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Containing the text of the acts of the 1941 Session of the Legislature, both new and amendatory, and notes showing repeals, together with annotations from the various courts, state and federal, and the opinions of the Attorney General, construing the constitution, statutes, charters and court rules of Minnesota together with Law Review Articles and digest of all common law decisions.

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vided, that daily newspapers having a bona fide circulation, not including exchanges or other complimentary circulation, of 10,000 shall receive 75 cents per folio for the first publication and 35 cents per folio for each of the two subsequent publications; not to exceed \$150.00 for each of such daily newspapers. Provided, however, that if any newspaper shall refuse the publication of said amendments such refusal and failure of the publication shall have no effect on the validity of such amendments. He shall also forward to each county auditor a number of copies of such statement, in poster form, sufficient to enable him to supply

at least six of such copies for each election district of his county. The auditor shall furnish such copies to the town, village and city clerks, who shall give three weeks posted notice thereof, and cause one copy to be conspicuously posted at each polling place on election day. Willful or negligent failure by any official named to perform any duty imposed upon him by this section shall be deemed a misdemeanor. (As amended Apr. 9, 1941, c. 136, §1.)

Statement by attorney general of purpose and effect of amendment to constitution proposed by Laws 1939, chapter 447. Op. Atty. Gen., (86a-38), Feb. 5, 1940.

CHAPTER 3A

Organization of State Government

ARTICLE I.—DEPARTMENTS OF STATE GOVERNMENT

53-1t. Transfer of real estate owned by state between state departments.—In order to facilitate the transfer of the control of state owned lands between state departments of government and avoid the necessity of condemning state lands by a department of government of said state, any department of the state government of the State of Minnesota may acquire the control of state lands for said public purposes from the department of state government having such lands under its control and supervision, upon such terms and conditions as may be mutually agreed upon by the heads of the interested state departments. (Act Apr. 23, 1941, c. 387, §1.)

53-1u. Same—Failure to agree—Executive Council.—In the event the heads of such departments are unable to agree as to the terms and conditions of a transfer of control of said state lands the Executive Council of the State of Minnesota, upon application of a state department having the power to acquire lands for public purposes, shall determine the terms and conditions and may order the transfer of the control of state lands to the department so requesting. (Act Apr. 23, 1941, c. 387, §2.)

53-1v. Same—Transfer of funds.—The state auditor and the state treasurer are hereby authorized and directed to transfer funds between state departments to effect the terms and conditions to transfer the control of real estate as hereinbefore provided. (Act Apr. 23, 1941, c. 387, §3.)

53-1w. Same—Transfer documents—Filing.—The transfer of control of real estate as hereinbefore provided shall be made on such transfer documents as the Attorney General of the State of Minnesota shall prescribe, and all such transfer documents shall be permanently filed in the office of the state auditor. (Act Apr. 23, 1941, c. 387, §4.)

53-1x. Deductions from salaries of employees—Payment of borrowed money—Savings accounts.—The heads of the various departments of the government of the State of Minnesota are hereby authorized, by and with the written consent of any employee of any state department, to deduct from the salary of such employee such sum or sums as may be agreed to by such employee for the payment of any moneys borrowed from any state employees credit union or for the purpose of creating a savings account in behalf of such employee or employees as the case may be.

This act shall take effect and be in force from and after its passage. (Act Apr. 26, 1941, c. 464, §1.)

ARTICLE II.—EXECUTIVE COUNCIL

53-3. Powers and duties of council—Meetings.

Executive council has no authority to approve or put into operation a welfare group plan of accident, health, and surgical benefits sponsored by an insurance company, whereby deductions are to be made from salaries of

state employees for payment of premiums. Op. Atty. Gen., (249B-9), Feb. 27, 1940.

ARTICLE III.—DEPARTMENT OF ADMINISTRATION AND FINANCE

53-4b. State agencies are included in act.

Commission of administration has control over employment and compensation of agents of Railroad and Warehouse Commission in weighing and inspection of grain, but power to approve salaries and salary schedules is vested in director of civil service, to be thereafter approved by civil service board, and thereafter approved by commissioner of administration, but after salary schedules have once been approved, commissioner of administration has no power or right to change or reduce individual salaries within classification and schedules. Op. Atty. Gen. (644), Aug. 22, 1940.

53-7. Classification, grading, titles and salaries of state employees.

Commission of administration has control over employment and compensation of agents of Railroad and Warehouse Commission in weighing and inspection of grain, but power to approve salaries and salary schedules is vested in director of civil service, to be thereafter approved by civil service board, and thereafter approved by commissioner of administration, but after salary schedules have once been approved, commissioner of administration has no power or right to change or reduce individual salaries within classification and schedules. Op. Atty. Gen. (644), Aug. 22, 1940.

53-18b. Powers and duties of the Commissioner.—Subject to other applicable provisions of this chapter and to other laws not inconsistent herewith, the commissioner shall have the following powers and duties respecting all agencies of the state:

(1) To purchase, rent or otherwise provide for the furnishing of all supplies, materials, equipment, printing and utility services, prescribed standard specifications therefor, to provide for inspecting and testing the same, and otherwise to enforce compliance with such specifications; to prescribe and designate classes of state printing. (As amended Act Apr. 22, 1941, c. 381, §1.)

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

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

(4) To cause to be prepared plans and specifications for the construction, alteration, or enlargement of all state buildings, structures, and other improvements except highways and bridges; to approve such plans and specifications; to advertise for bids and award all contracts in connection with such improvements; to supervise and inspect all work relating thereto; after any contract for such an improvement is let, to approve all lawful changes in plans and specifications; to approve estimates for payment; and to accept such

improvements when completed according to such plans and specifications;

(5) To maintain and operate the state capitol building, state office building, historical society building, and the grounds appertaining thereto, also, where deemed advisable and practicable by the commissioner, any other building or premises owned or rented by the state for the use of any state department or other administrative agency; provided, that this shall not apply to state hospitals or to educational, penal, correctional, or other institutions the control of which is vested by law in some other agency;

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

(7) To inspect all state power, heating, and lighting plants, and to make such rules regulating the operation thereof and to recommend such improvements therein as will promote economical and efficient operation;

(8) To supervise and control the making of necessary repairs to all state buildings and structures, except structures, other than buildings, under the control of the state highway department;

(9) To rent land and other premises when necessary for state purposes; provided, that no such land or premises shall be rented for a term exceeding two years at a time; except that, with the approval of the legislative emergency committee, the commissioner may lease land or premises for a term not exceeding five years, subject to cancellation upon 30 days' written notice by the state for any reason except rental of other land or premises for the same use;

(10) To prepare a biennial budget, under the supervision of the governor-elect;

(11) To operate the allotment system;

(12) To provide for the printing and distribution of the session laws, the legislative manual, the capitol guide book, official reports and other publications of all kinds, and to supervise and control the form of such reports and publications so as to coordinate the same, avoid duplications and make the same useful and informative to the public; subject, however, to the following restrictions and requirements:

(a) The legislative manual shall be indexed and contain: the federal and state constitutions; the acts of congress relating to the organization of the territory and state; the rules of order and joint rules of the two houses, and lists of their members, committees and employees; the names of all state officials, whether elected or appointed and of all persons holding office from this state under the national government, including postmasters appointed by the president; the places where said several officials reside and the annual compensation of each; and statistical and other information of the kind heretofore published in the legislative manual.

(b) 25,000 copies of said manual shall be printed and distributed as follows:

1. 50 copies to the president of the senate and to each member of the legislature and 50 copies to the state historical society.

2. Five to the state university.

3. Three to the state library.

4. Two to each of the following: the library of congress, the Minnesota soldiers' home, the state normal schools, the state high schools, the public academies, seminaries and colleges of the state and the free public libraries thereof.

5. One to each of the following: the state institutions not hereinbefore mentioned, the elective state officials, the appointed heads of departments, the officers and employees of both houses of the legislature, the supreme and district court judges, the sena-

tors and representatives in congress from this state and the several county auditors.

6. Each county superintendent of schools, one copy for each public school in his county.

7. There shall be retained for distribution to members of the next succeeding legislature 275, and the remainder may be disposed of as the commissioner shall deem best.

(c) As soon as practicable after the adjournment of each legislative session, the laws and joint resolutions passed thereat shall be published by the commissioner in the general form heretofore adopted, with suitable head-lines and marginal notes, and shall be indexed by the commissioner with the assistance and advice of the attorney general and each volume of such session laws shall have a full and complete index of the laws of the session, each index of each volume of session laws hereafter published to give briefly subject matter of law, reference to year, chapter and section of session laws, and to sections of the revised laws of 1927, altered, repealed or amended, and a reference by chapter and year to the session laws of 1927 and subsequent years, altered, amended or repealed. Whenever any law enacted by the legislature amends a statute contained in a compilation of the general statutes of the state, but fails to refer to the section of such last compilation of general statutes, the commissioner, with the assistance and advice of the attorney general, shall note at the head of the law, as printed, the number of the section of the general statutes in which the amended law is contained. Unless otherwise prescribed by law, the number of copies and the manner and terms of disposition of the same shall be determined by the commissioner; provided that 100 copies shall be assigned to the state university for the use of its law library; and, if the legislature shall appropriate money for the publication of such session laws in the newspapers, the commissioner shall apportion the same equitably among such qualified newspapers as may make publication thereof within a time and in a manner by him directed or approved. (As amended Act Apr. 22, 1941, c. 381, §2.)

(13) To rent out, with the approval of the governor, any state property, real or personal, not needed for public use, the rental of which is not otherwise provided for or prohibited by law; provided, that this shall not apply to state trust fund lands; or other state lands under the jurisdiction of the department of conservation, or to property under the jurisdiction of the department of rural credit, or to lands forfeited for delinquent taxes; provided further, that no such property shall be rented out for a term exceeding two years at a time;

(14) To have charge of all central store rooms and supply rooms serving more than one department now or hereafter established and operated by the state;

(15) To maintain and operate for state departments and agencies, a central Mimeograph, Multi-graph, and mailing service, and a duplicating division in which all duplication shall be done; to require that all equipment now or hereafter owned by the State be turned into the central duplicating division for use therein with the following exceptions:

(a) Duplicating machines may be used in any department, institution or State agency not located in St. Paul or Minneapolis.

(b) The Motor Vehicle Department may continue to fill in the necessary data on automobile license registration cards on duplicating machines or by duplicating process.

(c) The Civil Service Department may continue to produce work of confidential nature on their own duplicating machines.

The duplicating work to be done by the duplicating division shall be restricted to producing any form, booklet or pamphlet as follows:

4 pages or less, not to exceed 5,000 copies.

Over 4 pages and not to exceed 24 pages, 1,000 copies.

Over 24 pages and not to exceed 50 pages, 750 copies.

Over 50 pages, not to exceed 500 copies. (As amended Act Apr. 22, 1941, c. 381, §3.)

(16) To distribute all public printing to officers, organizations, agencies, and persons entitled thereto;

(17) To sell all public books and documents which are subject to sale;

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

(19) To purchase from the state penal institutions and other state institutions all articles manufactured by them which are usable by the state;

(20) To make rules and regulations relative to travel of state officers and employes on state business and the expenses incurred thereon.

(21) To make rules and regulations relative to the expenses of moving state officers and employes to new stations, subsistence, and such other expenses as may be necessary and incident to assignments to such stations, and to provide for the payment thereof by reimbursement of actual expenses or payment therefor at a daily flat rate. (As amended Act Apr. 23, 1941, c. 392, §1.)

Editorial note.—Title of Act Apr. 22, 1941, c. 381, purported also, to amend Laws 1939, c. 431, Art. II, §3, subd. 19. Such amendment did not appear in such act.

(1).

A county sanatorium may not purchase supplies through department of administration. Op. Atty. Gen. (640), July 19, 1940.

(4).

Director of division of public property has authority to wreck a fish meal plant building and use lumber in construction of a field station by the division of game and fish. Op. Atty. Gen., (640), Jan. 30, 1940.

Appropriation made by legislature to state board of control for payment of salaries of architect and of engineer should be transferred to commissioner of administration who now has duty of maintenance of public institutions. Op. Atty. Gen., (640), Sept. 20, 1940.

(5).

Commissioner of administration with approval of governor may permit tourist bureau to construct log cabin on capitol grounds. Op. Atty. Gen., (9831), Feb. 19, 1940.

(18).

Director of division of public property may not give away obsolete property to a municipal hospital. Op. Atty. Gen., (640), Feb. 7, 1940.

Terms "supplies", "materials", and "equipment", do not apply to sale of iron ore in a stock pile belonging to the state. Op. Atty. Gen., (983m), Oct. 10, 1940.

State Sanatorium cannot sell telephone equipment at private sale to telephone company, which will install new equipment, and if it did sell the equipment it could not retain the money received and use it to help defray expenses on telephone service to be rendered, authority to sell obsolete and surplus property being in the commissioner of administration, and sale on basis of competitive bids being necessary, and the proceeds thereof would go to general revenue fund of the state. Op. Atty. Gen., (640), Oct. 22, 1940.

(19).

Commissioner must purchase entire output of state testing mill, if it is usable by the state in other departments or institutions, and though state mill is not required to bid in competition with commercial manufacturers of the same products, it is only entitled to fair market value. Op. Atty. Gen. (640), Sept. 26, 1939.

53-18c. Definitions.

Terms "supplies", "materials", and "equipment", do not apply to sale of iron ore in a stock pile belonging to the state. Op. Atty. Gen., (983m), Oct. 10, 1940.

53-18e. To purchase supplies and materials.

Writ of quo warranto is not remedy for official misconduct, and is not to be employed to test legality of official action, such as a proposed purchase of material by commissioner of administration without competitive bidding. State v. Gravin, 295NW654. See Dun. Dig. 8060.

Ladies of the G.A.R. Home receiving appropriation from the state must comply with requirements as to budget, purchases, etc. Op. Atty. Gen. (640a), Sept. 20, 1939.

(a).

Employees of state treasurer do not come within general rule laid down for writing of blanket bond, since state treasurer is personally accountable for all funds deposited with him, and selection of surety should be

subject to his approval. Op. Atty. Gen., (454), Jan. 29, 1940.

53-18f. To receive competitive bids.—(a) Except as otherwise provided by this act, all contracts for construction or repairs and all purchases of and all contracts for supplies, materials, purchase or rental of equipment, and utility services shall be based on competitive bids, and all sales of property shall be to the highest responsible bidder after advertising for bids as herein provided; provided, that competitive bids shall not be required for utility services where no competition exists, or where rates are fixed by law or ordinance.

(b) If the amount of the expenditure or sale is estimated to exceed \$500, sealed bids shall be solicited by public notice inserted once each week for two successive weeks in a newspaper or trade journal of general circulation in the territory from which bids are likely to be received before the final date of submitting bids. The commissioner shall designate the newspaper or trade journal for such publication, and may designate different newspapers or journals according to the nature of the purchase or contract. The commissioner shall also solicit sealed bids by sending notices by mail to all prospective bidders known to him, and by posting notice on a public bulletin board in his office at least five days before the final date of submitting bids. All bids shall be sealed when received, shall be opened in public at the hour stated in the notice, and all original bids together with all documents pertaining to the award of a contract shall be retained and made a part of a permanent file or record, and shall be open to public inspection. This subdivision shall not apply to the purchase of fibre used in the manufacture of binder twine, ply twines, and rope at the state penal institutions, which shall be purchased in accordance with such regulations as the commissioner may prescribe, requiring competitive bids as far as practicable. (As amended Act Apr. 16, 1941, c. 281, §1.)

(c) All purchases or sales estimated to exceed in amount \$200 but not to exceed \$500 shall be made after receipt of sealed bids following at least three days notice posted on a public bulletin board in the office of the commissioner. The commissioner shall also solicit sealed bids by mail in such cases, in like manner as hereinbefore provided.

(d) All purchases or sales the amount of which is estimated to be less than \$200 may be made either upon competitive bids or in the open market, in the discretion of the commissioner, but so far as practicable shall be based on at least three competitive bids which shall be permanently recorded. All rentals of equipment and animals with operators or drivers furnished the amount of which is estimated to be less than \$200 in any 30 day period shall be made in accordance with rules prescribed by the commissioner of administration.

(e) Contracts and purchases shall in all cases be based on the standard specifications prescribed by the commissioner in accordance with this act, unless otherwise expressly provided, and shall be accompanied by a certified check in such amount as the commissioner shall prescribe.

(f) Notwithstanding anything herein to the contrary, all contracts for the repair, improvement, maintenance, or construction of highways or highway bridges shall be advertised and let as now or hereafter provided by law for highway construction contracts. As amended Act Apr. 26, 1941, c. 478, §1.)

There is no legal obstacle to inclusion in one advertisement of calls for bids for several departments, and there may be consolidation of bids so that it will not be necessary to repeat preliminary statement which is standard in all bids, and form is provided therefor. Op. Atty. Gen. (640), Sept. 25, 1939.

Form provided for calling of bids to be opened at staggered hours throughout the day. Op. Atty. Gen. (640), Sept. 27, 1939.

Sale of products manufactured in factory in state prison at Stillwater is subject to §§10812, 10815, and 10816, and is not affected or controlled by the Reorganization Act. Op. Atty. Gen., (342e), Jan. 5, 1940.

Where there is only one seller of natural gas, advertising for competitive bids is unnecessary, and this is also true of equipment which may be included in contract and involve elements of scientific knowledge and mechanical skill. Op. Atty. Gen. (707a-13), June 15, 1940.

Though purchases for inmates at state prison and state reformatory are made by division of purchases of department of administration, requirement of reorganization act of competitive bidding is not applicable, stores being owned and operated by inmates. Op. Atty. Gen. (980b-22), July 10, 1940.

State Sanatorium cannot sell telephone equipment at private sale to telephone company, which will install new equipment, and if it did sell the equipment it could not retain the money received and use it to help defray expenses on telephone service to be rendered, authority to sell obsolete and surplus property being in the commissioner of administration, and sale on basis of competitive bids being necessary, and the proceeds thereof would go to general revenue fund of the state. Op. Atty. Gen., (640), Oct. 22, 1940.

(a.) Mason's Minn. Stat. 1927, chapter 34, is still controlling law regarding letting of printing contracts except where inconsistent with Laws 1939, chapter 431, and this is true as to such items as letterheads and envelopes. Op. Atty. Gen., (340a), Feb. 2, 1940.

(e.) Bidder's bonds are not permitted in lieu of certified checks. Op. Atty. Gen., (640), Sept. 26, 1940.

53-18g. Same—Lowest bidder.

Editorial note.—Title of Act Apr. 22, 1941, c. 381, purported to amend Laws 1939, c. 431, Art. 2, §8. Such amendment did not appear in such act.

Act Apr. 22, 1941, c. 381, §4, repeals Mason's Minnesota Statutes of 1927, Chapter 34.

Commissioner of administration in purchasing fidelity bond may take into consideration reasonably probable dividends that will be declared. Op. Atty. Gen., (980a-4), Jan. 31, 1940.

Where bid on its face shows there has been an alteration or erasure, changing bid from a high bid to lowest bid, rejection of bid is mandatory. Op. Atty. Gen., (640), March 6, 1940.

A bidder is not disqualified merely because he is a broker, or does not happen to have goods on hand when he bids. Id.

State may purchase surety bonds from mutual companies if they are non-assessable and otherwise comply with statute, and probable dividend may be taken into consideration in determining lowest bid. Op. Atty. Gen., (707a-13), Jan. 31, 1940.

53-18h. Contracts and leases shall be approved by Attorney General—Etc.

Form of bill of sale to be given by state when it conveys personal property provided. Op. Atty. Gen. (640), Nov. 17, 1939.

53-18i. Shall be signed by head of department commissioner and state auditor.

There is no authority for head of a department or agency to delegate power to sign a lease, but if department head has a deputy who is authorized by law to act for him lease may be signed by deputy in name of head of department. Op. Atty. Gen., (640), Sept. 19, 1940.

No contract, which includes a lease is valid or effective without counter-signature of auditor, who shall certify thereon that appropriation and allotment have been encumbered for full amount of contract liability, and notwithstanding that a lease has a 30-day cancellation clause head of department making lease has no power to determine what encumbrance period should be. Id.

Appropriation made by legislature to state board of control for payment of salaries of architect and of engineer should be transferred to commissioner of administration who now has duty of maintenance of public institutions. Op. Atty. Gen., (640), Sept. 20, 1940.

Contract for "building, highways, and other improvements" are to be signed by head of interested department or agency and approved by commissioner of administration, but in all other contracts and purchase orders in behalf of the state, commissioner is "prime mover", and in determining in any given case what signatures are required, it might be considered that whenever subject matter of any contract is unusual or not capable of uniform application, or requires some highly technical knowledge, head of department interested is to sign contract, but if subject matter is ordinary and usual and of general application, it will be unnecessary for head of department to sign. Op. Atty. Gen., (980a-11), Feb. 20, 1941.

53-18m. Commissioner to prepare budget—Etc.

Ladies of the G.A.R. Home receiving appropriation from the state must comply with requirements as to budget, purchases, etc. Op. Atty. Gen. (640a), Sept. 20, 1939.

53-18o. Year to be divided into quarterly allotment periods.

Fact that a lease is approved by legislative emergency committee for a period of 5 years does not alter neces-

sity for encumbering funds of department involved for full amount of contract liability even though lease contains cancellation clause available if no appropriation is made or funds are not available, funds to be encumbered each fiscal year. Op. Atty. Gen. (640), Sept. 13, 1940.

Necessity of encumbering funds of a department for liability upon a lease is not altered in any respect by source of funds which are to be used in payment of rentals. Id.

No contract, which includes a lease is valid or effective without counter-signature of auditor, who shall certify thereon that appropriation and allotment have been encumbered for full amount of contract liability, and notwithstanding that a lease has a 30-day cancellation clause head of department making lease has no power to determine what encumbrance period should be. Id.

Funds of highway department should be encumbered for full amount of rental of truck units in accordance with estimated length of time for which trucks are to be used. Id.

Where leases are drawn for a period of 2 years, it is necessary for all departments to encumber funds for each of the two fiscal years even though lease contains cancellation clause if funds are not available. Id.

Appropriation made by legislature to state board of control for payment of salaries of architect and of engineer should be transferred to commissioner of administration who now has duty of maintenance of public institutions. Op. Atty. Gen., (640), Sept. 20, 1940.

53-18q. Receipts to be deposited with the State Treasurer—Credit to proper fund.

Fees collected pursuant to §§2720-103 and 2720-108 are for use of drivers' license division of state highway department in administration of Drivers' License Law and Safety Responsibility Act, but such fees as collected should be deposited with state treasury each day and properly credited by him to fund created by §2720-146a as provided by §53-18q. Op. Atty. Gen., (454-E), Jan. 10, 1940.

Money received by secretary of state for transcript of motor vehicle records must be turned in to state treasurer daily, subject to voucher to cover expense, any surplus to be covered into general revenue fund. Op. Atty. Gen., (640a), Jan. 30, 1940.

Refunds by telephone company to highway department should be credited to trunk highway fund. Op. Atty. Gen., (229a), March 5, 1940.

Wholesale Produce Dealers' License fees received with applications for licenses which were not received for any reason may not be refunded. Op. Atty. Gen., (196S), Jan. 13, 1941.

53-18r. Treasurer to establish suspense funds.

No refund of state teachers' college tuition without an appropriation by legislature, though student left school several weeks after starting. Op. Atty. Gen., (316B), Feb. 14, 1940.

53-18s. Five per cent of receipts to be set aside for expenses; etc.

Section is unconstitutional in so far as it imposes upon highway fund a charge to be used to defray general cost of government. Cory v. K., 296NW506. See Dun. Dig. 8452.

53-18t. Contingent appropriations—Legislative Advisory Committee, recommendations—Separate fund for governor and attorney general—Transfer of employees.—(a) There is hereby authorized one general contingent appropriation for each year of the biennium in such amount as the legislature may deem sufficient. Transfers from such appropriation to the appropriations of the various departments and agencies may be made by the state auditor subject to the following provisions:

(1) Transfers may be authorized by the commissioner of administration not exceeding \$2,000, for the same purpose for any quarterly period;

(2) Transfers exceeding \$2,000 but not exceeding \$5,000 may be authorized by the commissioner of administration with the approval of the governor;

(3) Transfers exceeding \$5,000 may be authorized by the governor; provided, that no such transfer shall be made until the governor has consulted the legislative advisory committee hereinafter provided for and such committee has made its recommendation thereon. Such recommendation shall be advisory only. Failure or refusal of the committee to make a recommendation promptly shall be deemed a negative recommendation.

(b) The chairman of the senate committee on taxes and tax laws, the chairman of the senate committee on finance, the chairman of the house committee on taxes and tax laws, and the chairman of the house

committee on appropriations shall constitute a committee to be known as the legislative advisory committee. The governor shall preside over the meetings of the committee but shall not be a member thereof. If any of the legislative members elect not to serve on the committee, the house of which they are members, if in session, shall select some other member for such vacancy. If the legislature is not in session, vacancies in the legislative membership of the committee shall be filled by the last speaker of the house or, if he be not available, by the last chairman of the house rules committee, in case of a house vacancy, and by the last senate committee on committees or other appointing authority designated by the senate rules in case of a senate vacancy. The commissioner of administration shall act as secretary of the committee and shall keep a permanent record and minutes of its proceedings, which shall be made available for examination upon request of any interested citizen. The commissioner of administration shall transmit a report to the next legislature of all actions of said committee. The members of the committee shall receive travelling and subsistence expenses in attending meetings of the committee. The sum of \$1,000, or so much thereof as may be necessary, is hereby annually appropriated out of any money in the state treasury not otherwise appropriated for the travelling and subsistence expenses of members of the committee in attending meetings thereof. The committee shall meet from time to time upon the call of the governor or upon the call of the secretary at the request of three or more of its members.

(c) The provisions of this act shall not be construed to prevent the appropriation of separate contingent funds to the governor and the attorney general, or to limit the use of said funds as otherwise authorized by law.

(d) With the approval of the governor and by agreement of the heads of the departments or agencies concerned, any appointive subordinate officer or employee of a department or agency may be employed by or assigned to perform duties under another department or agency. (As amended Act Apr. 28, 1941, c. 497, §1.)

(e) As to the first salary and wage schedules of employees, legislative emergency committee must take classifications as they have been prepared by director of civil service and approved by civil service board, and has no authority to modify the classifications or to create any new classifications. Op. Atty. Gen., (644), Oct. 14, 1940.

53-18t(1). Transfer of powers to the governor—Recommendations of legislative advisory committee.—All the powers and duties vested in or imposed upon the legislative emergency committee by Laws 1939, Chapter 436, are hereby transferred to, vested in, and imposed upon the governor; provided, that he shall not exercise or perform any thereof without first consulting the legislative advisory committee created by this act and securing their recommendation, which shall be advisory only. Failure or refusal of the committee to make a recommendation promptly shall be deemed a negative recommendation. (Act Apr. 28, 1941, c. 497, §2.)

53-18t(2). Same.—All the powers and duties vested in or imposed upon the legislative emergency committee by any provisions of law other than those enumerated in Sections 1 and 2 of this act are hereby transferred to, vested in, and imposed upon the governor; provided, that he shall not exercise or perform any thereof without first consulting the legislative advisory committee created by this act and securing their recommendation, which shall be advisory only. Failure or refusal of the committee to make a recommendation promptly shall be deemed a negative recommendation. (Act Apr. 28, 1941, c. 497, §3.)

53-18t(3). Legislative emergency committee abolished.—The legislative emergency committee is hereby abolished. (Act Apr. 28, 1941, c. 497, §4.)

53-18t(4). Termination of powers.—The powers and duties vested in and imposed upon the governor and the legislative advisory committee by Sections 1, 2 and 3 of this act shall cease and be of no effect on and after January 1, 1943. (Act Apr. 28, 1941, c. 497, §5.)

53-18t(5). Severability of provisions.—The provisions of this act shall be severable with respect to the effect of a declaration of invalidity of any provision or application thereof. (Act Apr. 28, 1941, c. 497, §6.)

ARTICLE IV.—DEPARTMENT OF CONSERVATION

53-23½. [Superseded.]

Superseded by Act Apr. 21, 1937, c. 310, §§53-23½a to 53-23½u this title.

Act Apr. 22, 1941, c. 383, §1, authorizes commissioner of conservation to withdraw certain school lands in Hubbard county, from the Paul Bunyan State Forest, and sell it.

53-23½n. Divisions of department.

Division of department of conservation shall be known as the division of water resources and engineering. Laws 1941, c. 138.

Act Apr. 26, 1941, c. 481, creates an ad interim legislative commission to study the problems and the work of the Division of Game and Fish and make a report at the next meeting of the legislature.

53-23½nn. Division of water resources and engineering.—That hereafter the division of drainage and waters, established under Mason's Supplement 1940, Section 53-23½n, as a division of the department of conservation, shall be known and designated as the division of water resources and engineering. (Apr. 9, 1941, c. 138, §1.)

ARTICLE VIII.—DEPARTMENT OF COMMERCE

53-29. Commissioners—Appointment, etc.

Term of officer of commissioner of insurance is now 6 years, vacancies to be filled for unexpired portion of any term, and he cannot hold over until appointment and qualification of his successor. Op. Atty. Gen., Feb. 3, 1941.

53-32. State Securities Commission; etc.

Term of officer of commissioner of insurance is now 6 years, vacancies to be filled for unexpired portion of any term, and he cannot hold over until appointment and qualification of his successor. Op. Atty. Gen., Feb. 3, 1941.

ARTICLE IX.—DEPARTMENT OF HEALTH

53-34. Same—Powers and duties; etc.

The hotel inspector, now referred to as director of division of hotel inspection under the department of health, is head of a division established by law and is of the unclassified service. Op. Atty. Gen., (644), Sept. 20, 1940.

ARTICLE XA.—HISTORICAL SITES AND MARKERS COMMISSION

53-35a. Minnesota Historic Sites and Markers Commission.—There is hereby constituted a non-salaried commission to be known as the "Minnesota Historic Sites and Markers Commission," whose membership shall consist of the director of state parks of the department of conservation, the commissioner of highways and the superintendent of the Minnesota historical society or their representatives. The superintendent of the Minnesota historical society shall be ex-officio secretary of this commission. (Act Apr. 24, 1941, c. 418, §1.)

53-35b. Duties and powers.—It shall be the duty of this commission to designate as historic sites such sites or areas as have special archeological or historical significance, and to authorize the erection of markers thereon. (Act Apr. 24, 1941, c. 418, §1.)

53-35c. Same—Approval of plans and inscriptions.—The commission shall act as an advisory body to give assistance in the erection of markers commemorating historic sites. Plans and inscriptions for such markers shall be submitted to the commission for approval as to form, adequacy, suitability and accuracy. (Act Apr. 24, 1941, c. 418, §3.)

ARTICLE XIX.—RECORDS AND FUNDS OF VARIOUS STATE AGENCIES

53-47. Registration records of certain examining boards, etc.

Monies referred to in §53-47 and §5872, means license

and examination fees collected by board, and not fines which are imposed by courts of competent jurisdiction for violations of act, which should be disposed of in accordance with §9707. Op. Atty. Gen., (188), April 9, 1940.

CHAPTER 4

Executive Department

THE GOVERNOR

56. State capitol.

Sale of old capitol building site to Minnesota State Armory Building Commission, authorized. Act Mar. 18, 1941, c. 73. Former authorization revoked.

Commissioner of administration with approval of governor may permit tourist bureau to construct log cabin on capitol grounds. Op. Atty. Gen., (983i), Feb. 19, 1940.

57. Proclamations.

Day proclaimed by governor as Thanksgiving day is a holiday, but another day proclaimed by the President of the United States is not a holiday. Op. Atty. Gen. (276), Oct. 24, 1939.

Date set aside in proclamation of governor determines date to be observed for Thanksgiving. Op. Atty. Gen. (276), Nov. 6, 1939.

58-1. Sale of personal property of state—Disposition of proceeds.

This section controls sale of iron ore in a stock pile belonging to the state. Op. Atty. Gen., (983m), Oct. 10, 1940.

STATE AUDITOR

69. Auditor to prescribe form.

Signatory machines are legal if used as authorized and directed by person whose signature is used. Op. Atty. Gen. (24), Jan. 19, 1941.

80-3. Other duties of state auditor.

Neither state treasurer nor commissioner of administration has any right to regulate the size of bottles containing malt beverage, and they must provide stamps in such denominations as are necessary to meet the needs of the trade. Op. Atty. Gen., (218n), May 31, 1940.

In an emergency treasurer may contract for stamps without advertising for such bid. Op. Atty. Gen., (217n), May 31, 1940.

(c). State treasurer has authority to destroy cancelled stamps for which refundment has been made after public examiner has audited the refundment and stamps. Op. Atty. Gen., (454), July 17, 1940.

No stamps should be destroyed except under supervision of the public examiner. Id.

STATE TREASURER

81. Duties—Bond.

Signatory machines are legal if used as authorized and directed by person whose signature is used. Op. Atty. Gen., (24), Jan. 19, 1941.

State warrant issued pursuant to condemnation of property for highway purposes and payable jointly to State of Minnesota and other persons may not be endorsed by state officer and delivered to other payee, since all warrants received by state officer must be deposited with State Treasurer. Op. Atty. Gen., (454), Mar. 8, 1941.

89. Gifts—Acceptance—Sale.—The state treasurer is hereby authorized to receive and accept, on behalf of the state of Minnesota, any gift, bequest, devise or endowment which may be made by any person, by will, deed or gift or otherwise, to or for the benefit of the state or any of its departments or agencies, or to or in aid, or for the benefit, support or maintenance of any educational, charitable or other institution maintained in whole or in part by the state of Minnesota, or for the benefit of students, employes or inmates thereof, or for any proper state purpose or function, and the money, property or funds constituting such gifts, bequest, or devise or endowment. Provided, however, that no such gift, bequest, devise or endowment shall be so accepted unless the governor, the state auditor and the state treasurer shall determine that it is for the interest of the state to accept the same, and shall approve of and direct

such acceptance. When in order to effect the purpose for which any such gift, bequest, devise, or endowment has been accepted, it is necessary to sell any property so received the state treasurer, upon request of the authority in charge of the agency, department, or institution concerned, may sell the same at a price which shall be fixed by the state board of investment. (As amended Act Apr. 21, 1941, c. 353, §1.)

92. Same—Expenditures.—In the event that such gift, bequest, devise or endowment is made or designated by the donor for a certain institution, department, or agency, the state treasurer shall, from time to time, pay out in the usual manner, upon the order of the board, commission or other body charged with the direct and immediate supervision, control or management of the designated institution, department or agency, all money which may become available for such purpose under the terms of such will, deed of gift or other instrument; and the same shall be expended and applied by such board, commission or other body as nearly as may be, in accordance with the terms and conditions of such gift, bequest, devise or endowment. (As amended Act Apr. 1, 1941, c. 353, §2.)

ATTORNEY GENERAL

113. Advice—Opinions.

Opinions of Attorney General are controlling only so far as they relate to laws of the state. Op. Atty. Gen. (310), Feb. 18, 1941.

114. State officers and boards—Special counsel.

Department of highways is entitled to reimbursement from state teacher's college for mileage expenses and compensation of a special assistant attorney general in highway department while working on condemnation proceedings for the college. Op. Atty. Gen. (640), Oct. 20, 1939.

Attorney general has nothing to do with wisdom or expediency of legislation. Op. Atty. Gen., (399c), Dec. 29, 1939.

115. Opinion to county, city, village or town attorney, etc.

Attorney general is not permitted to render official opinions to county auditor. Op. Atty. Gen. (412a-10), Sept. 25, 1939.

County attorney is legal advisor of county treasurer, and questions should, in the first instance, be submitted to him. Op. Atty. Gen., (474h), Oct. 6, 1939.

City attorney is legal advisor of city officials on city affairs, and questions on city affairs should not be submitted to attorney general from any other person, though he is a state senator. Op. Atty. Gen. (64d), Oct. 11, 1939.

In giving opinions attorney general will abide by judgment of district court from which no appeal is to be taken. Op. Atty. Gen. (472t), Nov. 14, 1939.

Attorney general may render official opinions on municipal matters only on request of municipal attorney. Op. Atty. Gen., (476B-2), Jan. 18, 1940.

GENERAL PROVISIONS

128-3. Powers and duties.

(c). State geographic board is authorized to change name of a lake which it has borne for 50 years, with approval of county board, but it should investigate and weigh reasons for and against change, and decide what action will best serve public interests. Op. Atty. Gen., (273a), April 26, 1940.