

MASON'S MINNESOTA STATUTES

1927

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BY THE SUBSEQUENT LEGISLATION OF 1925
AND 1927

AND ALSO EMBRACING LAWS OMITTED FROM THE GENERAL STATUTES
1923, AND THE LAWS OF THE 1925 AND 1927 SESSIONS OF THE
LEGISLATURE UNDER APPROPRIATE CLASSIFICATION.

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THE GOVERNOR

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54. **Stat. property**—In addition to the powers and duties prescribed by the constitution, the governor shall be the custodian of all property of the state not especially intrusted by law to other officers, and may take possession thereof without legal process, and adopt such measures for its safe-keeping as he deems proper. (26) [54]

55. **Secretary, etc.**—He shall appoint a private secretary, who shall keep a record of all important official letters to and from the governor, and of such others as the governor shall direct, which record shall be preserved in the executive office and produced before the legislature whenever requested. He shall appoint an executive clerk, stenographer, and two executive messengers; also a superintendent of the capitol, and as many janitors, watchmen, and laborers under him as shall be necessary for the proper care and safety of the building and grounds and the public property there kept; also a chief engineer and two assistants, the latter to act as firemen. The superintendent shall have general oversight of the property, and the chief engineer shall control the lighting, heating, and ventilating apparatus and machinery and plumbing of the capitol. The governor shall prepare and enforce rules, fixing the details of service for all employees hereinbefore authorized. (27) [55]

56. **State capitol**—Two years from the passage of this act, or at such earlier date as it may be completed, the new capitol building shall be turned over to the governor, and the latter shall assume and thereafter have full control thereof, with the surrounding grounds, and shall care for, operate and maintain the same in the manner and subject to the limitations prescribed in section 1 hereof. ('05 c. 102 § 2) [56]

57. **Proclamations**—When the governor convenes the legislature in extra session, he shall do so by proclamation, giving to the members such notice as he deems necessary of the time of meeting; and, when assembled, he shall inform them of the purposes for

which they are convened. He shall set apart and proclaim one day in each year as a day of solemn and public thanksgiving to Almighty God for His blessings to the people, and no business shall be transacted on that day at any of the departments of state. All proclamations of the governor required or authorized by law shall be filed with the secretary of state. (28) [57]

See 129-523, 151+273.

58. Powers of—He shall appoint, and when necessary commission, all officers and employees of the state whose selection is not otherwise provided for by law, and, at his pleasure, may remove any such appointee whose term of service is not by law prescribed. He shall exercise such powers of appointment, suspension, and removal in respect of other officials as are conferred on him by law. Whenever the great seal of the state is lost or worn out, the governor shall cause the same to be replaced. (29) [58]

58-1. Sale of personal property of state—Disposition of proceeds—Personal property belonging to the state, for which there is no immediate use, may be sold, exchanged or otherwise disposed of with the consent of the governor as follows: The official having custody and possession of such property shall apply in writing to the governor for his consent to sell, exchange or otherwise dispose thereof, and in his application shall describe the property and shall state the terms or conditions upon which it is desired to dispose of the same. The governor shall then refer the application to the purchasing agent of the State Board of Control for his recommendation. Thereafter, if the governor finds that there is no immediate use for such property and that the best interests of the state will be subserved by the sale, exchange or other disposition of such property, he may order that such property be sold, exchanged or otherwise disposed of, and in his order may provide for such terms and conditions as in his judgment will be for the best interests of the State. Any moneys received from the sale of personal property belonging to the State shall be paid into the state treasury and accredited to the general revenue fund, except that moneys received from the sale of property purchased or used by the Minnesota Highway Department shall be credited to the trunk highway fund. ('23, c. 94, § 1, amended '25, c. 384)

SECRETARY OF STATE

59. Custodian of records and seal—The secretary of state shall be the custodian of the state seal and of all records and documents of the state not expressly required by law to be kept by other state officials. (30) [59]

60. Assistants—He shall appoint an assistant secretary of state, who shall perform all the duties of the office when the secretary is absent or disabled. He may also employ a chief clerk, a recording clerk, (a document clerk), and a stenographer, who, besides the duties indicated by their titles, shall perform such services in connection with the office as the secretary or his assistant may require. (31) [60]

Office of document clerk abolished and all powers and duties of document clerk transferred to and vested in the office of clerk of government surveys and documents. '21 c. 197.

61. Clerk of government surveys—That there is hereby created in the office of the secretary of state of Minnesota the position of clerk of government surveys, for the purpose of receiving and for the safe keeping of all the records and archives of the office of United States surveyor general for the state of

Minnesota, and as soon as they shall be received from the commissioner of the general land office at Washington, D. C. ('07 c. 416 § 1) [61]

Office of clerk of government surveys made office of clerk of government surveys and documents. '21. c. 197.

62. Appointment—Salary—That the secretary of state is hereby empowered to appoint some suitable person as such clerk of government surveys, the salary of whom shall be fifteen hundred dollars per year, which sum is hereby annually appropriated out of any funds in the state treasury not otherwise appropriated, and the secretary of state is also empowered to appoint some suitable person as stenographer in such department at a salary of nine hundred dollars per year, which sum is hereby annually appropriated out of any funds in the state treasury not otherwise appropriated. ('07 c. 416 § 2) [62]

Annual salary of clerk of government surveys and documents increased to an amount not exceeding \$2500.00 per annum as the secretary of state may fix. '21 c. 197

63. Duties of secretary—The secretary of state shall cause the legislative chambers and committee rooms to be prepared for the holding of the sessions of the legislature, and shall attend, at the beginning of each regular session, to call the members of the house of representatives to order and to preside until a speaker is elected. (32) [63]

64. Notice of ratification of amendment to Constitution of United States—That whenever the legislature of the state of Minnesota shall ratify any amendment to the constitution of the United States which shall be proposed by congress, as provided by the constitution of the United States, it shall be the duty of the secretary of state of the state of Minnesota forthwith to transmit to the secretary of state of the United States government, official notice thereof. Such notice to include the official certificate of the secretary of state of the action of the legislature ratifying any such amendment, under the hand of the secretary of state and attested by the great seal of the state of Minnesota of which the secretary of state is custodian. ('12 c. 13 § 1) [64]

64-1. Oaths and acknowledgments by Secretary of State—The Secretary of State shall have power to administer oaths and take acknowledgments and to certify the same, appending the great seal of the state as the seal of his office. ('27, c. 60, § 1)

64-2. Same—Oaths and acknowledgments previously taken validated—All oaths heretofore administered and acknowledgments heretofore taken by any Secretary of State, and all instruments bearing such oaths or acknowledgments and the records of such instruments and of all such oaths or acknowledgments, where the same have been recorded as provided by law, are hereby legalized and made valid and effectual for all purposes as if such oaths had been administered or acknowledgments taken by an officer duly authorized by law; provided, that the provisions of this section shall not apply to or affect any action or proceeding now pending in any court of this state. ('27, c. 60, § 2)

STATE AUDITOR

State auditor as ex officio commissioner of lands and timber, see §§ 53-19 to 53-23. Further as to powers and duties of state auditor, see § 53-14.

65. Duties—Seal—Bond—The state auditor shall superintend and manage the fiscal concerns of the state as required by law, and have general supervision of all lands owned by the state, or in which the state is interested as trustee or otherwise, and of the leasing, sale, or other disposition thereof. He may execute in behalf of the state assignments and satisfactions of

judgments rendered in its favor. He shall have a seal, bearing the words "Seal of the Auditor of Minnesota," and affix the same to all official certificates and conveyances executed by him. He shall give bond to the state in the sum of twenty thousand dollars, to be approved by the governor, conditioned for the faithful discharge of his official duties. (33) [65]

66. **Employees**—He shall appoint a deputy, who may perform all the duties of the office whenever the auditor is absent or disabled. He may also employ, and at pleasure dismiss, an accountant, a chief and an assistant land clerk, nine additional clerks, and a stenographer, which employees shall render such service as the auditor may prescribe. (34) [66]

67. **Audit of claims**—Every demand directed by law to be paid out of the state treasury shall first be examined and adjusted by the auditor. If there be sufficient money in the treasury appropriated to its payment and not otherwise, he shall issue his warrant on the treasurer for the amount found to be justly due. Warrants shall be drawn on printed blanks progressively numbered, and for every warrant issued, the number, amount, date and name of payee shall be entered in progressive order in books kept by him for that purpose. (R. L. '05 § 35, amended '17 c. 480 § 1) [67]

147-125, 179+725; warrant cannot be issued without appropriation.

68. **Approval of claims**—Whenever claims against the state for any purpose are made for which there is an appropriation available, the official having authority over that appropriation from which the same is to be paid, shall cause the claim to be approved by some individual having knowledge that the service was performed, or the goods or material furnished, and shall have voucher made giving the name and address of person, firm or corporation to whom the money is due, the date and nature of the claim, reference to the appropriation from which the same is to be paid. Departments and institutions shall forward such claims to the state auditor accompanied by transmittal form prescribed by him. ('05 c. 96, amended '09 c. 120 § 1; '17 c. 480 § 2.) [68]

69. **Auditor to prescribe form**—The form of the claim shall be such as is prescribed by the state auditor and shall be a voucher-warrant. The warrant to be filled in and signed by the auditor pursuant to the provisions of this act, and the treasurer upon approval of the claim by the auditor, shall accept such warrant with his signature, making such voucher-warrant negotiable. The treasurer may confer authority upon one or more of his assistants to accept such warrant in his behalf. The voucher side of the voucher-warrant shall bear the date of the invoice it represents. The warrant side shall bear the date of the issuance of the warrant, and be entered on the warrant record the same as a cash payment. ('05 c. 96, amended '09 c. 120 § 2; '09 c. 169 § 1; '17 c. 480 § 3. See note under § 70) [69]

70. **Endorsement**—The endorsement by the payee of the voucher-warrant shall constitute a receipt in full for the claim therein. ('05 c. 96; amended '09 c. 120 § 3; '17 c. 480, § 4) [70]

'17 c. 480 declares that section 35, Revised Laws 1906, and chapter 96, General Laws 1906, as amended by chapter 120, General Laws 1909, be amended to read as follows: But as the subject matter of G. S. '13 §§ 69, 70, noted above under Section 69 does not appear to be embraced in the amendatory act those sections are inserted as part of this note.

G. S. 69. **Same—When audited**—All claims against the state for salaries and expenses, payable from any of the funds enumerated in section one [68] hereof, and other like salaries and expenses not enumerated herein, may

be audited and paid by the state auditor twice a month. ('05 c. 96, amended '09 c. 120 § 2; '09 c. 169 § 1).

G. S. 70. **Same—Moneys due to fire companies, etc.**—The method provided in section one [68] hereof for presenting claims for payment from the state treasury shall be followed as far as practicable whenever requisition is made for the payment of money due on account of apportionment to fire companies and fire department relief associations. ('05 c. 96, amended '09 c. 120 § 3)

71. **Accounts to be itemized**—That before any charge, bill or expense account against the state of Minnesota shall be audited, it shall be itemized and verified as to the correctness thereof. ('17 c. 498 § 1)

72. **Auditor authorized to issue subpoena to verify bill for expenses**—The state auditor is hereby authorized to issue subpoena to any person who has or shall hereafter render an account to the state, be the same in the nature of a bill for expenses for articles sold or purchased, or involving any other transaction between the state of Minnesota and any person, corporation or co-partnership; and he shall have the power to place any such individual under oath and to examine the said person or individual as to the correctness of any account rendered and the state auditor is further empowered to subpoena such witnesses, to administer oath and to examine them under oath in any transaction entered into between the state of Minnesota and any person, co-partnership or corporation. ('17 c. 498 § 1)

73. **Cancellation and issuance of warrants**—At the beginning of each fiscal year the state auditor and state treasurer shall cancel upon their books all outstanding unpaid state auditor's warrants that have been issued and delivered for more than six years prior to said date, and shall credit back to the proper funds the respective amounts of such cancelled warrants.

When any cancelled warrant is presented for payment the same shall be taken up by the auditor and a new warrant for the same amount, payable to the lawful holder thereof but bearing a current number, shall be issued against the same fund as the original warrant. All appropriations available for the payment of any such original warrants are hereby made available for the payment of any new warrants issued in lieu of the cancelled warrants. ('23 c. 288 §§ 1, 2)

74. **Lost warrant—Duplicate**—Whenever it shall be shown to the auditor, by affidavit, that any unpaid state warrant has been lost or destroyed, he may issue to the owner a duplicate thereof, and thereupon the original shall be void. But if it shall appear to him that any person may be damaged thereby, he may require from the applicant a bond of indemnity to the state in double the amount of such warrant, conditioned for the benefit of any person so damaged. The auditor, in his discretion, may refuse such issue, and if he shall act in good faith he shall not be liable, whether the application be granted or denied (36) [71]

75. **Accounts**—He shall enter and keep in his office, in suitable books, a record of all such accounts and documents as are required by law to be returned to or filed with him, and shall file and preserve all receipts and other vouchers relating to his official business. He shall keep an account with the treasurer, charging him therein with all moneys paid into the treasury, and crediting all warrants redeemed by him and returned. An account shall likewise be kept with each money appropriation made by the legislature, showing all disbursements made therefrom, and such other accounts as shall be necessary to exhibit the condition of the state finances from day to day. (37) [72]

76. **Records of state lands**—He shall keep a record of all parcels of land leased or sold, and the quantity

of each, all timber or other products sold therefrom, the moneys received therefor as principal and as interest, and the persons paying the same, and shall credit all such payments to the proper funds. He shall have the custody of all maps, books, and papers relating to the public lands, whether held in trust or otherwise, and keep books showing in what capacity the several tracts are held. All deeds, leases, and other contracts relating to such lands shall be recorded in books kept in his office, and upon all instruments so recorded he shall certify the book, page, and date of record. The books, maps, and records aforesaid shall be notice of the facts therein disclosed. All conveyances of land to the state, and all abstracts of title thereto, for whatsoever purpose such lands are required or held shall be deposited with and kept by the auditor. (38) [73]

77. Sale of state lands—The state land commissioner of the state of Minnesota is hereby authorized and empowered to take such measures as he may deem advisable to advertise, both within and without the state, sales of all state lands, and to secure, compile and issue such valuable statistics of the resources of the state as may be useful in securing a desirable class of settlers to purchase and to locate on these lands. ('05 c. 201 § 1) [74]

78. Books and stationery—All books, blanks, and stationery required to be used or furnished by the auditor shall be supplied at the cost of the state, and all the books, records, vouchers, and accounts of his office shall be open to inspection, and shall be exhibited and explained to the legislature, or to any committee thereof, whenever required. (39) [75]

79. Reports—On or before the third day of each regular session of the legislature, the auditor shall report to each house thereof an account of the receipts and disbursements of the treasurer during the preceding two years, the unexpended balances of the several appropriations, the amount remaining in the treasury, and the warrants issued and unpaid, if any there be, which account shall be accompanied by such remarks on the state finances as he shall deem proper. Such report shall also show the lands sold or leased, the amounts received therefor, the amount paid in for interest and for other purposes, and to what funds credited, and all other matters proper to be communicated concerning state lands. (40) [76]

80. Certificates of indebtedness for capitol—To provide for the payment of the certificates of indebtedness issued, according to law, by the board of state capitol commissioners it shall be the duty of the state auditor to set aside from the revenue fund each year a sum equal to a tax levy of two-tenths of a mill upon the assessed valuation of the taxable property in the state. Such transfer by the state auditor shall be made in 1908, and every year thereafter, until all of said certificates of indebtedness have been fully paid. ('07 c. 143 § 1) [77]

80-1. Interest on unpaid state auditor's drafts—Drafts issued by the state auditor for claims due the state and delivered to the state treasurer for collection shall be paid within thirty days thereafter. If not paid within such period interest shall accrue and be collected upon the principal of such claims at the rate of eight per cent per annum from date of the draft or date when due. Provided, that provisions of this act shall not apply to drafts issued for timber stumpage, gross earnings taxes, or for amounts due for principal or interest upon state loans, or other claims due the state where the interest is now provided by law. ('19, c. 497)

STATE TREASURER

81. Duties—Bond—The state treasurer shall receive and receipt for all moneys paid into the state treasury, and safely keep the same until lawfully disbursed. He shall have and use a seal, and, before taking office, shall give bond to the state in the sum of at least four hundred thousand dollars, with five or more sureties, or (A) sufficient corporate surety bond or bonds aggregating the required sum, conditioned for the faithful discharge of his official duties. If corporate surety be given, the annual charge therefor, not exceeding one-half per cent, of the amount thereof, shall be paid by the state. Such bond, or bonds, shall be approved by the governor and state auditor, who may require additional bonds whenever they deem it necessary. All such bonds shall be filed with the secretary of state. (R. L. '05 § 41, G. S. '13 § 78; amended '19 c. 435 § 1)

83-479, 481, 86+461. See Superintendent of Banks.

82. Employees—He may appoint, and at pleasure remove, a deputy treasurer, who shall perform the duties of the office whenever the treasurer is absent or disabled. The appointment shall be in writing, filed with the secretary of state. The treasurer shall be liable on his official bond for the acts of such deputy. He may also employ during his pleasure four clerks, and a stenographer, which employees shall render such services as he may from time to time prescribe. (42) [79]

83. Accounts—Disbursements—He shall keep accounts in the best form and in books provided by him at the cost of the state, showing every transaction of the treasury, the date of each, the amount and the source or object of each sum received and disbursed, and the name of every person paying in or receiving money. His cashbook shall be balanced at the close of each business day, including therein all the transactions of such day. No money shall be paid out of the treasury except upon the warrant of the auditor; but money lawfully deposited in banks shall not be considered as paid out. (43) [80]

84. Receipts—Warrants—For all moneys paid into the treasury by any county he shall give duplicate receipts, one of which shall be sent to the treasurer and one to the auditor of the county. He shall receive in payment of public dues warrants lawfully issued by the auditor; and on so receiving or otherwise redeeming any warrant he shall cause the same to be indorsed by the person presenting it, mark the same "Redeemed," and enter in a proper book, in separate columns, its number, date, amount, and when and to whom paid or credited. (44) [81]

85. Statements—At the close of each business day the treasurer shall deliver to the auditor a statement of all his receipts and disbursements during the day, accompanied by all warrants redeemed and duplicates of all receipts given. Such statement shall also show the amounts credited and charged to the several funds. He shall report to the legislature on or before the third day of each regular session, and to the governor whenever he shall require it, the condition of the treasury and of the several public funds, the amounts received and disbursed by him and the items thereof, and the balances on hand and where deposited. (R. L. '05 § 45; G. S. '13 § 82; amended '19 c. 435 § 1)

Laws 1919, c. 435, § 3 repeals G. S. '13, § 83.

86. Warrants—Discount—The treasurer shall in no case purchase, redeem, or receive any warrant at less than its face value; nor shall he receive any fee or reward for transacting any official duty, other than the salary provided by law. And if the public revenue

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shall suffer loss by reason of his failure to call delinquents to account when required to do so by law, he shall be accountable for all sums due from such delinquents as if the same had been paid. (46) [84]

87. **Interest on warrants**—Whenever it shall become necessary, in order to meet current demands upon the revenue fund for moneys appropriated therefrom, the governor, auditor, and treasurer may contract in the name of the state with banking or other corporations, or with natural persons, who will take up warrants drawn upon such fund at their face value, to pay interest thereon at the rate of not to exceed five per cent per annum until the treasurer can redeem the same; but no more than two hundred and fifty thousand dollars in face value thereof shall draw interest at any one time. Six thousand dollars, or so much thereof as may be necessary to pay said interest, is hereby appropriated therefor annually out of the revenue fund. (47) [85]

88. **Revenue fund temporarily filled**—For the purpose of supplying deficiencies in the revenue fund, the treasurer may temporarily borrow from other public funds sums not exceeding in the aggregate three million dollars in any year; Provided that no fund shall be so impaired thereby that all proper demands thereon cannot be met. (R. L. '05 § 48; G. S. '13 § 86; amended '21 c. 52)

89. **Gifts—Acceptance**—That the state treasurer shall be and he 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 of gift or otherwise, 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, 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 and such institution to accept the same, and shall approve of and direct such acceptance. ('07 c. 170 § 1) [87]

90. **Same—Administration**—That in case any such gift, bequest, devise or endowment is so accepted, the same and the proceeds thereof shall be administered and applied according to the terms of the will, deed of gift, or other instrument defining, providing for, creating or establishing the same; but all such property and funds shall be held by the state treasurer in his official capacity and paid out and disbursed the same as other state funds. ('07 c. 170 § 2) [88]

91. **Same—Investments**—That in case it is provided by the terms of such will, deed of gift, or other instrument that the capital of the money, property or fund constituting such gift, bequest, devise or endowment, or any part of such capital, shall be kept invested, the same shall be invested and kept invested in the same manner and by the same officers or body as the school funds of the state are by law required to be invested. ('07 c. 170 § 3) [89]

92. **Same—Expenditures**—That 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 institution for the account of which such gift, bequest, devise or endowment is made, or designated by the donor, 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. ('07 c. 170 § 4) [90]

93. **State treasurer to make collection of drafts**—The state treasurer shall make collection upon all drafts of the state auditor placed in his hands. Uncollected drafts now in the office of the attorney general shall be delivered to the treasurer and a receipt taken therefor. The treasurer may whenever in his discretion he shall deem it advisable, require the assistance of the attorney general to facilitate the collection of such drafts, who may institute suit in the name of the state to enforce the collection of the same. ('17 c. 398 § 1)

94. **Drafts to be registered**—All drafts shall be registered by the treasurer upon their receipt in a book to be a permanent record, and proper notations made as to subsequent proceedings in connection with the collection thereof. ('17 c. 398 § 2)

95. **Partial payments may be accepted**—Partial payments upon drafts may be accepted by the treasurer and a receipt for such partial payment shall be issued therefor, but no such partial payment shall operate as a compromise of the claim covered by such draft, and the unpaid portion thereof shall remain a claim of the state as fully as if no partial payment had been made. ('17 c. 398 § 3)

Penalties and interest on drafts given for gross earnings tax. 160-515, 200+334.

BOARDS OF AUDIT AND DEPOSIT

See, also, Chapter 10A.

96. **Board of audit—Duties**—The governor, secretary of state, and attorney general shall constitute a board of audit. At least four times a year, and without previous notice to the state treasurer, said board shall examine and audit his accounts, books, and vouchers, ascertain the amounts of the several funds which should be in the treasury, count the sums actually on hand, and make a record of the facts found. On or before the third day of each session the board shall report to the Legislature the results of such examinations and of its doings in the premises. It shall also witness and attest the transfer of books, accounts, vouchers, and funds from the out-going treasurer to his successor in office, verify the official record of all redeemed bonds, certificates of indebtedness and interest coupons issued by the state, and from time to time shall cause to be destroyed all such obligations which shall have been redeemed for at least one year. The board shall cause to be prepared a complete list of all obligations destroyed and shall certify to the correctness thereof. Copies of the list shall be filed with the auditor, treasurer and public examiner. (50) [92; amended '25, c. 150]

Explanatory note—Board of audit abolished and duties transferred to comptroller. See § 53-5.

97. **Board of deposit**—The state treasurer, secretary of state, state auditor, attorney general and superintendent of banks shall constitute a state board of deposit, and shall serve as members of such board without additional pay. Any three of them shall constitute a quorum. The treasurer shall be chairman of the board, and the superintendent of banks its secretary. A record of its proceedings shall be kept and be open at all times to public inspection. The board shall meet at convenient times upon the call of its chairman, and shall perform the duties hereinafter prescribed. ('19 c. 419 § 1)

Powers, etc., of Board of Deposit transferred to executive council. See § 53-3.

Laws 1919, c. 419, § 10 repeals G. S. '13, §§ 91, 93, 94, 95, 96, 97 and Laws 1917, c. 396.

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98. Designation of banks or trust companies as depositories of state funds—Special deposits—Bond or collateral of depository—Maximum amount of deposits—Interest on special deposits—Said board of deposit shall designate such banks or trust companies within the state which have been organized at least one year as it may deem necessary to receive deposits of state funds, and prescribe the maximum amount which may be deposited in each. After such banks or trust companies have given the required bonds or furnished proper collateral, and in all other respects complied with the conditions of such designation, the treasurer may deposit therein, in the name of the state, all state funds that shall be or come into his hands; but the amount on deposit at any time in any of said depositories shall not exceed the sum authorized by the board of deposit. The treasurer shall not be liable for the safe-keeping of moneys of the state while so lawfully deposited. Provided that a new bank or trust company which has not been organized for at least one year which takes over or absorbs a bank or trust company eligible to qualify as a depository may be designated as a depository, notwithstanding the limitations contained in this section.

The board of deposit may authorize any designated depository to receive from any official, department, institution, or other agency of the state special deposits of moneys belonging to the state and which have not been paid otherwise into the state treasury; and all moneys so deposited shall be deemed to have been deposited pursuant to such designation.

Departmental receipts received by the treasurer, in accordance with Section 121, General Statutes 1923, may be carried by the depository upon the direction of the treasurer as a special deposit until the report thereby required has been filed with the auditor and the proper entries made in the treasurer's records transferring these receipts to the proper funds.

The depository, upon the direction of the treasurer, may receive and carry as a special deposit such amount of money as may be immediately required for the payment of principal or interest, or both, of maturing obligations of the state and withdrawn from the treasury for that purpose, out of which special deposit the depository, upon the direction of the treasurer, may pay such maturing obligations and surrender them to the treasurer for cancellation.

All moneys belonging to the state, however received by the depository and whether carried as a general or special deposit, shall be covered and protected by the bond given or collateral pledged by such depository, or both, where both forms of security have been furnished.

The limitations upon the board of deposit in fixing the maximum which may be deposited in a designated depository in accordance with the provisions of Section 2 of this act shall not apply to the funds of the state carried in these special deposits, but the amount of state funds deposited in any depository, whether general or special, shall not in any case exceed the amount of its capital stock.

The rate of interest to be paid upon the special accounts authorized hereby shall be fixed by the board of deposit, or the board may waive the payment of interest thereon if in its judgment the average amount so deposited is not sufficient to justify the charging of interest. ('19, c. 419, § 2; amended '25, c. 265, § 1)

99. Surety bond—Interest on daily balances—Maximum amount of deposits—Before any bank or trust company shall receive state funds it shall give to the state a corporate or individual surety bond. If cor-

porate surety bond is furnished the board of deposit may fix a limit of deposit equal to the penalty named in such bond. More than one corporate surety bond may be furnished, the aggregate thereof to equal the amount required. If personal surety bond be given the limit of deposit shall be one-half the penalty thereof; such bond shall have at least five individual sureties, each of whom shall be worth and shall justify in the sum of at least ten thousand dollars above liabilities and exemptions, and the total shall be at least double the penalty of the bond. No individual shall sign more than two such bonds. Individual surety bonds shall be accompanied by the verified statement of each surety thereon, showing the assets and liabilities of such surety. Depository bonds shall include the condition that there shall be paid to the state treasurer, or his order upon demand, or if a time deposit when due, at any place in this state designated by him, free of exchange, all of the state funds deposited in the depository furnishing such bond at any time while the same shall be in force, with interest thereon at the rate agreed upon and approved by the board. Interest shall be paid upon daily balances, such interest to be credited at the end of each month unless otherwise agreed upon. The board of deposit shall fix the limit of deposit to be made in any depository, which shall not exceed fifty per cent of the capital stock thereof, except in the case of an active depository it may be made not to exceed fifty per cent of its capital stock and permanent surplus. No trust company shall be designated as a depository unless it maintains a permanent surplus equal to that required of banks of similar capitalization. Depository bonds shall be approved by the board and filed with the treasurer. ('19, c. 419, § 3; amended '25, c. 265, § 2)

100. Additional bonds—The board of deposit shall not approve the bond of any bank or trust company until fully satisfied that the same is in proper form, the sureties sufficient, the bank or trust company prosperous and financially sound, and the capital stock claimed by it fully paid up and not impaired. And at any time the board or the treasurer may require of any such bank or trust company a new or an additional bond, or may revoke its designation of any bank as such depository. Immediately upon such revocation the treasurer shall withdraw all state moneys therefrom and shall make no further deposits therein. ('19 c. 419 § 4)

101. Classes of depositories—Withdrawal of deposits—State depositories shall be divided into two classes to be known as active and inactive. Active depositories shall be designated only in cities having clearing house organizations. All state funds deposited in active depositories shall be subject to withdrawal by the treasurer upon demand. Surplus funds not required to meet the state's current disbursements shall be deposited in the inactive depositories. Such deposits may be made for a definite period, subject, however, to withdrawal upon demand by the treasurer, if the designation is revoked. ('19, c. 419, § 5; amended '25, c. 265, § 3)

102. Collateral security in lieu of bond—Any depository may, in lieu of the corporate or personal surety bond required to be furnished to secure state funds, deposit with the state treasurer such bonds and certificates of indebtedness, except bonds secured by real estate, as are legally authorized investments for savings banks under the laws of the state, and in addition thereto the bonds of any of the insular possessions of the United States, or the bonds of any state, or its

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agency, the payment of the principal and interest of which, or either, is provided for otherwise than by direct taxation. The depository may furnish both a bond and collateral aggregating the required amount. In determining such aggregate the collateral shall be taken at not more than ninety per cent of the market value thereof. Any collateral so deposited shall be accompanied by an assignment thereof to the state, which assignment shall recite that such depository shall pay over to the treasurer, or his order, on demand, or if a time deposit when due, free of exchange or any other charges, all moneys deposited therein at any time during the period such collateral shall be so deposited, and to pay the interest thereon when due at the agreed rate; and that in case of any default upon the part of the depository the state shall have full power and authority to sell such collateral, or as much thereof as may be necessary to realize the full amount due from such depository and to pay over any surplus to the depository, or its assigns. A depository may deposit collateral of a value less than the total designation and may from time to time during the period of its designation deposit additional collateral and make withdrawals of excess collateral, or substitute other collateral for that on deposit, or any part thereof. Authority is vested in the treasurer to return the collateral to the depository when the trust so created is terminated, and he shall in the case of a reduction of the deposit permit the depository to withdraw the excess portion thereof. The interest on the collateral so deposited when collected shall be paid to the depository so long as it is not in default. Before any collateral is deposited with the treasurer it shall be approved by the board of deposit, but no such authority shall be necessary for the withdrawal of collateral as herein provided. The closing of a depository shall be deemed a default upon the part of the depository and no demand upon the part of the state or its treasurer shall be necessary to establish such default. If a depository shall close, any time deposit placed therein shall immediately become due and payable. If both bond and collateral is furnished by a depository, all or any part of the collateral may be withdrawn without in any way impairing the full force and effect of the bond unless it shall contain a provision that the collateral shall not be withdrawn without the consent of the surety thereon. The treasurer in behalf of the state, upon the direction of the board of deposit may reassign to the pledging depository any registered collateral pledged to the state by assignment thereon in writing. At no time shall the treasurer maintain a deposit in any depository against collateral in excess of ninety per cent of the market value thereof. ('19, c. 419, § 6; amended '21, c. 313; '25, c. 265, § 4)

Explanatory note—See § 1973-3, post.

103. Statement of financial condition—Whenever it shall deem it necessary the board of deposit may require any depository having state funds on deposit, or any surety on a bond of such bank, to furnish a sworn statement of the financial condition of such depository or surety; and a failure to render such statement within a reasonable time shall be sufficient ground for revoking the designation. Every person who shall make any false statement to said board touching the financial condition of such depository, or touching his own financial ability as a surety, whether in an affidavit of justification or in response to any inquiry or request of the board, shall be guilty of a gross misdemeanor. ('19 c. 419 § 7)

104 Rate of interest—The rate of interest to be paid by inactive depositories upon state deposits shall

be not less than three per cent, and in case of active depositories not less than the current rate paid upon active accounts of a similar character, but which shall not be less than two per cent. ('19 c. 419 § 8)

105. Existing designations to continue in force—Existing designations of state depositories shall continue in force until required by the board of deposit to comply with the provisions of this act, which shall be within sixty days after its passage; provided, that existing state depositories which have been organized less than one year may continue as such depositories by complying with the other provisions of this act. ('19 c. 419 § 9)

106. Security not to be subrogated to state's claim in insolvency of banks—In proceedings to wind up an insolvent bank in which state funds were deposited, the state shall continue to be a preferred creditor, and in cases where a bond with sureties has been given by the depository as security for such deposit, then the state may proceed either as a preferred creditor against the assets of the insolvent depository or as the obligee on such bond against the surety or sureties thereon or against both according as the state board of deposit may deem advisable, but in case the state receives or recovers any amount of its claim from such surety or sureties, the latter shall not, by reason thereof, be subrogated to the claim of the state against the assets of the insolvent depository as a preferred creditor. ('21 c. 518 § 1)

107 Depositories—Securities in lieu of bond—Whenever any bank authorized to transact a banking business in this state shall be designated as a depository of state, county or city moneys, as provided by law, it may, in lieu of the corporate or personal surety bond provided by law to secure such deposit, furnish or deposit with the state, county or city treasurer, as the case may be, *United States government bonds*, *Federal farm loan bonds*, *state bonds of this or any other state*, *"Fire Relief Certificates"* of the state or any other certificates of indebtedness thereof, the issuance and sale of which are now or may hereafter be authorized, bonds of any county, school district, city, town or village of this state, and county drainage bonds of this state of the classes and kinds in which the permanent school fund of the state may be invested, in an amount equal to the maximum amount of money at any time to be deposited with such bank. Provided, that such securities must have a market value of at least par and shall be approved by the board of deposit if given to secure state moneys, by the county board if given to secure county moneys, and by the common council or city council if given to secure city moneys, and shall be accompanied by a proper assignment to the end that such depository so depositing and assigning such securities shall and will safely keep and pay over to the treasurer, or his order, on demand, free of exchange, all moneys deposited therein at any time while such bonds or securities shall be so deposited, with interest thereon at the rate agreed upon; and provided, that in case of default on the part of such depository, the board of deposit, county board, or common council, or city council, as the case may be, shall have full power and authority to sell such securities or so much thereof as may be necessary to realize the full amount of the funds so deposited in such depository, together with interest thereon, and to pay the balance or overplus, if any, to the depository entitled thereto. Authority is given to the treasurer to return said securities to the depository so depositing them when the trust so created is terminated, and to exchange upon applica-

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tion, any other securities for the securities so deposited, of equal value and of any of the classes herein permitted to be deposited. The interest on such bonds or securities so deposited and furnished shall, when paid, be turned over to the bank so depositing the same, so long as it is not in default. It is further provided, that if the surety on the bond of any depository of state, county or city moneys is a surety company authorized to do business in this state, said bond shall be in a penal sum to the amount designated by the board of deposit as the limit of deposits in said bank. ('09 c. 362 § 1; amended '19 c. 423) [98]

Explanatory note—The provisions of this section, in so far as they are inconsistent with Laws 1925, c. 173 (see sections 1973-1, 1973-2, post), and except as they relate to state depositories, are superseded, amended and qualified to conform to the provisions of said Laws 1925, c. 173, by section 3 thereof (see section 1973-3, post). The provisions of the section, so far as they relate to state depositories, are also superseded by Laws 1925, c. 265 (see sections 98, 99, 101, 102, ante), by section 5 thereof (see section 1973-4, post).

The bond, executed by plaintiff to the state upon its principal, a state bank, being designated as a depository of state funds, was a continuing obligation, and not one renewed each time the promised annual premium was paid. 160-176, 199+561.

The right of plaintiff to be subrogated to the preference given the state, in case of insolvency of the depository, attached when the bond was given and the relation of surety was assumed, and cannot be affected by subsequent legislation enacted prior to a termination of the bond. 160-176, 199+561.

Misrepresentations made by the principal in a bond to induce the sureties to execute it, not imputable to the obligee, are not available as a defense against liability on the bond. 210+882.

A surety who has paid more than his proportion of the liability is entitled to contribution from cosureties, who are bound for the performance by the same principal of the same obligation although on different instruments. 210+882.

See 146-344, 178+817.

108. Inducements to make deposits—Every person who shall give or promise to the state treasurer, or to any other person having the custody or control of state funds, any credit, service, or benefit whatsoever, except as expressly authorized by law, as an inducement or consideration to or for the deposit, loan, or forbearance of state funds, shall be guilty of bribery or attempted bribery, as the case may be. (55) [99]

ATTORNEY GENERAL

Audit of state offices and accounts by Attorney General. See Laws 1927, c. 430.

109. Appearance—The attorney general shall appear for the state in all causes in the supreme and federal courts wherein the state is directly interested; also in all civil causes of like nature in the district courts whenever, in his opinion, the interests of the state require it. Upon request of the county attorney he shall appear in the district court in such criminal cases as he shall deem proper. Whenever the governor shall so request in writing he shall prosecute any person charged with an indictable offense; and in all such cases he may attend upon the grand jury and exercise the powers of a county attorney. ('05 c. 227 § 1) [100]

Common law powers (101-277, 112+269; see also 42-154, 43+845).

110. Assistant Attorneys General—The attorney general may appoint, and at his pleasure remove, one deputy attorney general and six assistant attorneys general who shall render such aid as he may require of them in the discharge of his official duty. He shall keep a record of his official correspondence and of all matters placed in his hands by the governor, auditor, secretary of state or treasurer, or any officer or

board in charge of any of the business of the state upon which any official action is necessary; he shall also keep a record of all legal proceedings instituted by him or in which he appears, and of the several steps taken therein. All official opinions shall be in writing and copies thereof made and filed in his office. The deputy attorney general and each of said assistants shall, to the extent authorized in writing by the attorney general, have authority to appear before grand juries or in any court of this state, as the attorney general himself might do.

The attorney general shall have power to employ such assistance, whether lay, legal, or expert, as he may deem necessary for the protection of the interests of the state through the proper conduct of its legal business. ('05 c. 227 § 2, amended '11 c. 56 § 1, '17 c. 61 § 1) [101]

('19 c. 272 § 1, authorizes the appointment of additional assistant attorney general)

111. Prosecutions—He shall cause to be prosecuted all assessors and other officials for such delinquencies in connection with revenue laws as may come to his knowledge; also all bonds of officers and others upon which any liability to the state has accrued. Whenever any corporation shall have offended against the laws of the state, or misused, surrendered, abandoned, or forfeited its corporate authority, or any of its franchises or privileges, he shall cause proceedings to be instituted against it. ('05 c. 227 § 3) [102]

67-14, 17, 69+621.

112. Public Lands—He shall begin and prosecute actions against all persons claiming to own any portion of the school or other public lands adversely to the state, whenever, in his opinion, an action can be sustained, and shall cause an appearance to be entered for the state whenever an application to preempt any such land shall come to his notice. In case of any such application he may require the county attorney of the county in which the same is made to enter such appearance, and he may cause witnesses to be subpoenaed, and take such other measures in the premises as the public interests may require. ('05 c. 227 § 4) [103]

113. Advice—Opinions—He shall prepare forms for bonds and other contracts and instruments for the use of state officials, boards and commissions and give legal advice in all matters relating to their official duties, whenever required by the governor, auditor, treasurer or secretary of state, or any board or commission created by law. And whenever required by either house of the legislature he shall give his written opinion upon any question of law. ('05 c. 227 § 5) [104]

114. State officers and Boards—Special counsel—The attorney general shall act as the attorney for all state officers and all boards or commissions created by law, in all matters pertaining to their official duties, and when requested by the attorney general, it shall be the duty of any county attorney of the state, to appear within his county and act as attorney for any such board, commission or officer, in any court of such county; and, when in his judgment, the public welfare will be promoted thereby the attorney general may, upon request in writing, employ a special attorney for any such board, commission or officer, and fix his compensation and when such special attorney is so employed, his fees shall be paid from the appropriation made for such board, commission or officer. Except as herein provided, no board, commission or officer shall hereafter employ any attorney at the expense of the state.

Whenever the attorney general, the governor and the chief justice of the supreme court shall certify in writing, filed in the office of the secretary of state, that it is necessary in the proper conduct of the legal business of the state for the state to employ additional counsel, the attorney general shall thereupon be authorized to employ such counsel, and with the governor and the chief justice, fix their compensation. Except as herein stated no additional counsel shall be employed, and the legal business of the state shall be performed exclusively by the attorney general and his assistants.

The compensation of any attorney employed by the attorney general to assist in criminal prosecutions shall not exceed \$20.00 per day. ('05 c. 227 § 6, amended '11 c. 56 § 2) [105]

115. Opinion to county, city, village or town attorney, etc.—The attorney general on application shall give his opinion in writing to county, city, village or town attorneys, on questions of public importance; and on application of the state superintendent of public instruction he shall give his opinion in writing upon any question arising under the laws relating to public schools, and on all school matters such opinion shall be decisive until the question involved shall be decided otherwise by a court of competent jurisdiction. ('05 c. 227 § 7) [106]

116. Report.—The attorney general shall report to the governor annually the number, character and result of all actions and proceedings in which he has appeared for the state, the expense incurred by the state in each, and the amount of fines, penalties and other moneys collected; also the opinions of general interest given by him and his assistants since the preceding report, with such recommendations for amendment of the laws as he may deem necessary or proper, and tables shall be appended showing the offenses reported to him by county attorneys. ('05 c. 227 § 8) [107]

116-1. Prosecution of claims of state against United States—Agreements with attorneys.—The attorney general is hereby empowered, authorized and directed to retain attorneys to take exclusive charge of prosecuting and collecting and recovering from the United States any such claim or claims which may be developed, and to prosecute at their own expense said claims before such tribunals of the government as may be deemed best for the interests of the state, detailed report to be made from time to time and whenever requested by the attorney general of the progress of prosecution of said claims; provided, that no composition of any of said claims shall be concluded without the written approval of the attorney general. ('27, c. 315, § 1)

Explanatory note.—Laws 1927, c. 315 contains the following preamble: "WHEREAS, It is believed that the State of Minnesota has certain claims against the United States for expenditures made and obligations assumed by said state on behalf of the United States on account of raising and equipping troops employed by said state in aiding to suppress Indian hostilities within said state and upon the borders thereof and for troops furnished in aiding the United States in suppressing the rebellion in 1861-1865, and

"WHEREAS The State of Minnesota is desirous of proceeding with the recovery of such claims against the United States:"

116-2. Same—Compensation of attorneys.—The compensation of said attorneys for said service shall be twenty-five per cent of the sums and amounts collected and received by the state, such compensation to be contingent upon collection and payment thereto to the state, with no further liability on the part of the State of Minnesota, and the amount of such compensation is hereby appropriated, payable upon the certificate of

the attorney general filed with the state auditor. ('27, c. 315, § 2)

GENERAL PROVISIONS

117. Offices—Additional duties.—The governor, secretary of state, auditor, treasurer, and attorney general shall keep their offices in rooms provided for them, respectively, in the capitol, and, in addition to the duties prescribed by this chapter, shall severally render such other services and be subject to such further obligations as are required of or imposed upon them by law. (63) [108]

117-1. Fiscal year.—That the period of 12 months ending at midnight between June 30th and July 1st, be and hereby is designated as the fiscal year of the state of Minnesota. ('19, c. 165, § 1)

117-2. Same—Appropriations available.—That all moneys appropriated to be available for a fiscal year ending July 31st of any designated year be and hereby are declared available for the purposes for which they were appropriated, for the corresponding fiscal year hereinbefore fixed and described as ending at midnight between June 30th and July 1st; and all other laws relating to the financial affairs of the state and to a state fiscal year shall hereafter relate to the year ending on June 30th. ('19, c. 165, § 2)

117-3. Same—Annual or biennial reports.—That all laws directing the preparation or publication of an annual or biennial report for a fiscal period, ending July 31st, or directing the performance of any other task or duty during such period, be and hereby are amended to read June 30th of the year designated. ('19, c. 165, § 3)

Explanatory note.—Section 4 of this act related only to appropriations for the year ending July 31, 1919.

118. Estimates and Budgets—1. Definitions.—The word "estimate" as used in this title shall mean a statement showing:

1. The expenditure for the purposes specified during each year of the current biennial period.
2. The funds available or appropriations authorized for the same purpose, during each year of the current biennial period.
3. The amounts needed during each year of the ensuing biennial period for the work, and for the other disbursements of any department bureau, board, institution, office or branch of the state government, including purchases of land and permanent improvements.
4. The anticipated funds or revenues available for such purposes and the anticipated receipts in connection with such work.
5. Such other information as may be required by law or by executive order.

The word "budget" shall mean the complete estimates for the entire state government, including a summary thereof and a schedule of appropriations required and of estimated tax levies to correspond therewith.

2. Preparation estimates.—Every officer, board, commission or institution of this state, under whose direction any public money is to be expended shall prepare an estimate at such time and in such form as may be required by law or executive order.

3. Submission estimates.—Every estimate so prepared shall be submitted to the governor; provided that the estimates of subordinate officers or boards shall be submitted to the superior officer or board under whose direction the official making such estimates is directly acting.

4. **Revision**—It shall be the duty of every officer and of the members of every board to whom any such estimates are submitted, to assemble the same, and in consultation with the subordinate officers or boards submitting them, to revise such estimates before they are finally submitted to the governor, which shall be done not later than the first day of December in each year immediately preceding the regular session of the legislature.

5. **Duties of governor**—It shall be the duty of the governor, not later than December 31st immediately preceding each regular session of the legislature, to assemble all estimates so prepared and in consultation with the chief executive officers to make final revision of such estimates, having in view the total expenditures, total revenues and the tax levy, and to that end he shall include the estimated expenditures for the judiciary, the legislature, the state university and the state militia. He shall thereupon prepare the "budget" and shall cause to be printed in a form convenient for the legislature, a sufficient number of copies thereof to supply at least one copy to each member of the legislature and to the chief executive officers of the state, and shall lay it before each branch of the legislature not later than the first day of February.

6. **Form**—Every estimate shall be in such form as required by law or as the governor may by executive order direct. All estimates shall be as nearly as practicable of a similar form.

7. **Contents**—Every estimate shall present the following information and such other information as may be required by law or as the governor may direct:

1. It shall show in parallel columns:

Name of item.

Citation to statutes authorizing the service or fixing particular items.

Appropriations for each year of the current biennial period.

The actual expenditures and anticipated expenditures during each year of the biennium.

Amounts needed for each year of the coming biennium.

Explanations of increases or decreases.

Estimated revenue or receipts in connection with each service.

2. It shall distinguish each line of work or activity and shall distinguish at least the following classes of expenditures: (1) Salaries; (2) Permanent improvements and equipment; (3) All other expenses.

8. **Allotments**—It shall be the duty of each disbursing officer or board within thirty days after the passage of any appropriation by the state legislature to allot within each appropriation to be expended under his or its direction, the amounts if any, for the several purposes set forth in the "budget" submitted to the legislature, not inconsistent with the terms of the appropriation act. Subject to the restrictions of the appropriation act allotments may, in case of necessity, be altered by the officer or board charged with the disbursement thereof. All such allotments and any changes thereof shall, as soon as made, be filed with the state auditor.

9. **Accounting**—A debit and credit account of every allotment shall be kept by the auditor and by the officer or board concerned and no expenditure shall be made in excess of the balance available therein. ('15 c. 356)

Cited 139-234, 166-179.

119. **Office equipment, etc.**—The furnishing and equipment of their several offices, and all supplies,

books, stationery, and postage necessary for the proper transaction of the public business in their charge, shall be paid for by the state; and all property, files, records, and documents of any kind appertaining to their respective offices shall be transferred to their successors, who shall give receipts and be accountable therefor. (64) [109]

120. **Additional employees**—In addition to the clerical and other assistance expressly authorized by this chapter, the several executive officers may employ from time to time such further help as shall be necessary to properly transact the business of their respective offices, and for whose appointment and compensation provision shall have been made by law. When not fixed by law, they may prescribe the pay and the duties of all employees, but the aggregate compensation shall not exceed the current appropriations therefor. All appointments of deputies, assistants, and employees shall be in writing, and filed with the secretary of state. (65) [110]

121. **Fees of departments to be paid into treasury**—All fees of the several officers, boards and departments of the state and which is the property of the state shall be collected by such officers, boards and departments and, together with any other receipts collected, shall be paid into the state treasury daily, unless such receipts are under \$50.00, in which event payment may be deferred until they aggregate such sum. The several state institutions shall make payments under this act on the first business day of each week; provided, that the provisions of this act shall not apply to the state agricultural society. Not later than the fifth of each month such officer, board, department or institution shall render to the state auditor an account for the preceding month of all moneys so received and paid over, specifying the items and sources thereof in detail. ('17, c. 462, § 1, repealing G. S. '13, § 111; amended '27, c. 307, § 1, effective from and after July 1, 1927)

124-151, 144-755.

122. **Compromise of state claims**—Whenever the strict enforcement of a demand for money or other property against any person is deemed by the attorney general to be impracticable or inequitable, he may submit to the governor a written proposal for a compromise thereof, made by the party against whom the demand is asserted, with his opinion and advice thereon. The governor, in his discretion, may designate two justices of the supreme court who shall act with the attorney general as a commission to adjust such claim. The commission shall consider the equities of the case, the situation and financial ability of the debtors, and the interests of the state, and determine in writing upon what terms the demand in question should be settled as against all or any of the parties thereto. Its report shall be filed with the governor, and thereupon the attorney general may adjust the claim in accordance with such determination and may execute on behalf of the state all papers necessary and proper to carry the compromise into effect and to release from such claim any and all parties thereto who shall seasonably comply with the conditions of the settlement so authorized. (67) [112]

123. **Salaries—Standing appropriation**—The yearly salaries and allowances of the various officers and employees mentioned in this chapter shall be as follows, all salaries payable in monthly instalments:

1. The governor, * * * ; superintendent of capitol, twelve hundred dollars; chief engineer, fifteen hundred dollars; engineer, nine hundred dollars; janitors and laborers, such sums as the governor shall pre-

scribe, not exceeding in all twenty-three hundred dollars; contingent fund, three thousand dollars.

2. Secretary of state, * * * ; exchange of documents, three hundred dollars; contingent fund, one thousand dollars.

3. Auditor, * * * ; contingent fund, six hundred dollars.

125-151, 145+795.

4. Treasurer, * * * ; contingent expenses, three hundred and fifty dollars; for surety bond premiums, twelve hundred dollars.

5. Attorney general, forty-eight hundred dollars; * * * ; contingent fund, fifteen hundred dollars.

There is hereby annually appropriated from the treasury the amount necessary to pay the foregoing salaries and allowances. (68) [113]

See §§ 48, 49, abolishing standing appropriations, Omitted portions are covered Chapter 5A Salaries.

124. Auditor to cancel all unexpended appropriations—It shall be the duty of the state auditor, at the close of each fiscal year, to cancel all unexpended appropriations, or balances of appropriations, which shall have remained undrawn for the period of one year after the expiration of the year during which they became available under the law; provided, that the governor, state treasurer and attorney general may continue such appropriations or balances in force, temporarily, on recommendation of the state auditor. Provided further, that nothing in this act contained shall be construed to interfere with or modify any law requiring the surplus in any fund or funds to be covered in the state treasury, at the end of any fiscal year, or at any other specified time. ('07 c. 272 § 1) [114]

125. Officials not to exceed appropriation—Whenever there has been an appropriation for any purpose whatsoever, it shall be unlawful for any state board or official to incur indebtedness on behalf of said board, official or the state of Minnesota in excess of the appropriation made for such purpose. It is hereby made unlawful for any state board or official to incur any indebtedness in behalf of said board, official or the state of Minnesota, of any nature whatsoever, until after an appropriation therefor has been made by the legislature. Any official violating the provisions of this act shall be deemed guilty of a misdemeanor, and the governor of the state is hereby authorized and empowered to remove any such official from office. ('07, c. 272 § 2, amended '19 Extra Sess. c. 35) [115]

Laws 1927, c. 439, § 35 reads as follows: "Whenever it becomes necessary in order to meet the current demands upon the revenue funds for the payment of appropriations, the Executive Council may, at any time, prior to June 30, 1929, make such agreement with banks or other corporations or persons as they may deem advisable and necessary to pay warrants issued against said revenue fund, pursuant to any such appropriation prior to the time when the money to meet such appropriation comes into the state treasury and whenever any warrants are so issued for the accommodation of state and paid, the money necessary to pay interest upon the amount of such warrants from the time when such payment was made until the money to redeem such warrants comes into the state treasury at the rate agreed upon by said Executive Council is hereby appropriated."

Laws 1927, c. 441, § 21 reads as follows: "Whenever it becomes necessary, in order to meet the current demands upon the revenue fund for the payment of appropriations, the Executive Council may, at any time prior to June 30, 1929, make such agreement with banks or other corporations or persons as they may deem advisable or necessary to pay warrants issued against said revenue fund pursuant to any such appropriation prior to the time when the money to meet such appropriation comes into the state treasury, and whenever any warrants so issued are paid for the accommodation of the state the money necessary to pay interest upon the amounts of such warrants from the time when such payment was made until the money to redeem such

warrants comes into the state treasury, at the rate agreed upon by the said Executive Council, is hereby appropriated."

125-1. Conversion of state bonds or certificates of indebtedness into bonds of larger denominations—Any bonds or certificates of indebtedness, heretofore or hereafter issued by the State of Minnesota and which are subject to registration as to both principal and interest, shall be convertible into bonds or certificates of larger denominations in the manner herein provided. ('25, c. 151, § 1)

125-2. Same—Surrender of converted bonds or certificates to state treasurer—Reconversion—The holder of any such bonds or certificates, whether in coupon or registered form, may surrender the same to the state treasurer for conversion and he shall issue in lieu thereof one or more new fully registered bonds or certificates, as the case may be, of like maturity, aggregating in amount the bonds or certificates so surrendered for conversion. Bonds or certificates so converted may be reconverted into fully registered bonds of smaller denominations, but which shall not be for less than one thousand dollars. ('25, c. 151, § 2)

125-3. Same—Blank bonds and certificates printed by state treasurer—Recitals therein—The state treasurer shall cause to be prepared and printed blank bonds and certificates to be used pursuant to the provisions of this act, and when issued they shall be signed by the state auditor and state treasurer and be attested by the secretary of state under the great seal of the State of Minnesota. Each such bond or certificate shall contain a recital that it is issued in substitution for bonds or certificates which have been surrendered and shall describe the surrendered bonds or certificates by number, denomination and date of maturity. ('25, c. 151, § 3)

125-4. Same—Cancellation by state treasurer of surrendered bonds or certificates—Recitals in new bonds or certificates—Upon the surrender of any bonds or certificate for conversion the treasurer shall forthwith cancel the same and all coupons, if any, attached thereto, and shall insert in the blank portions of the bonds or certificates issued in lieu thereof the number, amount, date of maturity, and name of the registered holder thereof, a description of the bonds or certificates surrendered therefor and such other data or recitals as may be necessary to complete the same. The auditor and treasurer shall keep a record showing the number, amount, date of issue and date of maturity of each such bond or certificate. ('25, c. 151, § 4)

125-5. Same—Terms of reconverted bonds or certificates—The holders of any reconverted bonds or certificates issued pursuant to this act shall be entitled to the benefit of all stipulations, conditions and recitals contained in the surrendered bonds or certificates. ('25, c. 151, § 5)

125-6. Duplicates for lost or stolen registered state bonds or certificates of indebtedness—If any registered bond or certificate is lost or stolen the owner thereof may procure a duplicate by furnishing the treasurer with proof of loss or theft. If such bond or certificate is registered as to principal only no interest coupons shall be attached to the duplicate issued. Duplicates shall be issued upon the forms prescribed by this act and shall state upon their face that they are issued in lieu of a lost or stolen bond or certificate and shall bear the same number as the original. ('25, c. 151, § 6)

126. Board of Relief—1. Composition of board—A state board of relief is hereby created, to consist of three members as follows: First, the governor, shall be chairman of the board; second, the state auditor;

third, the state treasurer. The members of the board shall serve for the period of their election to their respective offices and shall be succeeded by their successors in their elective offices.

Members of the board of relief shall serve without pay, but shall be reimbursed for all proper and necessary expenses incurred while in the performance of their duties, same to be approved by the board and paid by a warrant drawn by the secretary and signed by the chairman, which warrant shall be paid by the treasurer out of a special fund hereinafter appropriated. The board shall meet at such times and places as shall be designated by the chairman and members of the board shall be entitled to all expenses incurred in attending such meetings.

^{1262 and 6}
_{33 — 356}

2. Authority—The state board of relief is hereby authorized to take any measures necessary to prevent or avert any impending disaster which threatens to destroy life or property in this state, to grant relief or temporary assistance to communities in this state stricken by disease, flood, storm, fire or action of the elements or prevent the occurrence or spread of any such calamity or disaster which might entail loss of life or property or result in great suffering and hardship among the people of this state, and in any such event, it shall have the authority to commandeer and take for use, in any such emergency, any property, vehicle, motor car or any means of transportation by rail or water or any means of communication or any public service, which in the opinion of the said board might be necessary to save life or property or prevent and avert any such impending disaster or furnish assistance or relief to communities in this state, so stricken, or for the prevention of any such calamity. The owner of any property so taken shall be given a receipt for the same and shall be paid for the use of such property or for any damages which might be caused to the same while in the service of the state board.

The state board of relief is further authorized to use any of the facilities or offices of the state when required for relief or to prevent any calamity, and in any such event it shall become the duty of the governor to command the services of the state militia or any other military organization of the state, the forces of the state fire marshal or any other state department or the services of any employee of the state. Such employees of the state shall serve without additional pay, except that all proper and necessary expenses incurred while in the performance of duty shall be paid out of the funds provided by this act. Members of the state militia or any other state military organization shall be paid for their services while on duty, as provided by the military code, upon warrants drawn by the adjutant general. Provided, however, that this act shall not be construed to apply in case of strikes, lockouts or other labor disturbances.

2a. Said board of relief shall, on request of the attorney general, when certified by him to be necessary and that an emergency exists, furnish to him from time to time such sums of money as he may request, from the funds provided for in this act, such moneys to be used by him in paying expenses, lay, legal or expert, and for masters, court and witness fees in actions or proceedings relating to passenger and freight rates, telephone rates, and litigation or controversies arising because of any laws passed by the 1921 legislative session. ('21 c. 418 § 1)

3. Report—The state board of relief shall transmit to the state legislature not later than March 1st of every year in which there is a regular session of the

legislature, a report in detail of all expenses of the board, of all moneys paid out for preventative measures and also of all moneys paid out for relief. It shall also transmit all information and make such recommendations as will assist the legislature in the enactment of further legislation which might be necessary in the prevention of great calamities.

4. Clerk—The board may appoint a clerk and a stenographer, who shall serve at the pleasure of the board and who may be employed in other departments of the state when not engaged under the direction of the board.

5. Appropriation—There is hereby appropriated out of any funds in the state treasury not otherwise appropriated, the sum of fifty thousand dollars (\$50,000), which shall be subject to the order of the board of relief for necessary expenses and which shall be available on the passage of this act.

6. Loan authorized—For the purpose of carrying out the provisions of this act, whenever an emergency exists, the board of relief hereby created is authorized to borrow such a sum of money, not exceeding five hundred thousand dollars (\$500,000), as shall in its judgment be necessary and sufficient.

7. Issuance of certificates—Said board shall have power, for that purpose, to issue the interest-bearing certificates of indebtedness of the state in such denominations and sums as it shall determine advisable, to bear interest at a rate not exceeding five per cent per annum, payable semi-annually, and be due and payable at such times as it may designate, but none of said certificates shall be issued for a period exceeding ten years.

8. Signatures to certificates—The certificates of indebtedness issued under this act shall be signed by the chairman of said board and attested by the secretary thereof and be made payable at such place as said board shall by resolution determine. There shall be attached to each certificate, coupons evidencing the semi-annual installments of interest to fall due on the same, and which interest coupons shall be attested by the fac-simile of the signature of the chairman of said board and the secretary thereof.

9. Tax levy—The state auditor is hereby authorized and required to formally levy, and enter and collect, annually, after the date of issuance of the certificates of said indebtedness, a tax upon the taxable property of the state in addition to all other taxes levied, sufficient to pay the interest annually accruing upon the certificates of indebtedness issued in pursuance of this act; and in advance of the maturity of the principal of any of said certificates, shall, in like manner, levy a tax upon the taxable property of the state sufficient to pay such principal sum when due.

10. Sale of certificates—Said board shall sell such certificates to such persons, associations and corporations, including the state of Minnesota as it deems advisable, but in no case for less than par. ('19 Extra Sess. c. 35, amended '21 c. 418 § 1)

Powers, etc., transferred to executive council. See § 53-3.

In an action by the state to recover on a seed grain note, the defendant is not prevented from asserting that the sale was induced by the fraudulent representations of the state's representative, and he may recoup any damages suffered as a result of the misrepresentations. 210+1006.

127. Additional compensation from contingent fund prohibited—In all cases where the compensation of an officer of the state is fixed by law at a specified sum, it shall be unlawful for any such officer or employe to receive additional compensation for the performance of his official services out of the contingent

fund of said officer or said department, and it shall be unlawful for the head of any department of the state government to direct the payment of such additional compensation out of the contingent fund, and the state auditor is hereby prohibited from issuing his warrant upon such contingent fund in payment of such additional compensation. ('09 c. 395 § 1) [116]

128. Same — Penalty — Every person offending against the provisions of this act shall be guilty of a misdemeanor and punished by a fine of not exceeding

\$100.00 or imprisonment in the county jail for not exceeding ninety days. ('09, c. 395 § 2) [117]

128-1. Holding two appointive offices—Compensation—In filling any appointive state office which the law provides shall be filled by the governor, he may appoint to such office a person already holding a state office and such person may hold both such offices and perform the functions and duties thereof; but such person shall receive only the salary by law provided for the office first held. ('25, c. 353)

CHAPTER 5

JUDICIAL DEPARTMENT

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To
Mason's Minnesota Statutes
1927

(1927 to 1940)
(Superseding Mason's 1931, 1934, 1936 and 1938
Supplements)

Containing the text of the acts of the 1929, 1931, 1933, 1935, 1937 and 1939 General Sessions,
and the 1933-34, 1935-36, 1936 and 1937 Special Sessions 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 digest
of all common law decisions.



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CHAPTER 4

Executive Department

THE GOVERNOR

55. Secretary, etc.

Superintendent has no power to enter into an agreement with an employee's union concerning seniority rights of employees, number of working hours, wages, and settlement of disputes. Op. Atty. Gen. (707b-11), May 6, 1935.

56. State capitol.

Apprn. for repair of State Senate Chamber. Laws 1939, c. 73. Mar. 22.

Editorial note.—The powers and duties of the governor with respect to the capitol and grounds are transferred to the commissioner of administration by §53-18u, ante.

Senate has no right by resolution to control use of rooms and furniture while it is not in session. Op. Atty. Gen., June 12, 1933.

56-1. Governor to assign space in building.—The governor shall determine the particular departments, officers and agents of the state government, to be assigned to the building to be erected hereunder, and in the order of such assignment may prescribe the reasonable rental charge to be paid for the space assigned therein to any department, the cost of maintenance of which is payable from the receipts of such department or agency, the amount of such rental to be applied toward the cost of maintenance of the building to be erected hereunder. (Act Apr. 23, 1929, c. 309, §6.)

Editorial note.—The powers and duties of the governor with respect to the capitol and grounds are transferred to the commissioner of administration by §53-18u, ante.

The above provision constitutes §6 of Act, April 23, 1929, c. 309, creating the State Building Commission to serve during the erection of the state office building. The other sections of the act are temporary and are omitted from this compilation. Sections 1, 2 and 3 of the act were amended by Laws 1931, c. 61, and Laws 1931, c. 79. Section 2 was again amended by Laws 1931, c. 106.

Members of the state legislature are not eligible to serve as members of the state building commission. Op. Atty. Gen., June 5, 1931.

The office of a member of the 1929 legislature did not terminate until January 1, 1931, and he cannot be eligible to serve as a member of the state building commission created by Laws 1929, c. 301, until January 1, 1932. Op. Atty. Gen., June 5, 1931.

Governor may decide whether department of rural credit shall be assigned space in state office building and whether there shall be a rental charged, and if he decides that it should take space from private party, conservator may rent outside space from a private party under a lease for a reasonable time. Op. Atty. Gen. (770c-6), Mar. 24, 1937.

58. Powers of.

Governor cannot remove village constable. Op. Atty. Gen., Aug. 31, 1933.

Governor's constitutional powers of appointment and removal. 22MinnLawRev451.

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

See §§53-14, 53-17, ante.

Sale by the state of fish reduction plant standing upon leased grounds. Op. Atty. Gen., (928c), Aug. 4, 1938.

STATE AUDITOR

67. Audit of claims.

Minnesota Claims Commission, established. Laws 1939, c. 415.

Payment of claims. Laws 1939, cc. 419, 420.

71. Accounts to be itemized.

State emergency relief administration is an instrumentality of the state for special and limited purposes, and one falsely writing the name of payee in a relief order upon back thereof was guilty of forgery, though relief order was neither acknowledged nor verified. State v. Stuart, 203M301, 281NW299. See Dun. Dig. 3794.

80-2. Duties of State Auditor to retain powers of his office—Accounts and bookkeeping—Fiscal year—Access to books.—The state auditor shall continue to exercise the rights, powers, and duties now vested in

and imposed upon his office. He shall have charge of the administration of the financial affairs of the state, and he shall keep the general books of account of the state. The general books of account shall be on a double entry control basis, with such revenue, expenditure, asset and liability accounts as will give complete control over all financial and expenditure operations of the state and over all officials, departments, and other agencies of the state government. Accounts shall be set both as to expenditures and revenue according to generally accepted practice in governmental accounting. The auditor, with the advice and assistance of the commissioner of administration and the public examiner, shall formulate and prescribe for all departments and other state agencies a system of uniform records, accounts, statements, estimates, revenue receipt forms, vouchers, bills, and demands with suitable instructions governing the installation and use thereof. The accounting system and form so prescribed shall be adopted and employed by all officials, departments and agencies of the state government, and the auditor, with the assistance of the public examiner, shall exercise constant supervision and control over the same. All accounting and financial records shall be kept on the fiscal year basis of twelve months ending at midnight between June 30 and July 1. The auditor and his designated agents shall at all times have free access to the books, records, accounts and papers of the several departments and agencies. The commissioner of administration and his designated employes shall have free access at all times to the books, records, accounts and papers of the state auditor, and the auditor shall allow the commissioner and his agent sufficient desk space for using and inspecting the same. (Act Apr. 22, 1939, c. 431, Art. 3, §1.)

Supply of stamps on hand at time of passage of act may be sold though not serially numbered. Op. Atty. Gen. (218n), May 23, 1939.

80-3. Other duties of state auditor.—(a) **Audit of accounts.**—The auditor or his designated agents shall examine every receipt, account, bill, claim, refund, and demand against the state, and if a legal, correct, and proper claim, he shall approve the same, designate the account to be charged therefor, and issue his warrant in payment thereof in the manner provided by law. He shall approve all documents and reports showing evidences of payments into receipts by the state treasurer and shall designate the fund to be credited therewith.

(b) **Tax stamps and tokens—Manufacture—Precautions to prevent forgery and fraud.**—All liquor, fermented malt beverage stamps, and other stamps, tokens, or forms evidencing the payment of taxes or fees of any kind due to the state shall be prenumbered serially, so far as practicable, in such manner as the state treasurer may direct. All officers and employes having custody of such stamps, tokens, or forms shall be accountable therefor at all times, and shall keep such records and make such reports thereof as the state auditor may direct. Upon purchasing or contracting for such stamps, tokens, or forms the commissioner of administration, with the advice and approval of the state treasurer, shall designate and design the form and denomination thereof, prescribe such requirements and provide for such supervision of the manufacture and delivery thereof as may be necessary to prevent forgery, misappropriation, and fraud. The printer or manufacturer of any such stamps, tokens, or forms shall deliver the same upon completion to the officer or employe of the state entitled to custody thereof, and shall at the same time

execute in triplicate a sworn statement, stating the kind and number of the articles printed or manufactured and delivered, what precautions have been taken to prevent forgery, misappropriation, and fraud in connection therewith, and such other information as may be required by the commissioner of administration and the state treasurer. One of such statements shall be delivered with the articles described therein to the officer or employe of the state receiving the same, one to the commissioner of administration, and one to the state auditor. No claim for payment for any such articles shall be allowed until such statements have been delivered.

(c) **Delivery of stamps and tokens to state treasurer—Report of sales—Refunds.**—All liquor and fermented malt beverage stamps, and other tokens and forms which are salable for cash without further certification or authentication shall be delivered, when printed or manufactured, to the state treasurer, who shall exclusively sell the same. Other tokens or forms of any kind hereinbefore referred to shall be delivered to and issued by the state treasurer. The state treasurer shall issue daily duplicate reports to the state auditor and liquor commissioner showing the sales of stamps and denominations thereof and the person or persons purchasing the same. Refunds to any purchaser of money paid for any stamps returned unfit for use or otherwise unused may be made upon proof required by the state auditor pertaining to such refund who shall, if he finds the same to be correct, draw his voucher upon the state treasurer for the amount to be paid.

(d) **Forgery and larceny of stamps and tokens.**—The forging, with intent to defraud, of any liquor stamp, license form, or other stamp, token, or form evidencing or intended to evidence the payment of any tax or fee due to the state, or any plate, die, or other device for the printing or manufacture of any such stamp, token, or form, shall be forgery in the third degree, and shall be punished accordingly. Every such stamp, token, or form which is salable for cash, without further authentication or certification, for the purposes of payment of any such tax or fee shall be deemed to be of the value of the amount of money designated thereon and for which the same is salable, and larceny thereof in any manner shall be punished accordingly. The provisions of this subdivision shall not exclude the application of any other laws, not inconsistent herewith, relating to the same subject matter, but shall be supplementary thereto. (Act Apr. 22, 1939, c. 431, Art. 3, §2.)

(e). Liquor control commissioner is left in charge of sale of such permits, licenses, etc., which require his signature for purpose of authentication. Op. Atty. Gen. (218h), April 29, 1939.

State treasurer may make his own rules and regulations respecting sale of tax stamps and is not bound by any rules or regulations of liquor control commission. Op. Atty. Gen. (218n), August 16, 1939.

Under Laws 1933, Ex. Sess., c. 58, §5, expenses incurred by state treasurer in complying with law with respect to stamps and labels for liquor control commission were required to be paid by commissioner, but this was changed by Laws 1939, c. 431, Art. III, §2(c). Op. Atty. Gen. (454-L), August 29, 1939.

80-4. No money to be expended without an appropriation—Exceptions.—Unless otherwise expressly provided by law, no money belonging to or for the uses of the state shall be expended or applied by any official, department, or agency of the state government or any institution under its control, except under authority of an appropriation by law and an allotment relating thereto as herein provided, and upon warrant of the auditor. (Act Apr. 22, 1939, c. 431, Art. 3, §3.)

80-5. All documents to be under supervision of Auditor.—Except as otherwise provided by law, all original bills, claims, contracts, deeds, leases, demands, and vouchers on which money has been paid or may be paid by the state treasurer shall be kept in the office of the auditor and shall be under the

supervision and control of the auditor. (Act Apr. 22, 1939, c. 431, Art. 3, §4.)

All documents enumerated herein must be filed in office of state auditor. Op. Atty. Gen. (640a), Sept. 7, 1939.

80-6. To prepare quarterly statements and biennial report.—The auditor shall prepare and submit to the governor and make available to the public at the end of every quarterly period and at the end of each fiscal year a summary statement showing all revenues and expenses for the period covered by such statement, including a comparison with the previous corresponding period. Such statements shall be in sufficient detail as to appropriations and funds as to show the exact financial condition of the state and each department and agency thereof. The auditor shall prepare and submit to the legislature and governor a biennial report. (Act Apr. 22, 1939, c. 431, Art. 3, §5.)

80-7. Salary—Bond.—The salary of the state auditor shall be \$6,000 annually, and he shall give a corporate bond of \$50,000 to the state for the faithful discharge of his duties. (Act Apr. 22, 1939, c. 431, Art. 3, §6.)

STATE TREASURER

81. Duties—Bond.

Dedicated receipts transferred to general revenue fund. Laws 1939, c. 435.

General bond of state treasurer does not cover unemployment compensation. Op. Atty. Gen. (885q-1), Apr. 14, 1937.

Fine voluntarily paid and transmitted to state treasurer cannot be refunded. Op. Atty. Gen. (199b-7), Aug. 13, 1937.

88. Revenue fund temporarily filled. For the purpose of supplying deficiencies in the revenue fund, the treasurer may temporarily borrow from other public funds sums not exceeding in the aggregate nine million dollars in any year; provided that no fund shall be so impaired thereby that all proper demands thereon cannot be met. (R. L. '05, §48; G. S. '13, §86; 21, c. 52; Apr. 23, 1935, c. 239; Apr. 21, 1939, c. 373.)

Sec. 2 of Act Apr. 23, 1935, cited, provides that the act shall take effect from its passage.

Sec. 2 of Act Apr. 21, 1939, cited, provides that the act shall take effect from its passage.

80. Gifts—Acceptance.

Gifts of land may be made to state for benefit of state teachers college of St. Cloud to be used as a municipal forest if state auditor, governor and state treasurer determine that it is for best interest of state and institution to accept same. Op. Atty. Gen. (359a-9), June 11, 1937.

90. Same—Administration.

State may accept gift to state teachers' college conditioned on its use as a dormitory and payment of state inheritance and federal estate tax out of rent of dormitory rooms. Op. Atty. Gen. (454f), Oct. 27, 1938.

95. Partial payments may be accepted.

Railroad companies could tender payment of part of gross earnings demanded by state and avoid penalties on such part. State v. Illinois Cent. R. Co., 284NW360. See Dun. Dig. 9129a.

95-1. Disposition of certain moneys.—All moneys received by the state treasurer in his official capacity from persons making such payment without disclosing their identity or without direction as to application shall be covered into the state treasury and credited to the general revenue fund. The treasurer shall keep a record of moneys so received and credited, noting therein the date of receipt, date of payment into the treasury, and such other information as he may have at hand concerning each item so received and credited. (Act Mar. 22, 1929, c. 85.)

95-2. State Treasurer's revolving fund created.—That a revolving fund of twenty thousand dollars (\$20,000.00) be created, to be kept in the State Treasurer's office for the purpose of cashing drafts, checks, and state warrants, which shall be cleared from day to day in the usual manner. (Act Feb. 23, 1935, c. 19, §1.)

95-3. Appropriations.—There is hereby appropriated, the sum of twenty thousand dollars (\$20,000.00) from the revenue fund of the State, not otherwise appropriated, and the State Auditor is hereby authorized and directed to issue a state warrant on the state revenue fund, payable to the State Treasurer, in the amount of twenty thousand dollars (\$20,000.00) and the State Treasurer is authorized and directed to procure cash on said warrant for the purpose of carrying out the use thereof as above outlined. The State Treasurer shall at all times be liable to the State under his bond for the full amount of said \$20,000.00. (Act Feb. 23, 1935, c. 19, §2.)

BOARDS OF AUDIT AND DEPOSIT

96. Board of audit—Duties.

The powers and duties of the board of audit and its successor, the comptroller, are transferred to the newly created public examiner, by Act Apr. 22, 1939, c. 431, Art. 4, §9, post, §3286-16.

98. Designation as depositories of state funds—Interest, etc.

State funds may be invested in bonds issued by the state or state agency. Laws 1939, c. 372, §6303, post. 174M583, 219NW916; note under §106. 179M143, 228NW613.

Op. Atty. Gen., Mar. 5, 1929; note under §1973-1.

Sureties on bonds securing state deposits held not released by the consolidation or merger of the bank with another bank. 173M406, 217NW360.

Moneys of University of Minnesota placed in designated depositories is state money on which interest must be paid notwithstanding federal banking act of 1933, §11. Op. Atty. Gen., Oct. 9, 1933.

Deputy registrars of motor vehicles are not liable for funds after depositing them in a bank designated by the state as a state depository. Op. Atty. Gen. (632a-17), Apr. 22, 1936.

99. Surety bond—interest on time deposits—maximum amount of deposits.—Before any bank or trust company shall receive state funds it shall give to the state a corporate surety bond. If corporate surety bond is furnished the board of deposit may fix a limit of deposit equal to the penalty named in such bond. More than one corporate surety bond may be furnished, the aggregate thereof to equal the amount required. Depository bonds shall include the condition that there shall be paid to the state treasurer, or his order upon demand, or if a time deposit when due, at any place in this state designated by him, free of exchange, all of the state funds deposited in the depository furnishing such bond at any time while the same shall be in force, with interest upon time deposits at the rate agreed upon and approved by the board. The board of deposit shall fix the limit of deposit to be made in any depository. Depository bonds shall be approved by the board and filed with the treasurer. (As Am. Apr. 22, 1937, c. 351, §1.)

174M583, 219NW916; note under §106.

179M143, 228NW613.

100. Additional bonds.—The board of deposit shall not approve the bond of any bank or trust company until fully satisfied that the same is in proper form, the sureties sufficient, the bank or trust company prosperous and financially sound, and the capital stock claimed by it fully paid up and not impaired. And at any time the board or the treasurer may require of any such bank or trust company a new or an additional bond, or may revoke its designation of any bank as such depository. Immediately upon such revocation of an active depository the treasurer shall withdraw all state moneys therefrom and shall make no further deposits therein and upon such revocation of an inactive depository the treasurer shall withdraw all state moneys therefrom when due. (As Am. Apr. 22, 1937, c. 351, §1.)

101. Classes of depositors—withdrawal of deposits.—State depositories shall be divided into two classes to be known as active and inactive. A bank or trust company may be designated as a depository of both classes. All state funds deposited under designations as active depositories shall be subject to withdrawal by the treasurer upon demand, and no interest shall be

charged thereon. Surplus funds not required to meet the state's current disbursements shall be deposited for a definite period in banks or trust companies designated as inactive depositories, and interest shall be paid upon such deposits at a rate of not less than one per cent nor more than three per cent per annum to be fixed from time to time by the state board of deposit in accordance with the current rate upon deposits of a similar character. (As Am. Apr. 22, 1937, c. 351, §1.)

101-1. Law repealed.—Laws 1933, Chapter 217, is hereby repealed. (Apr. 22, 1937, c. 351, §2.)

101-2. Effective August 23, 1937.—This act shall take effect and be in force from and after August 23, 1937. (Apr. 22, 1937, c. 351, §3.)

102. Collateral security in lieu of bond.

Where bank required to give bond in specified amount gives bond for half the amount and deposits securities for the balance the surety on the bond held not entitled to require the state to apply the securities in reduction of liability on the bond. 179M143, 228NW613.

While a state bank may give a bond to secure the government for deposit of postal savings, it may not pledge any portion of its assets. Op. Atty. Gen., May 22, 1931.

Where a bank pledges authorized securities for public moneys on deposit, and also gives personal bond containing a stipulation that there would be no liability on the bond until the pledged collateral has been exhausted, recovery may be had on the personal bond without exhausting the pledged collateral. Op. Atty. Gen., Feb. 3, 1932.

Highway fund revenue warrants of state of Colorado may not be regarded as bonds of state within meaning of section. Op. Atty. Gen. (140f-7), Jan. 22, 1937.

State bank may not pledge assets to secure deposit of postal savings funds. Op. Atty. Gen. (29a-12), Jan. 16, 1939.

104. [Repealed.]

Repealed by Act Apr. 13, 1933, c. 217, §2, post, §104-2.

104-1. [Repealed.]

Repealed Apr. 22, 1937, c. 351, §2, effective Aug. 23, 1937, ante, §§101-1, 101-2.

104-2. [Repealed.]

Act Apr. 13, 1933, c. 217, §2, which repealed Laws 1919, c. 419, §8, is repealed by Act Apr. 22, 1937, c. 351, §2.

106. Security not to be subrogated to State's claim in insolvency of banks.

This section does not delegate legislative power to the state board of deposit (now the executive council) in violation of Const., Art. 3. 174M583, 219NW916.

It does not violate the federal Constitution. 174M583, 219NW916.

Sureties cannot compel commissioner of banks to pay state's deposit claim as a preferred claim, where the state seeks recovery from the sureties. 174M583, 219NW916.

Where bank required to give bond in specified amount gives bond for half the amount and deposits securities for the balance, the surety on the bond held not entitled to require the state to apply the securities in reduction of liability on the bond. 179M143, 228NW613.

State is a preferred creditor entitled to all assets if not sufficient to pay claim in full. Op. Atty. Gen., Aug. 1, 1933.

Deposited funds of a school district do not constitute a preferred claim against depository. Op. Atty. Gen., Feb. 8, 1934.

107. Depositories—Securities in lieu of bond.

Op. Atty. Gen., Feb. 3, 1932; note under §102.

Where an unauthorized pledge of assets is made by bank and it becomes insolvent, receiver may recover assets pledged, or damages, if they have been converted. 174M286, 219NW163.

A bank has no power to pledge any of its assets to secure the repayment of the deposits, except as given by statute. 174M286, 219NW163.

A commercial bank has no power to pledge bills receivable to secure deposits, even though it be to induce an extension of a past-due deposit. 175M363, 221NW 242.

State bank may not pledge assets to secure deposit of postal savings funds. Op. Atty. Gen. (29a-12), Jan. 16, 1939.

107-1. State Treasurer to designate depositories.

Where any statute of this State requires or permits a Bank or Trust Company to deposit securities with the State Treasurer, the latter, on the request of such depositor, may designate some other Bank or Trust

Company as the depository of such securities under such depository agreement as may be prescribed and approved by him, and which will not deprive the State Treasurer of the control thereof and the charges of such depository shall be paid by the depositing Bank or Trust Company. If such depositing Bank or Trust Company is a member of the Federal Reserve system, the Federal Reserve Bank in this State may be the depository designated by the State Treasurer. (Act Apr. 17, 1933, c. 287.)

ATTORNEY GENERAL

109. Appearance.

Mandamus will not lie to compel the attorney general to try a civil action brought by the state at the next term of court. 178M442, 227NW891.

Discretion of attorney general in determining what litigation he will prosecute in name of state is plenary and not subject to review. State v. City of Fraser, 191M427, 254NW776. See Dun. Dig. 8845.

Where in a mandamus proceeding against state auditor on relation of a private party, he has signed and verified his return or answer also signed by private legal counsel employed at his own expense, attorney general does not have absolute right to have such return or answer stricken, and counsel of auditor ousted from participating in proceeding, where real controversy is between different departments of the state and auditor believes that an attempt is being made to compel him to do an unlawful act. State v. District Court, 196M44, 264NW227. See Dun. Dig. 8845.

Granting of leave to a municipal corporation to file an information in nature of quo warranto, notwithstanding refusal of attorney general to apply for writ or to consent to its filing, lies in sound discretion of court, and that discretion should be exercised favorably, and leave granted where one municipal corporation, on grounds prima facie valid, challenges legal effectiveness of proceedings by another to take over and include within its limits territory belonging to former, issue so raised being one of public rather than mere private interest. State v. City of Chisholm, 196M285, 264NW798. See Dun. Dig. 8845.

Supreme court has power to grant quo warranto over objection of attorney general. State v. City of Chisholm, 196M285, 266NW689. See Dun. Dig. 8064.

District court has discretionary power to grant leave to file an information in nature of quo warranto at distance of a private relator having no interest in matter distinct from that of general public, notwithstanding refusal of Attorney General to institute or consent to proceedings, but case should be exceptional, and one in which it clearly appears that public interests require it and fact that there is a substantial defect in title to office is not controlling. State v. Fredrickson, 202M79, 277NW407. See Dun. Dig. 8070.

An attorney general has authority to institute in a district court a civil suit in name of state, whenever in his opinion interest of state so requires. By coming in and joining with county attorney in supplemental brief, and by filing in court below an appearance adopting acts of county attorney the actions must be considered as if originally instituted on relation of attorney general. State v. O'Neil, 286NW316. See Dun. Dig. 8845.

110. Attorney General—deputies—assistants.—The attorney general may appoint, and at his pleasure remove, two deputy attorneys general and six assistant attorneys general who shall render such aid as he may require of them in the discharge of his official duty. He shall keep a record of his official correspondence and of all matters placed in his hands by the governor, auditor, secretary of state or treasurer, or any officer or board in charge of any of the business of the state upon which any official action is necessary; he shall also keep a record of all legal proceedings instituted by him or in which he appears, and of the several steps taken therein. All official opinions shall be in writing and copies thereof made and filed in his office. The deputy attorneys general and each of said assistants shall, to the extent authorized in writing by the attorney general, have authority to appear before grand juries or in any court of this state, as the attorney general himself might do.

The attorney general shall have power to employ such assistance, whether lay, legal, or expert, as he may deem necessary for the protection of the interests of the state through the proper conduct of its legal business. ('05, c. 227, §2; '11, c. 56, §1, G. S. '13, §101; '17, c. 61, §1; Apr. 18, 1931, c. 211, §1.)
Laws 1931, c. 211, §2, repeals Laws 1919, c. 272, authorizing appointment of additional assistant attorney general.

Assistant attorney general member of rural credit bureau holds an office created by statute and thereby designated as "without term," and serves at pleasure of attorney general. State v. Poirier, 189M200, 248NW747.

Soldiers' preference acts are not controlling in respect of appointment to position of inheritance tax examiner by attorney general. State v. Peterson, 194M60, 259NW696. See Dun. Dig. 7986.

112. Public lands.

In unlawful detainer action to recover land acquired by state for taxes, county attorney may appear as sole counsel, but there can be no eviction for two years after forfeiture for taxes for 1926 or 1927. Op. Atty. Gen. (525), Sept. 12, 1937.

113. Advice—Opinions.

Ordinarily the attorney general declines to give an opinion on a matter involved in a case pending in court. Op. Atty. Gen., April 27, 1931.

Attorney general cannot determine matters in litigation. Op. Atty. Gen., Aug. 28, 1933.

It is not the function of the attorney general to determine a question of fact, but all his office may do is to advise as to applicability of the law to the fact submitted. Op. Atty. Gen. (632e-24), June 27, 1934; (10a-2), July 6, 1934.

Attorney general is permitted to render official opinions on county matters only upon request of the County Attorney. Op. Atty. Gen. (107b-1), July 6, 1934.

Attorney general will not give an opinion as to whether particular institutions are exempt from taxation until such a time as the question arises, either upon an application to the tax commission for an abatement of the taxes, or on account of assertion of a defense in tax proceedings. Op. Atty. Gen. (414d-10), July 19, 1934.

Attorney general has no authority to advise in reference to power of court. Op. Atty. Gen. (341k-9), May 16, 1935.

Attorney general will not approve form of contract proposed by commission of administration and finance which on its face, or by reason of ascertained facts all-unde defeats purpose which it proposes to accomplish. Op. Atty. Gen. (980a-9), Oct. 25, 1935.

Whether election of teacher and principal is valid held a question of fact upon which attorney general cannot pass. Op. Atty. Gen. (160h-4), Aug. 21, 1936.

Communications requesting opinion should be addressed to attorney general rather than to assistant. Op. Atty. Gen. (172c-5), Nov. 6, 1936.

Cannot render opinion on question pending in court. Op. Atty. Gen. (184h), Dec. 21, 1936.

Attorney general can only render opinions on school matters to department of education, and not to county attorney. Op. Atty. Gen. (161b-13), Oct. 1, 1937.

Section contemplates that formal opinions on legal questions shall be given legislature only after adoption of a resolution by it submitting question to attorney general. Op. Atty. Gen. (414a-13), Feb. 3, 1939.

114. State officers and boards—Special counsel.

Where in a mandamus proceeding against state auditor on relation of a private party, he has signed and verified his return or answer also signed by private legal counsel employed at his own expense, attorney general does not have absolute right to have such return or answer stricken, and counsel of auditor ousted from participating in proceeding, where real controversy is between different departments of the state and auditor believes that an attempt is being made to compel him to do an unlawful act. State v. District Court, 196M44, 264NW227. See Dun. Dig. 8845.

Soldiers' home board may not employ or pay for an attorney except as provided in this section. Op. Atty. Gen. (394f), Dec. 29, 1937.

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

Aside from its effect as practical construction where a statute is involved and whatever protection it may afford a school officer acting pursuant thereto, opinion of attorney general on school district matters does not have effect of law. Lindquist v. A., 196M233, 265NW54. See Dun. Dig. 8845.

Constitutionality of statute or charter is matter for court, and attorney general is reluctant to express opinion, unless unconstitutionality is apparent. Op. Atty. Gen., June 23, 1932.

This section limits attorney general to giving opinions in writing to county, city, village and town attorneys on questions of public importance. Op. Atty. Gen., Feb. 17, 1933.

Section does not permit attorney general to render official opinions to private individuals or corporations, even though inquiry relates to matter of public concern. Op. Atty. Gen., June 1, 1933.

Attorney general will not render opinions on questions pending before a court. Op. Atty. Gen., Oct. 30, 1933.

Attorney general will not run counter to decision of district court in a particular judicial district. Op. Atty. Gen., Nov. 27, 1933.

After election has been held and result declared, it is not province of attorney general to decide question of

validity of election between two claimants. Op. Atty. Gen., Dec. 11, 1933.

After election has been held and votes canvassed and result declared, it is not in province of attorney general to determine rights of claimants to office. Op. Atty. Gen., Dec. 22, 1933.

Attorney general will not decide question of validity of an election already held. Op. Atty. Gen., Jan. 16, 1934.

Designation of depository by school district in accordance with opinion of attorney general was lawful as respected liability of treasurer notwithstanding later opinion of attorney general that such a designation would not be legal. Op. Atty. Gen. (159a-21), Apr. 3, 1934.

Attorney general will not determine whether certain acts of a candidate or nominee for an office constitute a violation of Corrupt Practices Act, where there is a dispute between two claimants. Op. Atty. Gen. (627f-2), Oct. 5, 1934.

Where an election has already been held and there may be a contest, attorney general will not determine whether person elected violated Corrupt Practices Act. Op. Atty. Gen. (627f-2), Nov. 28, 1934.

Attorney general will decline to render any opinion relating to a matter which is pending before a court for determination. Op. Atty. Gen. (59a-12), Jan. 15, 1935.

It is the policy of the attorney general not to render opinions on questions that are being determined by a court. Op. Atty. Gen. (218f), Feb. 5, 1935.

Matter of authority of sheriff to forcibly remove a poor person from a house to county poor house is a county matter and attorney general will not pass thereon on application of city attorney. Op. Atty. Gen. (3390-3), Feb. 6, 1935.

Attorney general may not render an opinion concerning private civil liability. Op. Atty. Gen. (218g-13), Feb. 7, 1935.

Attorney general cannot pass on questions of fact in giving an opinion. Op. Atty. Gen. (125a-11), Feb. 25, 1935.

Attorney general has no authority to advise in reference to power of court. Op. Atty. Gen. (341k-9), May 16, 1935.

Attorney general will not express opinion on matter pending before court. Op. Atty. Gen. (217c), July 17, 1935.

Attorney general is not authorized to render opinions directly to school district, but only to state commissioner of education. Op. Atty. Gen. (817a), Aug. 21, 1935.

Attorney general will not render opinion relative to powers and duties of the judiciary. Op. Atty. Gen. (307c), Jan. 23, 1936.

Attorney general will not advise with respect to legal authority of county board, made upon request of county attorney. Op. Atty. Gen. (124), May 9, 1936.

Whether under facts stated there can be criminal prosecution for contributing to delinquency of minor is a question for county attorney and not attorney general to determine. Op. Atty. Gen. (605b-9), May 16, 1936.

Attorney general cannot pass on questions of fact. Op. Atty. Gen. (494b-5), May 18, 1936.

Attorney general does not render opinions contrary to decisions of district court in a particular judicial district. Op. Atty. Gen. (434a-4), Aug. 20, 1936.

Attorney general cannot pass upon questions of fact in determining what constitutes lottery. Op. Atty. Gen. (510c-6), Sept. 25, 1936.

Communications requesting opinion should be addressed to attorney general rather than to assistant. Op. Atty. Gen. (172c-5), Nov. 6, 1936.

Official opinions are limited to those offices designated and municipal officials, and an opinion to the federal surplus commodities corporation is not official. Op. Atty. Gen. (215c-9), Mar. 3, 1937.

What constitutes a club entitled to a beer license is a question of fact which must be decided by local governing body, and not by attorney general. Op. Atty. Gen. (217f-2), Apr. 7, 1937.

Duty of making determination as to whether criminal prosecution should be commenced rests upon county attorney and if conscientiously and fairly made is not subject to review either by attorney general or any other office. Op. Atty. Gen. (605b-33), Apr. 17, 1937.

Office of attorney general must abide by decision of district court holding statute unconstitutional, in absence of an appeal and a different conclusion on part of supreme court. Op. Atty. Gen. (82f), June 1, 1937.

Determination of legal settlement for assistance purposes is a matter of fact to be determined by county agency in first instance, and not by the attorney general. Op. Atty. Gen. (521t-2), June 3, 1937.

Attorney general will not render an opinion upon any matter which is pending in court for determination. Op. Atty. Gen. (408f), July 31, 1936.

Attorney general can only render opinions on school matters to department of education and not to county attorney. Op. Atty. Gen. (161b-13), Oct. 1, 1937.

Attorney general can render official opinions only to county attorney concerning county matters. Op. Atty. Gen. (125a-36), Oct. 13, 1937.

It is not function of office of attorney general to determine facts or to render opinions in connection with matters pending in court. Op. Atty. Gen. (635b), Apr. 22, 1938.

Attorney general cannot render opinions on school matters to anyone except department of education. Op. Atty. Gen. (161b-11), May 20, 1938.

Attorney general does not tell the county attorney when he should or should not institute a prosecution, but it is duty of county attorney to prosecute such offenses as he believes reasonably certain of conviction. Op. Atty. Gen. (494a-2), July 29, 1938.

Attorney general is authorized to give his opinion on township or county matters only upon request of township or county attorneys. Op. Atty. Gen., (802c), July 29, 1938.

Requests for opinions and advice for school officers should be made to Commissioner of Education. Op. Atty. Gen. (163), Jan. 18, 1939.

Inquiries pertaining to town affairs should be submitted by town attorney, and if there is no town attorney, by town clerk after adoption of an appropriate resolution of town board. Op. Atty. Gen. (381a), March 22, 1939.

Attorney general is permitted to render official opinions on school matters only at request of commissioner of education. Op. Atty. Gen. (162B), June 20, 1939.

It is outside scope of duties of attorney general to advise judiciary as to pending cases. Op. Atty. Gen. (306B), June 27, 1939.

116-3. Attorney General to bring action to recover on bonds.—That the Attorney General of the State of Minnesota be and he is authorized, with the approval of the Governor of this state, to commence any action or proceedings in the name of the State of Minnesota to recover upon any bonds or obligations of any other state of the United States which may now or hereafter be held or owned by the State of Minnesota, or any of its boards or departments, and upon any bonds held in any sinking fund or guaranty funds deposited or pledged with the state by trust companies, banks, fidelity or insurance companies, or held by the commissioner of banks as liquidator. (Act Apr. 21, 1933, c. 399.)

GENERAL PROVISIONS

117-2. Same Appropriations available.

Act appropriating money for expenses of state government. Laws 1931, c. 306.

Laws 1933, c. 109, transfers to department of conservation, division of lands and minerals unexpended funds in items 3, 4 and 5.

118. Estimates and budgets.

Op. Atty. Gen., July 24, 1931.

121. Fees of departments to be paid into treasury.

A custom of the sheriff's office of serving papers without collecting the fees in advance and then, without more, merely holding the originals for payment of the fees comes so far from having any legal justification that, however much acquiesced in by other public officials, it cannot create an estoppel against the county. *St. Louis County v. M., 198M127, 269NW105.* See *Dun, Dig. 3753.*

Sheriff of St. Louis county is by virtue of his office a trustee in respect to fees earned by him, whether collected or not, and he is held to a strict accountability and highest practical degree of care as to collection of such fees, burden being upon him to prove exercise of such care as to fees earned but not collected. *Id.*

Inspection and license fees received by oil inspection division cannot be used by that division. Op. Atty. Gen., Oct. 9, 1933.

License fee provided for by Laws 1935, ch. 216, §8, must be paid into state treasury. Op. Atty. Gen. (1961), Oct. 4, 1935.

121-1. Dedicated receipts—Payment into treasury.—All so-called "dedicated receipts" of the state of Minnesota, consisting of fees for licenses, tags, permits, inspections, examinations, interest, tuition, support of patients or wards, and all other fees or moneys paid to the state for any purpose or from any sources whatsoever, which are now paid into and/or credited to any of the following funds, namely: Minnesota Poultry Improvement Board, Douglas Lodge Receipts, State Parks, Tuberculosis division receipts, Division of Examination and Classification, Anoka State Hospital, Hastings State Hospital, Willmar State Hospital, Fergus Falls State Hospital, Rochester State Hospital, St. Peter State Hospital, School for Feeble Minded, Colony for Epileptics, School for the Blind, School for the Deaf, State Public School, State Training School, Home School for Girls, Sanitorium for Consumptives, Hospital for Crippled Children, the state institutions under the management, direction and supervision of the state board of control, except the revolving and contingent

funds of such institutions; shall hereafter be paid into the state treasury and credited to the general revenue fund of the state. (Act Apr. 22, 1939, c. 435, §1.)

Moose Lake Hospital is one of the "institutions under the management, direction, and supervision of the state board of control." Op. Atty. Gen. (9a-10), May 29, 1939.

Ten per cent tax on boxing matches is to be paid into general fund along with other dedicated receipts. Op. Atty. Gen. (9a-10), May 31, 1939.

121-2. Same—Designations of fund to be credited—Amendment.—Each law of the state of Minnesota naming or establishing the funds set forth in section 1 hereof and/or providing for payments into or credits to the same, whether such laws name, designate or refer to such funds by the exact names given above or similar names, but the effect of which laws are to provide for payments into or credits to said funds, are hereby amended and superseded to the extent that all payments provided by said laws to be paid into said funds shall hereafter be paid into the state treasury and credited to the general revenue fund, and each and every section, clause and paragraph providing for such payments into or credits to said funds designated in section 1 hereof is hereby stricken from the laws of this state. (Act Apr. 22, 1939, c. 435, §2.)

121-3. Same—Shall be paid out on legislative appropriations only.—Each law of the state of Minnesota providing for payments from the funds designated in section 1 hereof, whether such laws name, designate or refer to such funds by the exact names given above or similar names, but the effect of which laws are to provide for payments from said funds, is hereby amended and superseded to the extent that such payments shall not be made from such designated funds, but shall be made only from and in accordance with appropriations hereafter made by the legislature for such purposes. (Act Apr. 22, 1939, c. 435, §3.)

Money received in payment for inmate labor in reformatory, reformatory for women, and the state prison, should be paid into state treasury and be thereafter credited to the prison expense fund as in the past. Op. Atty. Gen. (9a-10), May 29, 1939.

121-4. Same—Construction of act.—This act shall not be construed as in any way affecting or superseding any appropriations hereafter made by the legislature to the funds named in section 1 hereof, or any appropriations hereafter made for the purpose of carrying on the work or activities now paid for from such funds. (Act Apr. 22, 1939, c. 435, §4.)

122. Compromise of State claims.—Whenever the strict enforcement by the state of a demand for money or other property against any person is deemed by the Attorney General to be impracticable or inequitable, he may submit the same to the executive council for compromise. The executive council shall consider the equities of the case, the situation and financial ability of the debtors, and the interests of the state, and determine in writing upon what terms the demand in question should be settled as against all or any of the parties thereto. Thereupon the Attorney General shall adjust the claim in accordance with such determination and shall execute in behalf of the state all papers necessary and proper to carry the compromise into effect and to release from such claim any and all parties thereto who shall seasonably comply with the conditions of the settlement so authorized. (R. L. '05, §67; G. S. '13, §112; Feb. 13, 1929, c. 14.)

Commission of administration of finance has no power to cancel balance of term of existing lease of Douglas Lodge and substitutes new and longer lease therefor, but cancellation must be had through the executive council, after which new lease should be supervised and controlled by the commission of administration and finance. Op. Atty. Gen. (980b-31), May 13, 1935.

122-1. May cancel uncollectible drafts.—The executive council upon the written recommendation of the comptroller, shall have authority to cancel any

uncollectible drafts or accounts due to the state. (Act Apr. 26, 1929, c. 406, §1.)

Op. Atty. Gen. (980b-31), May 13, 1935; note under 122.

122-2. Certification by comptroller.—As soon as practicable after the close of each fiscal year the comptroller shall certify to the council a list of uncollectible auditor's drafts and uncollectible auditor's drafts and uncollectible accounts due to the state which have accumulated during the preceding year or years. (Act Apr. 26, 1929, c. 406, §2.)

122-3. Certification by executive secretary.—Whenever any drafts or accounts are cancelled under this act the executive secretary shall make a certified list thereof to the auditor and treasurer whose duty it shall be to cancel the record thereof in their office. (Act Apr. 26, 1929, c. 406, §3.)

122-4. Time of cancellation.—No draft or account for a sum in excess of \$25.00 shall be cancelled until more than six years after the issuance of such draft or the due date of such account, and nothing in this act shall be construed as a cancellation or abandonment of the state's claim against the person or corporation against whom the cancelled draft was drawn or account held, but the state shall nevertheless have authority to make collection thereof. (Act Apr. 26, 1929, c. 406, §4.)

124. Auditor to cancel all unexpended appropriations.

Unexpended portion of an appropriation for use during the fiscal year ending June 30, 1932, may not be cancelled until June 30, 1933. Op. Atty. Gen., Aug. 8, 1931.

124-1. Shall not expend money except for purposes for which it is appropriated.—It is hereby made illegal for any official or head of any State department or any employee thereof to use monies appropriated by this act or fees collected for any other purpose than the purpose for which such moneys have been appropriated and any such act by any head of a department or any state official is hereby declared to be illegal and be cause for immediate removal of such official or head of a state department from the position he holds with the government of this state, or if proof is made of such charge before any judge of any District Court of this state such Court may cause such official or head of a state department to be removed upon proof being duly made of the misappropriation or for any other purpose than which the appropriation was made, except in an emergency and then only with the approval of the Commission of Administration and Finance. (Act Apr. 22, 1939, c. 422, §38.)

125. Officials not to exceed appropriation.

Though state has no Octane testing machine and pipe line company installs such machine and agrees to charge for state tests what state charges therefor, there is no way for the state to pay over test fees to the pipe line company without an appropriation from the legislature. Op. Atty. Gen., Dec. 27, 1933.

Expenses incurred in investigating sale of stock of Northwest Bancorporation and First Bank Stock Corporation could be paid out of appropriation made by Laws, Special Session, 1933, c. 32, although services were rendered prior to its passage. Op. Atty. Gen., Jan. 4, 1934.

Industrial commission may only pay items provided for in current appropriations and cannot pay telephone charges, postage, rent, furniture, etc., entered into without authority by citizens serving on committee without pay. Op. Atty. Gen. (9a-21), May 28, 1934.

Act increasing minimum compensation of deputy oil inspectors without making appropriations therefor did not contemplate reduction of needed personnel to efficiently administer an important revenue producing tax law, and though an act ordinarily becomes effective day following approval, such act would not become effective until after an appropriation had been made by legislature, in absence of administrative means of making salary and wage adjustment to compensate for minimum salaries prescribed. Op. Atty. Gen. (9a-27), May 10, 1937.

Oil inspection department must observe statute fixing certain minimum salary, and must keep within appropriations made, though it must result in reducing personnel or salaries of other personnel not fixed by law. Op. Atty. Gen. (325a-21), June 8, 1937.

125-7. Duplicate bonds, etc., may be issued in certain cases.—When any bond, certificate of indebtedness, or other written obligation of the state issued by the state or by any department, bureau, board, or other agency of the state government according to law has been lost, destroyed, or stolen, a duplicate of such obligation, with unpaid interest coupons, if any, which were attached at the time of the loss, destruction, or theft, shall be issued to the owner, his guardian, or the representative of his estate as hereinafter provided, upon the furnishing of satisfactory proof of ownership and of such loss, destruction, or theft to the authority empowered to approve indemnity bonds, as hereinafter provided, and upon the certification of the approval of such proof by such authority to the state treasurer. (Act Apr. 15, 1929, c. 192, §1.)

125-8. Execution.—Such duplicate obligation shall be prepared by the state treasurer and shall be an exact and complete copy of the original, including the signatures, but need not be a facsimile. Each such duplicate obligation shall have written or printed thereon a certificate, the form of which shall be approved by the attorney general, stating, in substance, that such obligation is a duplicate issued pursuant to this act, with like force and effect as the original. Such certificate shall be signed by the state treasurer, attested by the secretary of state, and sealed with the great seal of the state, and shall bear the approval of the attorney general as to the issuance of the duplicate and the form of the certificate. Each such duplicate shall have plainly written or printed thereon across the face or upon the margin the word "duplicate." Each coupon attached to such duplicate obligation shall have plainly written or printed thereon in like manner the word "duplicate" followed by the date of issue and the signature or facsimile signature of the state treasurer. (Act Apr. 15, 1929, c. 192, §2.)

125-9. Delivery to owner—Bond.—Such duplicate obligation when executed shall be delivered by the state treasurer to the owner of the original obligation, his guardian, the representative of his estate, provided such owner, guardian or representative shall first file with the state treasurer a bond in the full amount of such obligation and unpaid interest to maturity, with sufficient sureties, approved by the same authority as state depository bonds, indemnifying the state of Minnesota against any loss thereon by reason of the existence of the original obligation or any coupon thereto attached, unless such bond is waived as hereinafter provided, and provided such owner, guardian or representative shall furnish satisfactory proof to the state treasurer that such original obligation and coupons have not been found or presented for payment up to the time of such delivery, and if any thereof have been found or presented, duplicates shall be delivered only of such as have not been found or presented. A record of the issuance and delivery of each such duplicate obligation and attached coupons shall be made by the state treasurer and shall be forthwith reported by him to the state auditor, who shall also make a record of the same. Such duplicate obligations and coupons, when issued and delivered as hereinbefore provided, shall have the same force and effect as the originals. (Act Apr. 15, 1929, c. 192, §3.)

125-10. Bond may be cancelled after six years.—The authority empowered to approve the indemnity bond required by Section 3 of this act may waive such bond, in its discretion, at any time six years after the date of the maturity of such lost, destroyed or stolen bond, certificate of indebtedness, or other written obligation of the state, in any special case where it deems that the person entitled to a duplicate is unable to furnish such indemnity bond without hardship and that it is improbable that the original

obligation will ever be found or presented for payment. Such waiver shall be certified to the state treasurer. (Act Apr. 15, 1929, c. 192, §4.)

125-11. Certificates of indebtedness to pay warrants on revenue fund.—Whenever it becomes necessary in order to meet the current demands upon the revenue fund for the payment of warrants issued or to be issued against said fund for the payment of appropriations, the executive council at any time prior to June 30, 1937, upon adopting a resolution determining such necessity, may issue and sell certificates of indebtedness of the state payable out of said revenue fund in such amount as may be necessary to pay such warrants, such certificates to be numbered serially and to be of such denomination and bear such dates of issue and of maturity and such rate of interest as the said council shall determine, provided that no such certificate shall mature more than six (6) months after the date of its issuance or sale, whichever is later, and providing further that the aggregate amount of such certificates at any time outstanding shall never exceed \$9,000,000. If funds are not available to retire any such certificates at maturity, the same may be refunded by the issuance of new certificates or may be extended by agreement with the holders thereof. Certificates issued and sold pursuant to the authorization of this act shall be retired out of the receipts of the revenue fund appropriated to the payment of the warrants issued against said fund but taken up with the proceeds of such certificates. \$200,000 or so much thereof as may be necessary is hereby appropriated and made available for the biennium ending June 30, 1937, to pay the interest upon such certificates. (Act Jan. 6, 1934, Ex. Ses., c. 52; Apr. 24, 1935, c. 255.)

Act July 24, 1937, Sp. Ses., c. 96, authorizes issuance of certificates of indebtedness at any time prior to June 30, 1939. It is omitted as temporary.
Issuance and sale of certificates of indebtedness by legislative emergency committee. Laws 1939, c. 374.

125-12. May not hire publicity representative.—No state department, bureau or division, whether the same operates on funds appropriated or receipts or fees of any nature whatsoever, including, but not limited to, the Department of Rural Credits, Highway Department and Game and Fish Division, shall use any of such funds for the payment of the salary or expenses of a publicity representative. The head of any such department, bureau or division shall be personally liable for funds spent contrary to this provision.

This shall not be construed, however, as preventing any such department, bureau or division, from sending out any bulletins or other publicity required by any state law or necessary for the satisfactory conduct of the business for which such department, bureau or division was created. (Act Apr. 29, 1935, c. 391, §38.)

Repeated Apr. 24, 1937, c. 457, §40.
Repeated Apr. 22, 1939, c. 422, §41.

125-13. Reimbursement of employees compensation revolving fund.—In all cases where any state department owes the Employees Compensation Revolving Fund created by Laws 1933, Chapter 161 [§§ 4337-6 to 4337-10], for claims paid its employees and no direct appropriation is made therefor, such department shall reimburse said Revolving Fund from the funds available to it for supplies and expense. (Act Apr. 29, 1935, c. 391, §39.)

Repeated Apr. 24, 1937, c. 457, §38.

125-14. Certain acts illegal.—It is hereby made illegal for any official or head of any state department or any employee thereof to use monies appropriated by this act or fees collected for any other purpose than the purpose for which such moneys have been appropriated and any such act by any head of a department or any state official is hereby declared to be illegal and be cause for immediate removal of such official or head of a state department from the position he holds with the government of this state, or if proof is made

of such charge before any judge of any District Court of this state such Court may cause such official or head of a state department to be removed upon proof being duly made of the misappropriation or for any other purpose than for which the appropriation was made, except in an emergency and then only with the approval of Commission of Administration and Finance. (Apr. 24, 1937, c. 457, §36.)

Sec. 41 of Act Apr. 24, 1937, cited, provides that the Act shall take effect from its passage.

Appropriation can only be expended for purposes stated except in emergency, and what constitutes an emergency is a matter for both official or head of department and commission of administration and finance to agree upon. Op. Atty. Gen. (9a-3), June 7, 1937.

126. Board of Relief. * * * * *

2. Certificates of indebtedness for relief of distress authorized.—The state board of relief is hereby authorized to take any measures necessary to prevent or avert any impending disaster which threatens to destroy life or property in this state, to grant relief or temporary assistance to communities in this state stricken by disease, flood, storm, fire (or) action of the elements, or extreme economic distress causing destitution of families or individuals or disabled persons, or prevent the occurrence or spread of any such calamity or disaster which might entail loss of life or property or result in great suffering and hardship among the people of this state, and in any such event, it shall have the authority to commandeer and take for use, in any such emergency, any property, vehicle, motor car or any means of transportation by rail or water or any means of communication or any public service, which in the opinion of the said board might be necessary to save life or property or prevent and avert any such impending disaster or furnish assistance or relief to communities in this state, so stricken, or for the prevention of any such calamity. The owner of any property so taken shall be given a receipt for the same and shall be paid for the use of such property or for any damage which might be caused to the same while in the service of the state board. (As amended Apr. 21, 1933, c. 355.) * * * * *

6. Loan Authorized.—For the purpose of carrying out the provisions of this act, whenever an emergency exists, the board of relief hereby created is authorized to borrow such a sum of money, not exceeding seven hundred fifty thousand dollars (\$750,000), as shall in its judgment be necessary and sufficient. (As amended Apr. 21, 1933, c. 355.) * * * * *

This act does not authorize the State Board of Relief to take a note for seed grain furnished by the state to a farmer without such grain or means to procure it, because of the excessive floods which occurred in Marshall county in the year 1919. 172M344, 215NW510.

By receiving the grain from the state and by giving his note therefor, defendant held not to have become estopped from denying liability on the note. 172M344, 215NW510.

2. Authority.

Executive council has power to place unemployed persons upon farms and furnish them with animals, machinery, feed and furniture to get them started. Op. Atty. Gen., May 20, 1933.

Act permits executive council to grant relief to be disbursed by Soldiers' Home Board. Op. Atty. Gen., Aug. 1, 1933.

Responsibility for administration of fund appropriated by executive council for relief of disabled veterans and their families rests with state board of control and not state soldiers' home board. Op. Atty. Gen., Oct. 6, 1933.

Act creating Lincoln-Lyon tornado relief commission, defining powers respecting relief to tornado swept district. Laws 1931, c. 130.

128-1. Holding two appointive offices—Compensation.

Offices of superintendent of Bureau of Criminal Apprehension and superintendent of Highway Patrol are not incompatible. Op. Atty. Gen. (2137), Jan. 14, 1939.

128-2. State Geographic Board established.—There is here established a State Geographic Board which shall consist of the Commissioner of Conservation, the Commissioner of State Highways, and the Superintendent of the Minnesota Historical Society. (Mar. 8, 1937, c. 63, §1.)

128-3. Powers and duties.—It shall be the duty of the State Geographic Board and it shall have power and authority:

(a) To determine the correct and most appropriate names of the lakes, streams, places and other geographic features in the state, and the spelling thereof;

(b) To pass upon and give names to lakes, streams, places and other geographic features in the state for which no single generally accepted name has been in use;

(c) In cooperation with the county boards and with their approval, to change the names of lakes, streams, places and other geographic features, with the end in view of eliminating, as far as possible, duplication of names within the state;

(d) To prepare and publish an official state dictionary of geographic names and to publish the same, either as a completed whole or in parts when ready;

(e) To serve as the state representatives of the United States geographic board and to cooperate with the said board to the end that there shall be no conflict between the state and federal designations of geographic features in the state. (Mar. 8, 1937, c. 63, §2.)

Constitution, art. 4, §33, does not interfere in any way with exercise of powers granted by this act. Op. Atty. Gen. (230), July 2, 1937.

128-4. Names given to be official.—Whenever the State Geographic Board shall have given a name to any lake, stream, place and other geographic feature within the State, such name shall be used in all maps, records, documents and other publications issued by the State or any of its departments and political subdivisions, and such name shall be deemed the official name of such geographic features. (Mar. 8, 1937, c. 63, §3.)

128-5. County boards naming geographic features must have approval of Geographic Board.—No County Board shall order the change of or establish the name of any lake, river, or other body of water without the written approval of the State Geographic Board endorsed on any resolution determining or fixing said name, which endorsement must be made on the same prior to recording with the Register of Deeds. (Mar. 8, 1937, c. 63, §4.)

128-6. Inconsistent acts repealed.—All acts or parts of acts now in effect inconsistent with the provisions of this act are hereby superseded, modified or amended to conform to and give full force and effect to the provisions of this act. (Mar. 8, 1937, c. 63, §5.)

Sec. 6 of Act Mar. 8, 1937, provides that the act shall take effect from its passage.

CHAPTER 5

Judicial Department

SUPREME COURT

132. Writs—Process.

Deduction of inheritance tax because of disallowance of claims against estate cannot be reached by certiorari. 179M233, 228NW920.

Appeal and not mandamus is proper remedy to compel making of findings of fact. 180M530, 230NW472.

Where mandamus is used to review an order of trial court on motion to change place of trial to promote convenience of witnesses and ends of justice, only matters presented to trial court can be considered. State v. Dis-