that provide rate discounts for telecommunications services to educational agencies under 47 USC 254, the governor shall submit a report to the joint committee on finance that includes any recommended changes to statutes or rules with respect to funding the program established under sub. (1).

(6) (a) From the appropriation under s. 20.505 (4) (s) or (tm), the department may award an annual grant to a school district or private school that had in effect on October 14, 1997, a contract for access to a data line or video link, as documented by the department. The department shall determine the amount of the grant, which shall be equal to the cost incurred by the state to provide telecommunications access to a school district or private school under a contract entered into under s. 16.971 (13) or (15) less the amount that the school district or private school would be paying under sub. (2) (d) if the school district or private school were participating in the program established under sub. (1), except that the amount may not be greater than the cost that a school district or private school incurs under the contract in effect on October 14, 1997. A school district or private school receiving a grant under this subsection is not eligible to participate in the program under sub. (1). No grant may be awarded under this subsection after December 31, 2005.

(b) Notwithstanding par. (a), the department may award a school district that operates more than one high school and that had in effect on October 14, 1997, a contract for access to more than one data line or video link an annual grant for each data line or video link serving each high school covered by that contract.

History: 1999 a. 9 ss. 2318, 2323 to 2329; 2001 a. 16; 2003 a. 33 ss. 238r, 1073d to 1088d; Stats. 2003 s. 16.997.

The provision, under s. 196.218 (4r) [now ss. 44.70 to 44.73], of subsidized links to all schools public and private, including religious schools, on a neutral basis does not violate the establishment clause of the 1st amendment of the United States constitution. Unrestricted direct cash grants, under sub. (4r) (g) [now sub. (6)], to religious organizations do violate the establishment clause. Freedom From Religion Foundation, Inc. v. Bugher, 55 F. Supp. 2d 962 (1999).