

Executive Branch Transfer Authority

The legislature has given the executive branch authority to transfer functions, employees, and appropriations within and among executive agencies. This information brief summarizes laws granting that authority. An appendix lists executive branch reorganization orders.

When the legislature creates an executive branch agency, it assigns the agency specific powers and duties. The agency has only those powers and duties assigned to it by law. An agency cannot perform duties the law grants to another agency. Similarly, when the legislature appropriates money to an agency for a particular program, the agency can spend the money only for purposes authorized in the appropriation.

The legislature has enacted general laws that provide the executive branch limited authority to transfer powers, duties, and appropriations without specific legislative approval.

Laws authorizing the executive to make transfers involve competing policy considerations.

- Laws granting transfer authority give the executive branch tools for effective and efficient management of state government, which may be particularly useful when the legislature is not in session.
- When the legislature authorizes the executive branch to transfer a function or appropriation that the legislature has assigned to a specified agency, the legislature is delegating power to the executive. It may be difficult for the legislature to ensure that transfers made by the executive branch comply with legislative intent.

The Commissioner of Administration may transfer functions and employees among executive agencies.

[Minnesota Statutes, section 16B.37](#), authorizes the Commissioner of Administration to transfer personnel, powers, or duties from a state agency to another state agency. Many transfers do not require legislative approval, either before or after the transfer takes effect.

The law provides several substantive limits on this authority.

- A transfer can be made “to improve efficiency and avoid duplication.”
- A transfer may be made only to an executive branch agency that has existed for at least one year.
- Legislative approval is required before the commissioner can transfer all or substantially all of the powers, duties, or personnel of an agency called a “department,” or of the Housing Finance Agency or the Pollution Control Agency.

There are several procedural limits on this reorganization authority.

- A transfer must receive prior approval of the governor.
- A transfer must be in the form of a reorganization order. A proposed order must be submitted to the chairs of the House and Senate governmental operations committees at least 30 days before taking effect.
- Reorganization orders take effect upon filing with the secretary of state. Copies of filed orders must be given to the secretary of the Senate, the chief clerk of the House, and the chairs of the governmental operations committees.
- By January 15 each year, the Commissioner of Administration must submit to the legislature a bill making statutory changes required by reorganization orders during the prior year. However, the reorganization order remains in effect even if the legislature does not pass the bill making the statutory changes. The legislature, of course, can pass a bill reversing the reorganization order, but the bill would be subject to gubernatorial veto.

When a reorganization order transfers duties to a new agency, the appropriation that accompanies the duties also is transferred to the new agency.

The legislature first gave the executive branch authority to transfer functions among departments in 1969. Subsequent legislation added conditions contained in current law, including restrictions on the ability to transfer duties of major departments, the duty to submit a bill making any statutory changes required by reorganization orders, and the requirement to submit a proposed order to the governmental operations committees at least 30 days before the order takes effect. The appendix contains a list of reorganization orders issued under authority of [section 16B.37](#).

Various laws permit agencies to exchange or share employees.

The laws described below do not require the executive branch to notify or receive approval of the legislature.

Agency work for another agency: “To avoid duplication and improve efficiency” the Commissioner of Administration may direct an agency to do work for another agency or direct one unit of an agency to do work for another part of the same agency. The receiving agency must reimburse the providing agency for the work. ([Minn. Stat. § 16B.37, subd. 4](#))

Employee assigned to another agency: An agency employee may be employed by or assigned to perform duties for another agency. This requires approval of the governor and agreement of the affected agencies. ([Minn. Stat. § 16B.37, subd. 5](#))

Intergovernmental and private sector employee interchange: A state agency may send or receive employees to or from a unit of local or federal government for up to two years. There also is a provision governing employee interchanges with private employers. ([Minn. Stat. §§ 15.51 to 15.59](#))

Joint powers agreement: Two or more governmental units may agree to jointly exercise common authority. A joint powers agreement might provide for sharing employees. ([Minn. Stat. § 471.59](#))

The legislature has given the executive branch limited authority to transfer appropriations among programs.

The Minnesota Constitution provides that no money may be spent from the state treasury except pursuant to an appropriation by law. ([Minn. Const. art. XI, § 1](#)) Minnesota Statutes implement this constitutional requirement by providing that money may be spent only for the purpose for which it was appropriated. ([Minn. Stat. § 16A.139](#))

Typically, the legislature appropriates money to specific programs within an agency. In 1993, the legislature provided limited authority for an agency in the executive, legislative, or judicial branch to transfer money.

There are several conditions on this transfer authority.

- The transfer must involve only operational money (e.g., not pass-through grants).
- The transfer must be within the same fund (e.g., involving two programs funded through the state general fund).
- The agency must first notify the Commissioner of Management and Budget.
- The transfer must be “consistent with legislative intent.”
- Money appropriated for a particular “item” within a program activity cannot be transferred.

The Commissioner of Management and Budget must report appropriation transfers to the chairs of the Senate finance and House ways and means committees. The commissioner has reported about five transfers a year in recent years. The law does not require legislative approval of the appropriation transfers, either before or after the transfer. ([Minn. Stat. § 16A.285](#))

This authority illustrates the trade-offs inherent in giving the executive branch flexibility. The legislature may want the executive branch to be able to use funds efficiently to carry out the intent of the law, and perhaps to be able to spend more than appropriated for one program, if there is money available from another program. However, in granting this flexibility, it can be difficult to ascertain and enforce legislative intent.

Appendix
Reorganization Orders
under [Minnesota Statutes, section 16B.37](#)

| Subject/Order Number | Sending Agency | Receiving Agency |
|--|---|---|
| 2010 | | |
| Firewood labeling (196) | Commerce | Natural Resources and Agriculture |
| 2008 | | |
| Management analysis (195) | Administration | Finance |
| 2007 | | |
| Minnesota Veterans Homes (194) | Veterans Home Board | Veterans Affairs |
| 2005 | | |
| Construction and building code licenses and regulation (193) | Administration, Health, Board of Electricity, Commerce, Public Safety | Labor and Industry |
| Municipal boundary adjustments (192) | Administration | Office of Administrative Hearings |
| 2004 | | |
| Disaster and terrorism preparedness, and emergency management and response (191) | Division of Homeland Security and Emergency Management (in Department of Public Safety) | Emergency Response Commission |
| 2003 | | |
| Veterans training programs (190) | Education | Veterans Affairs |
| Duties of the former Department of Economic Security (189) | Economic Security | Trade and Economic Development, Administration, Public Safety |
| Strategic and long-range planning (188) | Office of Strategic and Long-Range Planning | Administration |
| Crime victim assistance and criminal and juvenile justice system (187) | Ombudsman for Mental Health and Retardation, Center for Crime Victim Services, Strategic and Long-Range Planning, Children, Families and Learning | Public Safety |
| Fourteen programs providing services for children, families, and individuals in need (186) | Children, Families and Learning | Human Services |

| Subject/Order Number | Sending Agency | Receiving Agency |
|--|--|--|
| Duties of the former constitutional office of State Treasurer (185) | State Treasurer | Finance |
| 2002 | | |
| Crime victim oversight (184) | Public Safety | Ombudsman for Mental Health and Mental Retardation |
| 2000 | | |
| Energy conservation and energy assistance (183) | Children, Families and Learning | Economic Security |
| 1999 | | |
| Certain crime victim services (182) | Crime Victim Ombudsman | Public Safety |
| Telecommunications and energy functions (181) | Public Service | Commerce |
| 1998 | | |
| Administration of crime victim programs (180) | Corrections, Public Safety, Administration | Crime Victim Ombudsman |
| 1997 | | |
| Administration of oil overcharge, residential weatherization, emergency energy assistance, fuel funds, transitional housing, early childhood learning and child protection facilities, lead abatement, and food shelf programs (179) | Economic Security | Children, Families and Learning |
| (178) | Not available | Not available |
| 1996 | | |
| Duties of the council (177) | Intergovernmental Information Systems Advisory Council | Administration |
| Duties of the board (176) | Transportation Regulation Board | Transportation |
| Financial and administrative support of the state archaeologist (175) | Historical Society | Administration |
| Hydropower and wind energy incentive payment program (174) | Finance | Public Service |
| Review of pollution prevention progress reports (173) | Emergency Response Commission | Office of Environmental Assistance |
| Construction of indoor national shooting center (172) | Amateur Sports Commission | Natural Resources |

| Subject/Order Number | Sending Agency | Receiving Agency |
|--|---|-----------------------------------|
| 1995 | | |
| Approval of discretionary PACER grant funds (171) | Children, Families and Learning | Strategic and Long-Range Planning |
| Management of Mississippi River corridor critical areas (170) | Environmental Quality Board (EQB) | Natural Resources |
| 1993 | | |
| Solid waste management (169) | Office of Waste Management | Pollution Control Agency (PCA) |
| Renovation of Minneapolis veterans home campus (168) | Veterans home board | Administration |
| OSHA health consulting services (167) | Health | Labor and Industry |
| Elevator licensure and inspection (166) | Labor and Industry | Administration |
| 1992 | | |
| Bulk purchasing of medical supplies for Medical Assistance program (165) | Human Services | Administration |
| 1991 | | |
| Duties of board (164) | Public Employment Relations Board | Mediation Services |
| Dispute resolution (163) | State Planning | Administration |
| 1990 | | |
| OSHA health consulting program (162) | Health | Labor and Industry |
| Specified employment position (161) | Iron Range Resources and Rehabilitation Board (IRRRB) | Attorney General |
| Personnel functions of personnel/payroll computer system (160) | Finance | Employee Relations |
| 1989 | | |
| Tax data entry (159) | Administration | Revenue |
| Conservation reserve program (158) | Agriculture | Board of Water and Soil Resources |
| Commission duties (157) | Racing Commission | Gambling |
| Processing gambling license applications (156) | Revenue | Gambling |
| 1988 | | |
| Waste management (155) | Waste Management Board | PCA, EQB |

| Subject/Order Number | Sending Agency | Receiving Agency |
|--|-----------------------------------|--|
| Legal advice for employee benefit programs (154) | Employee Relations | Attorney General |
| Leasing of state-owned mineral and oil rights in Montana (153) | Commerce | Natural Resources |
| Administrative duties (152) | Charitable Gambling Board | Revenue |
| Hill Annex Mine state park (151) | IRRRB | Natural Resources |
| 1987 | | |
| Loans for purchase of used oil processing equipment; grants to counties for used oil storage tanks (150) | Trade and Economic Development | Waste Management Board |
| Minnesota veterans homes (149) | Veterans Affairs | Human Services |
| Client advocacy in regional treatment centers (148) | Human Services | Ombudsman for Mental Health and Mental Retardation |
| State employment and training policy (147) | Jobs and Training, Human Services | State Planning |
| State employee workers' compensation administration (146) | Labor and Industry | Employee Relations |
| Domestic agricultural trade (145) | Trade and Economic Development | Agriculture |
| Waste tire abatement and permitting, and waste tire recycling loans and grants (144) | PCA, State Planning | Waste Management Board, Trade and Economic Development |
| Governor's council on youth (143) | Human Services | Education |
| Washington, D.C., office duties relating to economic development and international trade (142) | Governor | Energy and Economic Development |
| Treasurer functions affected by 1986 Supreme Court decision (141) | Finance | Treasurer |
| 1986 | | |
| Energy (140) | Energy and Economic Development | Public Service |
| Agricultural trade, communications, export services, international trade, export finance, special trade representative (139) | Agriculture | Energy and Economic Development |
| Tax compliance (138) | Revenue | Attorney General |
| Debt collection (137) | Attorney General | Transportation |

| Subject/Order Number | Sending Agency | Receiving Agency |
|--|--|--|
| Federal juvenile justice and youth intervention programs (136) | Energy and Economic Development | Jobs and Training |
| 1984 | | |
| State employee workers' compensation claims (135) | Labor and Industry | Employee Relations |
| Environmental resource development (134) | Energy and Economic Development | State Planning |
| Palucci planetarium (133) | Community College Board | IRRRB |
| Review and certification of certain property appraisals (132) | Administration | Natural Resources |
| Industrial hygiene testing and enforcement (131) | Labor and Industry | Health |
| 1983 | | |
| Certain duties relating to administrative cases (130) | Transportation Regulation Board | Public Utilities Commission (PUC) |
| Various state and federal grant and programs (129) Indian business loans Financial resource management, public investment, transportation Energy-biomass research | State Planning Energy and Economic Development Governor Natural Resources | Energy and Economic Development Indian Affairs Intertribal Board State Planning Energy and Economic Development |
| Administration of payment for fire department services on state highways (128) | Public Safety | Transportation |
| Certain duties relating to Minnesota History Center (127) | Administration | Capitol Area Architectural and Planning Board |
| Capitol complex landscaping (126) | Administration | Capitol Area Architectural and Planning Board |
| Staff for Environmental Quality Board (125) | EQB | State Planning |
| Audit and direct aids (124) | Commerce | Revenue |
| Business development (123) | Energy, Planning, and Development | Commerce |

| Subject/Order Number | Sending Agency | Receiving Agency |
|---|--|-----------------------------------|
| 1982 | | |
| Rural credit (122) | Banks | Natural Resources |
| Accounting functions of rural rehabilitation fund (121) | Administration | Energy, Planning, and Development |
| Soil and Water Conservation Board (120) | Natural Resources | Agriculture |
| Productivity improvement program (119) | Finance | Administration |
| 1981 | | |
| Certain duties relating to workers' compensation hearings (118) | Labor and Industry | Administration |
| Approval of municipal industrial development projects (117) | Securities and Real Estate | Energy, Planning, and Development |
| Specified functions (116) | PUC | Public Service |
| Review of land appraisals (115) | Natural Resources | Administration |
| Specified duties (114) | Local and Urban Affairs/State Planning | Economic Development |
| Specified employment positions (113) | Administration | Community college system |
| Specified functions (112) | PUC | Public Service |
| Legal secretarial positions (111) | Attorney General | Transportation |
| Employment training (110) | Administration | Economic Security |
| Specified employment position (109) | Attorney General | Transportation |
| 1979 | | |
| Administrative duties (108) | Occupational information system board | Education |
| Railroad track scales (107) | Transportation | Public Service |
| Railroad track scales (106) | Transportation | Public Service |
| State employee assistance program (105) | Public Welfare | Administration |
| Legal services employees, according to 1979 legislation (104) | Various agencies | Attorney General |
| Governor's task force on education policy (103) | Governor | State Planning |
| Employees, according to 1979 legislation (102) | Public Service | Agriculture |
| Services for crippled children (101) | Public Welfare | Health |

| Subject/Order Number | Sending Agency | Receiving Agency |
|---|-------------------------|-------------------------|
| Land appraisals (100) | Administration | Natural Resources |
| Upper Great Lakes Regional Commission and public investment project (99) | Economic Development | Governor |
| 1978 | | |
| Iron Range trail (98) | Natural Resources | IRRRB |
| Environmental Education Board (97) | Natural Resources | State Planning |
| Investigative staff unit (96) | Revenue | Public Safety |
| Not specified (95) | Public Welfare | Attorney General |
| Minnesota Education Council (94) | Governor | Education |
| Office of Volunteer Services (93) | Governor | Administration |
| Access to public buildings (92) | Fire Marshal | Administration |
| Community development corporations (91) | State Planning | Economic Development |
| Petroleum and gasoline dealers (90) | Revenue | Public Service |
| Great Lakes Commission/public investment project (89) | Governor | Economic Development |
| Financial assistance for persons suffering from hemophilia (88) | Public Welfare | Health |
| Forest resources, wildlife habitat, recreational development, management plans (partially revised in 1982) (87) | IRRRB | Natural Resources |
| 1977 | | |
| Statewide water management information system (86) | Administration | Energy |
| Coordination of social and financial services for Indochinese refugees (85) | Governor | Public Welfare |
| Aesthetic environment program (84) | Administration/Governor | Natural Resources |
| Merit fellowship grants, nonmedical and health services research grants, health policy studies (83) | Health | State Planning |
| Legal services (based on 1977 legislation) (82) | Various | Attorney General |
| Other specified positions relating to various functions reorganized by the 1977 Legislature | Various | Various |
| Employment Training Act (CETA) (81) | Various | Administration |

| Subject/Order Number | Sending Agency | Receiving Agency |
|--|------------------------------|----------------------------|
| 1976 | | |
| Rail Services Improvement Act (80) | State Planning | Transportation |
| State consulting contracts (79) | State Planning and Personnel | Administration |
| Capital budget preparation (78) | Administration | Finance |
| State records management (77) | Historical Society | Administration |
| Public Employment Relations Board (76) | Mediation Services | Labor and Industry |
| Overtime expenses associated with previous orders (75) | Administration | Finance |
| Correction of order 68 (74) | Administration | Governor |
| Cost improvement program (73) | Administration | Public Welfare |
| Metric standards and implementation (72) | Administration | Education |
| Specified program management and evaluation functions (71) | Administration | Finance |
| Verification of state employee salary and other economic benefits (70) | Administration | Finance |
| Fiscal notes (69) | Administration | Finance |
| Support of human services boards (68) | Governor | Administration |
| Program budgeting (67) | Administration | Finance |
| Indian Affairs Board (66) | Administration | Indian Affairs Board |
| Change in effective date of previous order (65) | — | — |
| Functions related to application for federal funds (64) | State Planning | Finance |
| Hearings related to income assistance programs (63) | Office of Hearing Examiners | Public Welfare |
| Economic opportunity programs (62) | Public Welfare | Governor's Manpower Office |
| Applications for nonstate funds (61) | Administration | Finance |
| Program budgeting (60) | Administration | Finance |
| 1975 | | |
| Indian Affairs Board (59) | Board | Administration |
| Natural resources land acquisition (58) | Administration | Natural Resources |

| Subject/Order Number | Sending Agency | Receiving Agency |
|---|----------------------------|-------------------------|
| Support of human services boards (57) | Public Welfare | Governor |
| Organized crime control unit (56) | Attorney General | Public Safety |
| Crime information systems (55) | Finance | Public Safety |
| Affirmative action office (54) | Administration | Personnel |
| Specified computer programming functions (53) | Finance | Administration |
| Liquor control (52) | Office of Liquor Control | Public Safety |
| 1974 | | |
| Public service employment grant agents function (51) | Governor's Manpower Office | Employment Services |
| State employee payroll system (50) | Administration | Finance |
| State employee deferred compensation (49) | Administration | Personnel |
| Administrative services for nonhealth related boards (48) | Administration | Commerce |
| Approval of certain Health Department fees (47) | Administration | Finance |
| Refinement of order 32 (46) | — | — |
| State radio communication (45) | Natural Resources | Highways |
| Library functions (44) | State Planning | Education |
| Clerical position (43) | Administration | Personnel |
| Crime information system (42) | Administration | Finance |
| Not specified (41) | Pollution Control | Health |
| 1973 | | |
| State employee Social Security (40) | Administration | Personnel |
| State employee insurance (39) | Administration | Personnel |
| State financial management (38) | Administration | Finance |
| Specified supplies and records services (37) | Highways | Public Safety |
| Crippled children services (36) | Public Welfare | Health |
| State labor negotiator (35) | Administration | Personnel |
| Reorganization of auditor functions (34) | State Auditor | Finance |
| State accounting functions (33) | State Auditor | Finance |

| Subject/Order Number | Sending Agency | Receiving Agency |
|--|--------------------------------------|------------------------------------|
| State accounting functions (32) | State Auditor | Finance |
| Auditing functions (31) | Public Examiner | State Auditor, Legislative Auditor |
| Certification and reimbursements of certain premiums (30) | State Auditor and Public Examiner | Agriculture |
| Alcohol and drug abuse functions (29) | State Planning | Public Welfare, Public Safety |
| Not implemented (28) | – | – |
| Peace officers benefit fund (27) | State Auditor | Labor and Industry |
| Regulation of collection agencies (26) | Labor and Industry | Commerce |
| State accounting functions (25) | Administration | State Auditor |
| Weighing of livestock functions (24) | Public Service | Agriculture |
| Licensing of livestock buyers and dealers (23) | Public Service | Agriculture |
| Grain inspection (22) | Public Service | Agriculture |
| Forest pest control (21) | Agriculture | Natural Resources |
| 1972 | | |
| Railroad engineering functions Valuation of railroad property (amendment of order 15) (20) | Public Service | Highways, Taxation |
| Workers' compensation administration (19) | Workmen's Compensation Commissioners | Labor and Industry |
| Collection of liquor taxes (18) | Liquor Control Commissioner | Taxation |
| Not implemented (17) | – | – |
| Water resources planning (16) | State Planning | Natural Resources |
| Railroad engineering (15) Valuation of railroad property | Public Service | Highways, Taxation |
| Unfair Cigarette Sales Act (14) | Taxation | Commerce |
| Not implemented (13) | – | – |
| Notaries public (12) | Governor | Commerce |
| Notaries public (11) | Governor | Commerce |
| 1971 | | |
| State land ownership records (10) | IRRRB | Natural Resources |
| Organized crime control unit (9) | Public Safety | Attorney General |

| Subject/Order Number | Sending Agency | Receiving Agency |
|--|--|--|
| Mankato State College Laundry Services (8) | Mankato State | St. Peter State Hospital |
| Crime prevention and control (7) | State Planning | Governor's Commission |
| Accounting functions (6) | Highways | Public Safety |
| 1970 | | |
| Enforcement of state parking (5) Reception services | Administration | Public Safety, Taxation |
| Data processing (4) | Highways | Administration |
| Accounting functions (3) | Highways | Public Safety |
| Collection of fire tax premiums (2) | Public Safety | Insurance |
| Track and hopper scale unit (1) | Public Service (Grain Inspection Division) | Public Service (Weights and Measures Division) |

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