Administration and Finance

CHAPTER 16A

DEPARTMENT OF FINANCE

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16A.01 DEPARTMENT OF FINANCE; COMMISSIONER; EMPLOYEES.

Subdivision 1. **Commissioner.** The commissioner of finance manages the department of finance. The commissioner is the state's controller and chief accounting and financial officer.

Subd. 2. **Appointment; qualification.** The governor appoints the commissioner under section 15.06. The commissioner must have broad experience as an executive financial manager.

Subd. 3. **Deputy; confidential secretary.** The commissioner may appoint a deputy and a confidential secretary. Each serves at the commissioner's pleasure in the unclassified service.

Subd. 4. **Organize, hire, delegate.** The commissioner shall:

(1) organize the department;

(2) hire the agents and classified civil service employees necessary to run the department;

(3) define their duties; and

(4) set conditions for, and control, delegation of the commissioner's powers, duties, and responsibilities to them.

History: *1973 c 492 s 1; 1977 c 305 s 8,9; 1984 c 628 art 2 s 1*

16A.011 DEFINITIONS.

Subdivision 1. **Applicability.** The definitions in this section apply to this chapter.

Subd. 2. **Agency.** Except when otherwise modified, "agency" includes an office, department, board, council, committee, authority, or commission of state government.

Subd. 3. **Allotment.** "Allotment" means a limit placed by the commissioner on the amount to be spent or encumbered during a period of time pursuant to an appropriation.

Subd. 4. **Appropriation.** "Appropriation" means an authorization by law to expend or encumber an amount in the treasury.

Subd. 5. MS 1993 SUPP [Renumbered subd 17]

Subd. 6. **Biennium.** "Biennium" means a period of two consecutive fiscal years beginning in an odd–numbered calendar year and ending in the next odd–numbered calendar year.

Subd. 7. **Commissioner.** "Commissioner" means the commissioner of finance unless a different commissioner is specified.

Subd. 8. **Constitution.** "Constitution" means the state Constitution.

Subd. 9. **Department.** Except in subdivision 2, "department" means the department of finance unless a different department is specified.

Subd. 10. **Employee.** "Employee" includes elected officials, officers, and employees of the state, or agency, as the context requires.

Subd. 11. **Encumbrance.** "Encumbrance" means the commitment of a portion or all of an allotment in order to meet an obligation that is expected to be incurred to pay for goods or services received by the state or to pay a grant.

Subd. 12. **Executive agency.** "Executive agency" means an agency in the executive branch of state government.

Subd. 13. **Finance committee.** "Finance committee" means the finance committee of the Senate.

Subd. 14. **Fiscal year.** "Fiscal year" means the period beginning at midnight between June 30 and July 1 and ending 12 months later.

Subd. 15. **Treasurer.** "Treasurer" means the state treasurer.

Subd. 16. **Treasury.** Unless otherwise modified, "treasury" means the state treasury.

Subd. 17. **Ways and means committee.** "Ways and means committee" means the chief fiscal committee of the house of representatives.

History: *1984 c 597 s 31; 1984 c 628 art 2 s 1; art 6 s 1; 1993 c 192 s 43–45*

16A.02 [Repealed, 1984 c 628 art 2 s 4]

16A.04 BUDGET AND CASH PROJECTION.

Subdivision 1. **To prepare, consult, supervise.** The commissioner shall prepare the biennial budget with projections of revenues and expenditures for both the biennial budget period and the biennium following the biennial budget period. The governor shall supervise the preparation unless there is a governor–elect, who then shall provide the supervision.

Subd. 2. [Repealed, 1984 c 628 art 2 s 4]

Subd. 3. [Repealed, 1984 c 628 art 2 s 4]

Subd. 4. [Renumbered 16A.041]

History: *1973 c 492 s 4; 1984 c 628 art 2 s 1; art 6 s 1; 1984 c 654 art 2 s 51,52; 1993 c 192 s 46*

16A.041 RULEMAKING.

The commissioner may make rules on the powers, duties, and responsibilities given to the department or the commissioner under state law.

History: *1973 c 492 s 4; 1984 c 628 art 2 s 1; art 6 s 1; 1984 c 654 art 2 s 51,52*

16A.05 [Repealed, 1977 c 410 s 19]

16A.055 SOME OF THE COMMISSIONER'S DUTIES.

Subdivision 1. **List.** The commissioner shall:

(1) receive and record all money paid into the state treasury and safely keep it until lawfully paid out;

(2) manage the state's financial affairs;

(3) keep the state's general account books according to generally accepted government accounting principles;

(4) keep expenditure and revenue accounts according to generally accepted government accounting principles;

(5) develop, provide instructions for, prescribe, and manage a state uniform accounting system;

(6) provide to the state the expertise to ensure that all state funds are accounted for under generally accepted government accounting principles; and

(7) coordinate the development of, and maintain standards for, internal auditing in state agencies and, in cooperation with the commissioner of administration, report to the legislature and the governor by January 31 of odd–numbered years, on progress made.

Subd. 2. **Accounting system required.** An agency must use the uniform accounting system prescribed by the commissioner.

Subd. 3. **Access to records.** An agency must give the commissioner or a designee of the commissioner free access to its financial documents.

Subd. 4. **Commissioner's designee.** The commissioner may assign a designee to an agency to monitor its financial activities and to ensure compliance with statutes and administrative requirements promulgated by the commissioner. The designee may assist the agency as the commissioner considers appropriate. The agency's head shall supervise its employees and develop a budget consistent with its goals, responsibilities, and priorities.

Subd. 5. **Retirement fund reporting.** The commissioner may not require a public retirement fund to use financial or actuarial reporting practices or procedures different from those required by section 356.20 or 356.215.

Subd. 6. **Mission; efficiency.** It is part of the department's mission that within the department's resources the commissioner shall endeavor to:

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

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

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

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

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

(6) include specific objectives in the performance report required under section 15.91 to increase the efficiency of agency operations, when appropriate; and

(7) recommend to the legislature, in the performance report of the department required under section 15.91, appropriate changes in law necessary to carry out the mission of the department.

History: *(80–2) 1939 c 431 art 3 s 1; 1955 c 863 s 15; 1973 c 492 s 3; 1976 c 231 s 3; 1979 c 314 s 1; 1984 c 628 art 2 s 1; 1Sp1985 c 13 s 95; 1989 c 351 s 14; 1993 c 192 s 47; 1995 c 248 art 11 s 1; 1996 c 457 s 2*

16A.06 OTHER COMMISSIONER DUTIES AND POWERS.

Subdivision 1. **Agency to comply.** The commissioner has the duties and powers stated in this section. An executive agency must do what the commissioner requires of it under this section.

Subd. 2. **Financial reports.** The commissioner from time to time shall require an executive agency to prepare financial reports on department forms so the administration and the legislature can compare spending plans with appropriations for programs and activities.

Subd. 3. **Evaluate and compare costs.** The commissioner shall provide a system to measure the effect of fund expenditures so as to evaluate and compare the cost of functions or programs.

Subd. 4. **Reporting agency performance.** Executive agencies shall prepare performance–based budget plans according to schedules, forms, and standards as established by the commissioner. The commissioner may also require other periodic reports of agency performance.

Subd. 5. **Estimates.** The commissioner from time to time shall require an executive agency to report estimates of its income and receipts. The commissioner shall use the estimates to evaluate the state's financial condition.

Subd. 6. **Report on financial affairs.** The commissioner shall, when directed, report on the state's financial affairs to the governor.

Subd. 7. **Information for policy making.** The commissioner shall obtain from an executive agency any information needed to make state financial policy.

Subd. 8. [Repealed, 1994 c 632 art 3 s 65]

Subd. 9. **First class city teacher retirement funds aids reporting.** Each year, on or before April 15, the commissioner of finance shall report to the chairs of the senate finance committee and the house ways and means committee on expenditures for state aids to the Minneapolis and Saint Paul teacher retirement fund associations under sections 354A.12 and 423A.02, subdivision 3. This report shall include the amounts expended in the most recent fiscal year and estimates of expected expenditures for the current and next fiscal year.

History: *1973 c 492 s 6; 1973 c 582 s 3; 1984 c 628 art 2 s 1; 1984 c 654 art 2 s 53; 1987 c 275 s 2; 1993 c 192 s 48; 1996 c 438 art 4 s 1*

16A.065 PREPAY SOFTWARE, SUBSCRIPTIONS, UNITED STATES DOCUMENTS.

Notwithstanding section 16A.41, subdivision 1, the commissioner may allow an agency to make advance deposits or payments for software or software maintenance services for state–owned or leased electronic data processing equipment, for sole source maintenance agreements where it is not cost–effective to pay in arrears, for exhibit booth space rental when required by the renter to guarantee the availability of space, for registration fees where advance payment is required or advance payment discount is provided, and for newspaper, magazine, and other subscription fees customarily paid for in advance. The commissioner may also allow advance deposits by any department with the Library of Congress and federal Supervisor of Documents for items to be purchased from those federal agencies.

History: *1980 c 614 s 54; 1984 c 544 s 4; 1984 c 628 art 2 s 1; 1984 c 654 art 2 s 54; 1985 c 248 s 6; 1989 c 271 s 1; 1993 c 192 s 49*

16A.07 [Repealed, 1984 c 628 art 2 s 4]

16A.08 [Repealed, 1984 c 628 art 2 s 4]

16A.09 [Repealed, 1976 c 231 s 34]

16A.095 STATE BUDGET SYSTEM.

Subdivision 1. MS 1976 [Repealed, 1977 c 455 s 95]

Subdivision 1. **Rules and instructions.** The commissioner shall make rules and instructions for budget preparation. They must deal with classifying expenditures and with the content and submission of budget requests and appropriation measures.

Subd. 2. **Budget improvements.** The commissioner may choose executive agencies to test improvements in the budget system. The commissioner shall recommend required legislation to install improvements in the budget system for all executive agencies. The budget system must, to the greatest extent practicable, emphasize alternative approaches in program development and criteria to evaluate and measure performance.

Subd. 2a. **Mutual cooperation; due regard.** Executive agencies must cooperate with the commissioner in making a budget. The budget must meet the commissioner's requirements while giving due regard to the executive agencies' requirements.

Subd. 3. [Repealed, 1993 c 192 s 110]

History: *1976 c 231 s 4; 1977 c 455 s 71; 1984 c 628 art 2 s 1*

16A.10 BUDGET PREPARATION.

Subdivision 1. **Budget format.** In each even–numbered calendar year the commissioner shall prepare budget forms and instructions for all agencies, subject to the approval of the governor. The commissioner shall request and receive advisory recommendations from the chairs of the senate finance committee and house of representatives ways and means committee before adopting a format for the biennial budget document. By June 15, the commissioner shall send the proposed budget forms to the appropriations and finance committees. The committees have until July 15 to give the commissioner their advisory recommendations on possible improvements. To facilitate this consultation, the commissioner shall establish a working group consisting of executive branch staff and designees of the chairs of the senate finance and house of representatives ways and means committees. The commissioner must involve this group in all stages of development of budget forms and instructions. The budget format must show actual expenditures and receipts for the two most recent fiscal years, estimated expenditures and receipts for the current fiscal year, and estimates for each fiscal year of the next biennium. Estimated expenditures must be classified by funds and character of expenditures and may be subclassified by programs and activities. Agency revenue estimates must show how the estimates were made and what factors were used. Receipts must be classified by funds, programs, and activities. Expenditure and revenue estimates must be based on the law in existence at the time the estimates are prepared.

Subd. 2. **By October 15 and November 30.** By October 15 of each even–numbered year, an agency must file the following with the commissioner:

(1) budget and departmental earnings estimates for the most recent and current fiscal years;

(2) its upcoming biennial budget and departmental earnings estimates;

(3) a comprehensive and integrated statement of agency missions and outcome and performance measures; and

(4) a concise explanation of any planned changes in the level of services or new activities.

The commissioner shall prepare and file the budget estimates for an agency failing to file them. By November 30, the commissioner shall send the final budget format, departmental earnings report, agency budget plans or requests for the next biennium, and copies of the filed material to the ways and means and finance committees, except that the commissioner shall not be required to transmit information that identifies executive branch budget decision items. At this time, a list of each employee's name, title, and salary must be available to the legislature, either on paper or through electronic retrieval.

Subd. 3. **Duties to governor–elect.** Immediately after the election of a new governor, the commissioner shall report the budget estimates and make available to the governor–elect all department information, staff, and facilities relating to the budget.

History: *(53–18m) 1939 c 431 art 3 s 14; 1977 c 455 s 72,73; 1984 c 628 art 2 s 1; 1989 c 335 art 1 s 59; 1993 c 192 s 50,51*

16A.101 SERVICE CONTRACTS.

The state accounting system must list expenditures for professional and technical service contracts, as defined in section 16B.17, as a separate category. No other expenditures may be included in this category.

History: *1995 c 254 art 1 s 44*

16A.102 BUDGETING REVENUES RELATIVE TO PERSONAL INCOME.

Subdivision 1. **Governor's recommendation.** By the fourth Monday in January of each odd–numbered year, the governor shall submit to the legislature a recommended revenue target for the next two bienniums. The recommended revenue target must specify:

(1) the maximum share of Minnesota personal income to be collected in taxes and other revenues to pay for state and local government services;

(2) the division of the share between state and local government revenues; and

(3) the appropriate mix and rates of income, sales, and other state and local taxes and other revenues, other than property taxes, and the amount of property taxes and the effect of the recommendations on the incidence of the tax burden by income class.

The recommendations must be based on the November forecast prepared under section 16A.103.

Subd. 2. **Legislative budget resolution.** By March 15 of each odd–numbered year, the legislature shall by concurrent resolution adopt revenue targets for the next two bienniums. The resolution must specify:

(1) the maximum share of Minnesota personal income to be collected in taxes and other revenues to pay for state and local government services;

(2) the division of the share between state and local government services; and

(3) the appropriate mix and rates of income, sales, and other state and local taxes and other revenues, other than property taxes, and the amount of property taxes and the effect of the resolution on the incidence of the tax burden by income class.

The resolution must be based on the February forecast prepared under section 16A.103 and take into consideration the revenue targets recommended by the governor under subdivision 1.

Subd. 3. **Even–numbered year and special sessions.** The governor or the legislature may elect to modify their revenue targets in a special session or an even–numbered year regular session. The requirements of subdivisions 1 and 2 apply, except that within ten days of the start of the session the dates provided in those subdivisions must be modified to be consistent with the planned date of adjournment.

History: *1994 c 587 art 7 s 1*

16A.103 FORECASTS OF REVENUE AND EXPENDITURES.

Subdivision 1. **State revenue and expenditures.** In February and November each year, the commissioner shall prepare and deliver to the governor and legislature a forecast of state revenue and expenditures. The forecast must assume the continuation of current laws and reasonable estimates of projected growth in the national and state economies and affected populations. Revenue must be estimated for all sources provided for in current law. Expenditures must be estimated for all obligations imposed by law and those projected to occur as a result of inflation and variables outside the control of the legislature. In addition, the commissioner shall forecast Minnesota personal income for each of the years covered by the forecast and include these estimates in the forecast documents. A forecast prepared during the first fiscal year of a biennium must cover that biennium and the next biennium. A forecast prepared during the second fiscal year of a biennium must cover that biennium and the next two bienniums.

Subd. 2. **Local revenue.** In February and November of each year, the commissioner of revenue shall prepare and deliver to the governor and the legislature forecasts of revenue to be received by school districts as a group, counties as a group, and the group of cities and towns that have a population of more than 2,500. The forecasts must assume the continuation of current laws, projections of valuation changes in real property, and reasonable estimates of projected growth in the national and state economies and affected populations. Revenue must be estimated for property taxes, state and federal aids, local sales taxes, if any, and a single projection for all other revenue for each group of affected local governmental units. As part of the February forecast, the commissioner of revenue shall report to the governor and legislature on which groups of local government units exceeded the revenue targets of the governor and legislature in the most recent biennium.

Subd. 3. **Separate estimates of fee revenues.** In preparing the November estimates under subdivision 1, the commissioner shall separately report the amount of departmental earnings as defined in section 16A.1285. In preparing the estimates under subdivision 2, the commissioner of revenue shall separately estimate local government revenues similar to departmental earnings as defined in section 16A.1285.

History: *1994 c 587 art 7 s 2*

16A.105 DEBT CAPACITY FORECAST.

By December 1 of each even-numbered year the governor shall submit to the legislature a debt capacity forecast. The debt capacity forecast must include statements of the indebtedness of the state for bonds, notes, and other forms of long-term indebtedness that are not accounted for in proprietary or fiduciary funds, including general obligation bonds, moral obligation bonds, revenue bonds, loans, grants payable, and capital leases. The forecast must show the actual amount of the debt service for at least the past two completed fiscal years, and the estimated amount for the current fiscal year and the next six fiscal years, the debt authorized and unissued, the condition of the sinking funds, and the borrowing capacity for the next six fiscal years.

History: *1991 c 342 s 1; 1993 c 192 s 52*

16A.11 BUDGET TO LEGISLATURE.

Subdivision 1. **When.** The governor shall submit a four-part budget to the legislature. Parts one and two, the budget message and detailed operating budget, must be submitted by the fourth Tuesday in January in each odd-numbered year. Part three, the detailed recommendations as to capital expenditure, must be submitted as follows: agency capital budget requests by June 15 of each odd-numbered year; preliminary governor's recommendations by September 1 of each odd-numbered year; and final recommendations by February 1 of each even-numbered year. Part four, the detailed recommendations as to information technology expenditure, must be submitted at the same time the governor submits the budget message to the legislature.

Subd. 2. **Part one: message.** Part one of the budget, the governor's message, shall include the governor's recommendations on the financial policy of the state for the coming biennium, describing the important features of the budget plan, embracing a general budget summary setting forth the aggregate figures of the budget so as to show the balanced relation between the total proposed expenditures and the total anticipated income, with the basis and factors on which the estimates are made, the amount to be borrowed, and other means of financing the budget for the coming biennium, compared with the corresponding figures for at least the last two completed fiscal years and the current year. The budget plan shall be supported by explanatory schedules or statements, classifying its expenditures by agencies and funds, and the income by agencies, sources, funds, and the proposed amount of new borrowing, as well as proposed new tax or revenue sources. The budget plan shall be submitted for all special and dedicated funds, as well as the general fund, and shall include the estimated amounts of federal aids, for whatever purpose provided, together with estimated expenditures from them.

Subd. 3. **Part two: detailed budget.** Part two of the budget, the detailed budget estimates both of expenditures and revenues, shall contain any statements on the financial plan which the governor believes desirable or which may be required by the legislature. Part of the budget must be prepared using performance–based budgeting concepts. In this subdivision, "performance–based budgeting" means a budget system that identifies agency outcomes and results and provides comprehensive information regarding actual and proposed changes in funding and outcomes. The detailed estimates shall include the budget plan of each agency arranged in tabular form so it may readily be compared with the governor's budget for each agency. They shall also include, as part of each agency's organization chart, a summary of the personnel employed by the agency, showing the full–time equivalent positions for the current biennium, and the number of full–time equivalent employees of all kinds employed by the agency on June 30 of the last complete fiscal year.

Subd. 3a. **Part three: detailed capital budget.** The detailed capital budget must include recommendations for capital projects to be funded during the next six fiscal years. It must be submitted with projects rank ordered in two ways: in order of importance among all budget projects as determined by the governor, and in order of importance among that agency's requests as determined by the agency originating the request.

Subd. 3b. **Contracts.** The detailed budget estimate must also include the following information on professional or technical services contracts:

(1) the number and amount of contracts over $40,000 for each agency for the past biennium;

(2) the anticipated number and amount of contracts over $40,000 for each agency for the upcoming biennium; and

(3) the total value of all contracts from the previous biennium, and the anticipated total value of all contracts for the upcoming biennium.

Subd. 3c. **Part four; detailed information technology budget.** The detailed information technology budget must include recommendations for information technology projects to be funded during the next biennium and planning estimates for an additional two biennia. It must be submitted with projects ranked in order of importance among all projects as determined by the governor.

Subd. 4. **Information; hearings.** The commissioner shall, on request, give the governor or the legislature information on the budget and attend legislative budget hearings.

Subd. 5. **Capital facilities note.** The commissioner shall prepare a facilities note on each capital project, estimating program cost impacts and efficiencies stemming from the approval of that project.

History: *(53–18n) 1939 c 431 art 2 s 15; 1969 c 399 s 1; 1973 c 35 s 5; 1974 c 355 s 43; 1977 c 455 s 74,75; 1978 c 791 s 17; 1984 c 628 art 2 s 1; 1989 c 81 s 1; 1990 c 594 art 1 s 43; 1991 c 342 s 2–5; 1993 c 192 s 53,54; 1995 c 254 art 1 s 45; 1996 c 390 s 12,13*

16A.115 RELOCATION REQUESTS.

An agency request for an appropriation to fund relocation of all or part of the agency must include a statement of the cost per square foot of space currently occupied by the affected part of the agency, and the anticipated cost per square foot of the space the affected part of the agency will occupy after the proposed relocation.

History: *1994 c 643 s 32*

16A.12 [Repealed, 1977 c 455 s 95]

16A.122 WORK FORCE PLANNING AND REPORTING.

Subdivision 1. **Agency authorized work force.** Within any limits imposed by law, state agencies may establish full–time, part–time, or seasonal positions as necessary to carry out assigned responsibilities and missions except that actual levels of employment are limited by availability of appropriated funding for salaries and benefits.

Subd. 2. **Transfers from grants prohibited.** Unless otherwise provided by law, an agency must not use grant or flow–through funds for salaries or other operating purposes.

Subd. 3. **Work force reporting.** The commissioner shall prepare quarterly work force reports as required for accurate reporting of state employment levels, whether for internal analysis or for nationwide comparisons of public employment levels. The reports shall express total employment in terms of full–time equivalent positions; shall indicate changes from previous reporting periods; and shall take into account all positions, including full–time, part–time, temporary, and other employees. In this subdivision, a full–time equivalent position means 2,080 working hours per year; except that the number of work hours may vary, depending upon the exact number of working days in any given year. Independent contractors are not to be included within the definition of a full–time equivalent position.

Subd. 4. **Budget reporting.** For purposes of budgetary reporting, position counts must be expressed as full–time equivalents as stipulated in subdivision 3. Estimated positions must be based on actual funding in the year indicated. The biennial budget document submitted to the legislature by the governor shall indicate full–time equivalent base level positions, the number of projected positions, and the number of positions for each of the two years before the base year. The governor's budget recommendations shall clearly specify any proposed changes in full–time equivalent positions. All fiscal notes and any other budgetary items submitted to the legislature shall specify relevant changes, both in full–time equivalent positions and accompanying changes in salary dollars.

History: *1993 c 192 s 55*

16A.123 [Repealed, 1993 c 192 s 110]

16A.124 PROMPT PAYMENT OF STATE AGENCY BILLS REQUIRED.

Subdivision 1. **Definitions.** For the purposes of this section, the following terms have the meanings here given them.

(a) "Commissioner" means the commissioner of finance.

(b) "State agency" has the meaning assigned to it in section 16B.01.

Subd. 1a. **State agencies are vendors.** For purposes of this section, a state agency that bills another state agency for a service or commodity is considered a vendor like any nonstate vendor.

Subd. 2. **Commissioner supervision.** The commissioner shall monitor state agencies to insure the prompt payment of vendor obligations.

Subd. 3. **Payment required.** State agencies must pay each valid vendor obligation so that the vendor receives payment within the vendor's early payment discount period. If there is no early payment discount period, the state agency must pay the vendor within 30 days following the receipt of the invoice for the completed delivery of the product or service.

Subd. 4. **Invoice errors.** If an invoice is incorrect, defective, or otherwise improper, the agency must notify the vendor within ten days of discovering the error. Upon receiving a corrected invoice, the agency must pay the bill within the time limitation contained in subdivision 3.

Subd. 4a. **Invoice errors; department of human services.** For purposes of department of human services payments to hospitals receiving reimbursement under the medical assistance and general assistance medical care programs, if an invoice is incorrect, defective, or otherwise improper, the department of human services must notify the hospital of all errors, within 30 days of discovery of the errors.

Subd. 4b. **Health care payments.** The commissioner of human services must pay or deny a valid vendor obligation for health services under the medical assistance, general assistance medical care, or MinnesotaCare program within 30 days after receipt. A "valid vendor obligation" means a clean claim submitted directly to the commissioner by an eligible health care provider for health services provided to an eligible recipient. A "clean claim" means an original paper or electronic claim with correct data elements, prepared in accordance with the commissioner's published specifications for claim preparation, that does not require an attachment or text information to pay or deny the claim. Adjustment claims, claims with attachments and text information, and claims submitted to the commissioner as the secondary or tertiary payer, that have been prepared in accordance with the commissioner's published specifications, must be adjudicated within 90 days after receipt.

Subd. 5. **Payment of interest on late payments required.** (a) A state agency shall pay interest to a vendor for undisputed billings when the agency has not paid the billing within 30 days following receipt of the invoice, merchandise, or service whichever is later. A negotiated contract or agreement between a vendor and a state agency which requires an audit by the state agency prior to acceptance and payment of the vendor's invoice shall not be considered past due until 30 days after the completion of the audit by the state agency. Before any interest payment is made, the vendor must invoice the state agency for such interest.

(b) The rate of interest paid by the agency on undisputed bills not paid within 30 days shall be 1–1/2 percent per month or any part thereof.

(c) All interest penalties and collection costs must be paid from the agency's current operating budget. No agency may seek to increase its appropriation for the purpose of obtaining funds to pay interest penalties or collection costs.

(d) Any vendor who prevails in a civil action to collect interest penalties from a state agency shall be awarded its costs and disbursements, including attorney's fees, incurred in bringing the actions.

(e) No interest penalties may accrue against an agency that delays payment of a bill due to a disagreement with the vendor; provided, that the dispute must be settled within 30 days after the bill became overdue. Upon the resolution of the dispute, the agency must pay the vendor accrued interest on all proper invoices for which payment was not received within the applicable time limit contained in subdivision 3.

(f) The minimum monthly interest penalty payment that a state agency shall pay a vendor for the unpaid balance for any one overdue bill equal to or in excess of $100 is $10. For unpaid balances of less than $100, the state agency shall pay the actual penalty due to the vendor.

Subd. 5a. **University of Minnesota; payment of interest on late payments authorized.** The University of Minnesota may comply with the requirements of subdivision 5.

Subd. 6. [Repealed, 1994 c 632 art 3 s 65]

Subd. 7. **Report to legislature.** The commissioner shall report to the legislature by December 31 of each year summarizing the state's payment record for the preceding fiscal year. The report shall include the amount of interest penalties and the specific steps being taken to reduce the incidence of late payments in the future.

Subd. 8. **Applicability.** Subdivisions 1 to 7 apply to all agency purchases, leases, rentals, and contracts for services, including construction and remodeling contracts, except for:

(1) purchases from or contracts for service with a public utility as defined in section 216B.02 or a telephone company as defined in section 237.01 that has on file with the public utilities commission an approved practice regarding late fees; and

(2) provider billings to and contracts with the commissioner of human services for health care services, which are subject only to subdivisions 4a and 4b.

History: *1984 c 502 art 14 s 1; 1985 c 136 s 1–4; 1985 c 248 s 68; 1992 c 549 art 5 s 1; 1994 c 632 art 3 s 24,25; 1995 c 241 s 1,2; 1996 c 457 s 3,4*

16A.1245 PROMPT PAYMENT TO SUBCONTRACTORS.

Each state agency contract must require the prime contractor to pay any subcontractor within ten days of the prime contractor's receipt of payment from the state for undisputed services provided by the subcontractor. The contract must require the prime contractor to pay interest of 1–1/2 percent per month or any part of a month to the subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of $100 or more is $10. For an unpaid balance of less than $100, the prime contractor shall pay the actual penalty due to the subcontractor. A subcontractor who prevails in a civil action to collect interest penalties from a prime contractor must be awarded its costs and disbursements, including attorney's fees, incurred in bringing the action.

History: *1990 c 541 s 1*

16A.125 STATE TRUST LANDS.

Subdivision 1. [Repealed, 1976 c 231 s 34]

Subd. 2. [Repealed, 1976 c 231 s 34]

Subd. 3. [Repealed, 1976 c 231 s 34]

Subd. 4. [Repealed, 1969 c 399 s 51]

Subd. 5. **Forest trust lands.** The term "state forest trust fund lands" as used in this subdivision, means public land in trust under the constitution set apart as "forest lands under the authority of the commissioner" of natural resources as defined by section 89.001, subdivision 13.

The commissioner of finance and the treasurer shall credit the revenue from the forest trust fund lands to the forest suspense account. The account must specify the trust funds interested in the lands and the respective receipts of the lands.

After a fiscal year, the commissioner of finance shall certify the total costs incurred for forestry during that year under appropriations for the protection, improvement, administration, and management of state forest trust fund lands and construction and improvement of forest roads to enhance the forest value of the lands. The certificate must specify the trust funds interested in the lands. The commissioner of natural resources shall supply the commissioner of finance with the information needed for the certificate.

After a fiscal year, the commissioner and the treasurer shall distribute the receipts credited to the suspense account during that fiscal year as follows:

(a) The amount of the certified costs incurred by the state for forest management during the fiscal year shall be transferred to the general fund.

(b) The balance of the receipts shall then be returned prorated to the trust funds in proportion to their respective interests in the lands which produced the receipts.

Subd. 5a. **Appropriation from state forest development account.** Money accruing and credited to the state forest development account is appropriated to the division of forestry in the department of natural resources to apply state forest resource management policy and plans to forest trust fund lands. The appropriation is supervised and controlled by the commissioner of natural resources.

The appropriation shall be spent according to law and remains available until spent. The appropriation is not available for spending until any estimates required by law are approved by the commissioner of finance. An obligation to spend money may not be made unless there is an available balance not otherwise encumbered in the appropriation.

Subd. 6. [Repealed by amendment, 1995 c 220 s 26]

Subd. 6a. **University lands.** (a) As used in this section, "university lands" means lands granted by the federal government for the support of the University of Minnesota, as described in Laws 1851, chapter 3, section 2.

(b) All revenue from minerals on university lands must be credited to the university lands and minerals suspense account. Money in the account must be transferred to the permanent university fund, except for amounts appropriated to cover reasonable costs incurred by the commissioner of natural resources to protect, improve, administer, manage, and otherwise enhance the mineral value of university lands.

Subd. 7. [Repealed, 1976 c 231 s 34]

Subd. 8. [Repealed, 1976 c 231 s 34]

Subd. 9. [Repealed, 1976 c 231 s 34]

Subd. 10. [Repealed, 1976 c 231 s 34]

History: *(53–18s) 1939 c 431 art 2 s 20; 1953 c 741 s 60; 1955 c 714 s 1,2; 1957 c 140 s 1; 1957 c 852 s 1–4; 1959 c 344 s 1–4; 1959 c 667 s 1,2; 1961 c 571 s 1; 1965 c 901 s 57 subd 6; 1967 c 314 s 1; 1967 c 905 s 9; 1969 c 399 s 1; 1969 c 567 s 3; 1969 c 1129 art 3 s 1; 1971 c 24 s 2; 1973 c 254 s 3; 1973 c 492 s 14; 1973 c 507 s 45; 1974 c 10 s 1; 1974 c 224 s 1; 1976 c 239 s 10; 1982 c 511 s 31; 1983 c 301 s 88; 1984 c 628 art 2 s 1,4; art 6 s 1; 1984 c 654 art 2 s 55,56; 1989 c 335 art 4 s 7; 1994 c 465 art 3 s 4; 1995 c 220 s 26*

NOTE: Subdivision 6a is repealed by Laws 1996, chapter 395, section 17, paragraph (a), effective June 30, 1997. Laws 1996, chapter 395, section 19.

16A.126 REVOLVING FUND BILLING.

Subdivision 1. **Set rates.** The commissioner shall approve the rates an agency must pay to a revolving fund for services.

Subd. 2. **Immediate needs.** To reduce reserves for unforeseen needs, and so reduce these rates, the commissioner may transfer money from the general fund to a revolving fund. Before doing so, the commissioner must decide there is not enough money in the revolving fund for an immediate, necessary expenditure. The amount necessary to make the transfer is appropriated from the general fund to the commissioner of finance.

Subd. 3. **Repayment schedules.** The commissioner shall make schedules for repayment to the general fund of the transferred money. A schedule to repay money used to buy equipment may extend over the equipment's useful life. Otherwise, a schedule may not extend beyond five years.

History: *1976 c 231 s 5; 1977 c 410 s 5; 1979 c 333 s 72; 1980 c 614 s 55; 1984 c 628 art 2 s 1; 1987 c 275 s 3*

16A.127 INDIRECT COSTS.

Subdivision 1. **Statewide and agency indirect costs.** (a) As used in this section, "statewide indirect costs" means all general fund expenditures made by any state agency attributable to providing general support services to any other state agency.

(b) As used in this section, "agency indirect costs" means all general support costs within any agency that cannot be directly charged to any agency program.

(c) For purposes of this section, "agency" means any entity receiving general support services.

Subd. 2. **Statewide plan.** The commissioner shall annually prepare a plan identifying the sources and amounts of each agency's statewide indirect costs for the current fiscal year. The commissioner shall submit the plan to the cognizant federal agency for approval, and provide copies to the governor and the legislature.

Subd. 3. **General reimbursement.** (a) Unless indirect cost recoveries are specifically appropriated in law, agencies are obligated to reimburse the general fund for all statewide indirect costs, and that portion of agency indirect costs attributable to recoveries of general fund expenditures. However, the commissioner may, for reasons of sound financial management, waive the reimbursement under this subdivision for certain nongeneral fund activities.

(b) The commissioner shall record the reimbursement to the general fund of the statewide and agency indirect costs attributable to an agency's nongeneral fund activities for the fiscal year. All nonfederal agency indirect cost receipts are appropriated to the agency to pay administrative expenses, unless they are determined to be a reimbursement of general fund expenditures.

Subd. 3a. **Appropriation.** There is annually appropriated from all direct appropriated nongeneral funds an amount sufficient to reimburse the general fund for both statewide indirect costs, and any agency indirect costs attributable to general fund expenditures.

Subd. 4. **Federal proposals.** Agency applications for federal money shall include necessary submissions to recover both statewide and agency indirect costs. The indirect cost submission must have the prior approval of the commissioner. An agency indirect cost plan is unnecessary if the commissioner determines that the costs incurred in preparing and maintaining it exceed the benefit received by the state. If less than the entire agency proposal is federally approved, the commissioner may accept reimbursement of less than all of the federal receipts. If no federal funds are approved for indirect costs, the agency must document that fact to the commissioner.

Subd. 5. **Federal reimbursement.** Agencies shall reimburse the general fund for all federal money received as a recovery of statewide indirect costs. All federal agency indirect cost receipts are appropriated to the agency to pay administrative expenses, unless they are determined to be a reimbursement of general fund expenditures.

Subd. 6. **Required information.** Agencies must supply the information required by the commissioner, as needed, to carry out the provisions of this section.

Subd. 7. **Audit fees.** The legislative auditor may recommend waiver, and the legislative audit commission may waive all or part of a fee for an audit. A state audited agency whose funds are not administered by the treasurer must transfer to the general fund the amount of the cost of the audit attributable to the agency's nongeneral fund receipts.

Subd. 8. **Exemptions.** (a) No statewide or agency indirect cost liability shall be accrued to any program, appropriation, or account that is specifically exempted from the liability in federal or state law, or if the commissioner determines the funds to be held in trust, or to be a pass–through, workshop, or seminar account. Accounts receiving proceeds from bond issues and general fund accounts are also exempt from this section.

(b) Except for the costs of the legislative auditor to conduct financial audits of federal funds, this section does not apply to the board of trustees of the Minnesota state colleges and universities. Receipts attributable to financial audits conducted by the legislative auditor of federal funds administered by the board shall be deposited in the general fund.

Subd. 9. **Provision for natural resources.** (a) The department of natural resources is exempt from recovering agency indirect costs except where federal funds are involved.

(b) The commissioner of natural resources need not bill the federal government, other states, or Canadian provinces for the indirect costs of providing emergency fire fighting services, and need not reimburse the general fund for those indirect costs if the waiver is reciprocated.

History: *1976 c 231 s 6; 1983 c 301 s 89,90; 1984 c 628 art 2 s 1; art 6 s 1; 1984 c 654 art 2 s 57; 1Sp1985 c 13 s 97–100; 1987 c 264 s 1; 1987 c 275 s 4; 1987 c 404 s 76; 1990 c 375 s 3; 1Sp1993 c 2 art 3 s 2; 1994 c 632 art 3 s 26; 1995 c 254 art 1 s 46; 1996 c 395 s 18*

16A.128 [Repealed, 1993 c 192 s 110]

16A.1281 [Repealed, 1993 c 192 s 110]

16A.1285 DEPARTMENTAL EARNINGS.

Subdivision 1. **Definitions.** In this section, "departmental earnings" means any charge for goods and services and any regulatory, licensure, or other similar charges levied by any state agency and paid by individuals, businesses, or other nonstate entities. This definition must not be construed to include general taxes collected by a state agency or charges for services provided by one state agency to another state agency.

Subd. 2. **Policy.** Unless otherwise provided by law, specific charges falling within definitions stipulated in subdivision 1 must be set at a level that neither significantly over recovers nor under recovers costs, including overhead costs, involved in providing the services.

Unless specifically provided otherwise in statute, in setting, adjusting, or authorizing charges that in whole or in part recover previously unrecovered costs, recovery is limited to those unrecovered costs incurred during the two fiscal years immediately preceding the setting, adjustment, or authorization.

Subd. 3. **Duties of the commissioner of finance.** The commissioner of finance shall classify, monitor, analyze, and report all departmental earnings that fall within the definition established in subdivision 1. Specifically, the commissioner shall:

(1) establish and maintain a classification system that clearly defines and distinguishes categories and types of departmental earnings and takes into account the purpose of the vari-

ous earnings types and the extent to which various earnings types serve a public or private interest;

(2) prepare a biennial report that documents collection costs, purposes, and yields of all departmental earnings, the report to be submitted to the legislature on or before November 30 of each even–numbered year and to include estimated data for the year in which the report is prepared, actual data for the two years immediately before, and estimates for the two years immediately following; and

(3) prepare and maintain a detailed directory of all departmental earnings.

Subd. 4. **Rulemaking.** (a) Unless otherwise exempted or unless specifically set by law, all charges for goods and services, licenses, and regulation must be established or adjusted as provided in chapter 14; except that agencies may establish or adjust the following kinds of charges:

(1) charges for goods and services provided for the direct and primary use of a private individual, business, or other similar entity;

(2) nonrecurring charges;

(3) charges that would produce insignificant revenues;

(4) charges billed within or between state agencies;

(5) charges for admissions to or for use of public facilities operated by the state, if the charges are set according to prevailing market conditions to recover operating costs; or

(6) proposed adjustments to charges that are within consumer price level (CPI) ranges stipulated by the commissioner of finance and do not change the type or purpose of the item being adjusted.

(b) Departmental earnings changes or adjustments authorized by the commissioner of finance or listed in paragraph (a), clause (1), (5), or (6), must be reported by the commissioner of finance to the chairs of the senate committee on finance and the house ways and means committee before November 30 of each year.

Subd. 5. **Procedure.** The commissioner of finance shall review and comment on all departmental charges submitted under chapter 14. The commissioner's comments and recommendations must be included in the statement of need and reasonableness and must address any fiscal and policy concerns raised during the review process.

History: *1993 c 192 s 56; 1995 c 233 art 2 s 32–34*

16A.129 OTHER COMMISSIONER POWERS.

Subdivision 1. **List of salaries.** The commissioner may require a list of the employees of an agency, and that their salaries conform with the scale of compensation established by law.

Subd. 2. **Classified budget, accounts.** The commissioner may classify expenditures and revenue for budget making and accounting.

Subd. 3. **Cash advances.** When the operations of any nongeneral fund account would be impeded by projected cash deficiencies resulting from delays in the receipt of grants, dedicated income, or other similar receivables, and when the deficiencies would be corrected within the budget period involved, the commissioner of finance may use general fund cash reserves to meet cash demands. If funds are transferred from the general fund to meet cash flow needs, the cash flow transfers must be returned to the general fund as soon as sufficient cash balances are available in the account to which the transfer was made. Any interest earned on general fund cash flow transfers accrues to the general fund and not to the accounts or funds to which the transfer was made.

History: *(53–7) 1925 c 426 art 3 s 4; 1939 c 441 s 39; 1973 c 492 s 14; 1973 c 507 s 45; 1976 c 2 s 5; 1976 c 231 s 7; 1977 c 347 s 8; 1978 c 674 s 5; 1984 c 628 art 2 s 1; 1993 c 192 s 57; 1995 c 254 art 1 s 47*

16A.13 FEDERAL TAX WITHHOLDING.

Subdivision 1. **Custodian; bond.** The treasurer is the custodian of all money deposited with the treasurer for federal tax withheld from the pay of any officer or employee of the state of Minnesota. The treasurer's bond to the state shall cover the liability for the custodian's acts. The deposits are subject to laws on keeping and paying out state money.

Subd. 2. **Commissioner as federal agent.** The commissioner may cooperate with and act as agent for the United States of America in collecting federal tax from the pay of employees.

Subd. 2a. **Procedure.** The commissioner shall see that the deduction for the withheld tax is made from an employee's pay on the payroll abstract. The commissioner shall approve one warrant payable to the treasurer for the total amount deducted on the abstract. Deductions from the pay of an employee paid direct by an agency shall be made by the employee's payroll authority. A later deduction must correct an error made on an earlier deduction. The paying authority shall see that a warrant or check for the deductions is promptly sent to the treasurer. The treasurer shall deposit the amount of the warrant or check to the credit of the proper federal authority or other person authorized by federal law to receive it.

Subd. 2b. **Appropriation.** There is appropriated the amount necessary to discharge the state's obligation under federal law requiring the deductions from pay in this section.

Subd. 3. **Reports; payments.** The commissioner shall report as required by federal law on the deductions made under this section and see that the deducted money is paid out as required.

Subd. 4. **Employees to provide information.** An employee shall prepare and send to the commissioner the information and forms the commissioner requires under this section.

History: *1943 c 1 s 1–4; 1973 c 492 s 14; 1984 c 628 art 2 s 1; art 6 s 1; 1984 c 654 art 2 s 58,59; 1986 c 444*

16A.131 DEDUCTIONS FOR UNITED STATES SECURITIES, TRANSIT CARDS.

Subdivision 1. **Federal securities.** An employee may direct the payroll officer of the employing agency, in writing, to deduct stated amounts from the employee's pay to buy federal securities. The commissioner shall see that the deduction from the employee's pay is made on the payroll abstract. The commissioner shall approve one warrant payable to the treasurer for the total amount deducted on the payroll abstract. Deductions from the pay of an employee paid direct by an agency shall be made by the employee's paying authority. The authority shall send a warrant or check for the amount of the deductions to the treasurer payable to the treasurer. With it must go a list of the names of employees with the amount deducted for each. The treasurer shall pay out the amount deposited, when authorized by the governor by state warrant payable to the proper federal authority or to the directing employee, as the case may require.

Subd. 2. **Transit cards.** An employee may direct the commissioner, in writing, to deduct a stated amount from the employee's pay to buy mass transit ridership cards. The commissioner shall deposit the amount in the special account authorized by section 16B.58, subdivision 7.

History: *1951 c 678 s 1; 1980 c 614 s 56; 1984 c 544 s 89; 1984 c 628 art 2 s 1; art 6 s 1; 1984 c 654 art 2 s 60*

16A.132 [Repealed, 1984 c 628 art 2 s 4; 1984 c 654 art 2 s 155]

16A.133 CREDIT UNION, PARKING, OTHER DEDUCTIONS.

Subdivision 1. **Payroll direct deposit and deductions.** An agency head in the executive, judicial, and legislative branch shall, upon written request signed by an employee, directly deposit all or part of an employee's pay in any credit union or financial institution, as defined in section 47.015, designated by the employee. An agency head may, upon written request of an employee, deduct from the pay of the employee a requested amount to be paid to the Minnesota benefit association, or to any organization contemplated by section 179A.06, of which the employee is a member, or to a company that has contracted to insure the employee for the medical costs of cancer or intensive care. If an employee is a member of or has accounts with more than one credit union or financial institution or more than one organization under section 179A.06, or is insured by more than one company, only one credit union or financial institution may be paid money by direct deposit, and one credit union, one organization, and one company may be paid money by payroll deduction from the employee's pay.

Subd. 2. **Parking, and the like.** With the written consent of an employee, an agency head shall deduct from the employee's pay the amount needed to pay for services or facilities supplied under law to the employee by the state. Food and housing, garage and parking facilities, and other facilities and services may be paid for in this way.

Subd. 3. [Repealed, 1989 c 335 art 1 s 270]

History: *1941 c 464 s 1; 1955 c 108 s 1; 1969 c 130 s 1; 1971 c 841 s 1,2; 1973 c 35 s 3; 1980 c 607 art 19 s 1; 1984 c 628 art 2 s 2; 1985 c 248 s 7; 1987 c 337 s 1; 1989 c 335 art 1 s 61; 1990 c 594 art 1 s 44; 1991 c 238 art 4 s 1*

16A.134 CHARITABLE ORGANIZATIONS PAYROLL DEDUCTIONS.

An employee's contribution to a registered combined charitable organization defined in section 309.501 may be deducted from the employee's pay. On the employee's written request, the commissioner shall deduct a requested amount from the pay of the employee for each pay period. The commissioner shall issue a warrant in that amount to the specified organization.

History: *1965 c 766 s 1; 1973 c 492 s 14; 1984 c 628 art 2 s 3*

16A.138 OFFICIALS NOT TO EXCEED APPROPRIATION.

When there has been an appropriation for any purpose it shall be unlawful for any state board or official to incur indebtedness on behalf of the board, the official, or the state 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 the board, the official, or the state of any nature until after an appropriation therefor has been made by the legislature. Any official violating these provisions shall be guilty of a misdemeanor and the governor is hereby authorized and empowered to remove any such official from office.

History: *(125) 1907 c 272 s 2; Ex1919 c 35 s 11*

16A.139 MISAPPROPRIATION OF MONEY.

It is illegal for any official or head of any state department, or any employee thereof, to use moneys appropriated by law, or fees collected for any other purpose than the purpose for which the moneys have been appropriated, and any such act by any head of a department, or any state official, is cause for immediate removal of the official or head of a state department from the position held with the government of this state.

History: *(125-14) 1937 c 457 s 36; 1979 c 333 s 60; 1986 c 444*

16A.14 ALLOTMENT AND ENCUMBRANCE SYSTEM.

Subdivision 1. **Less than fiscal year.** The commissioner may set an allotment period shorter than and not extending beyond the fiscal year.

Subd. 1a. **Permanent improvements.** Subdivision 1 does not apply for allotments of appropriations for permanent improvements, including acquisition of real property.

Subd. 2. **Application.** The allotment and encumbrance system applies to all appropriations and funds except as provided in subdivisions 2a, 2b, and 2c.

Subd. 2a. **Exceptions.** The allotment and encumbrance system does not apply to:

(1) appropriations for the courts or the legislature;

(2) payment of reemployment insurance benefits.

Subd. 2b. **Impractical allotments.** With permanent improvement contracts and transactions for the acquisition of real estate, equipment, repair, rehabilitation, appurtenances or utility systems to be used for public purposes, the commissioner may do away with periodic allotments as impractical and make rules to ensure the proper application and encumbering of funds.

Subd. 2c. **Contingent funds.** Contingent appropriations for the governor and the attorney general are not subject to allotment. They are subject to the prescriptions in this chapter relating to spending and encumbering of funds.

Subd. 3. **Spending plan.** An appropriation to an agency may not be made available for spending in the next allotment period until the agency has submitted a spending plan to the commissioner on the commissioner's form with the amount required for each activity and each purpose for which money is to be spent. The spending plan must also be approved or modified by the commissioner and funds allotted for the plan before the money is made available.

Subd. 4. **Approval.** The commissioner shall approve the estimated amount for expenditure if the spending plan is within the amount and purpose of the appropriation. In doing so, the commissioner must keep in mind the probable needs of the agency for the rest of the term of the appropriation, and whether there is a need for the appropriation in the next allotment period. Otherwise the commissioner shall modify the spending plan and the allotment to conform with the appropriation and the future needs of the agency. The commissioner shall act promptly on a spending plan. The commissioner shall notify an agency of its allotments at least five days before an allotment period. Allotments to an agency for an appropriation term may not exceed the amount appropriated for that term.

Subd. 5. **Modification.** After approval, the commissioner may modify a spending plan for cause. An agency may apply for and must be notified of the modification. The modification may not result in a deficit or an undue reduction of funds to meet future agency needs.

History: *1976 c 166 s 7; 1976 c 231 s 8; 1984 c 628 art 2 s 1; art 6 s 1; 1984 c 654 art 2 s 61; 1994 c 488 s 8*

16A.15 ACCOUNTING SYSTEM; ALLOTMENT AND ENCUMBRANCE.

Subdivision 1. [Renumbered 16A.152 subd 4]

Subd. 2. **Accounting system.** The commissioner shall keep an accounting system in the department's office showing by fund and item:

(1) the amounts appropriated for and the estimated revenue of the agency;

(2) the amount allotted and available for expenditure;

(3) the amount of expenditures or obligations authorized to be incurred;

(4) the actual receipts and disbursements;

(5) actual balances on hand; and

(6) the unencumbered balances after deduction of all actual and authorized expenditures.

Subd. 3. **Allotment and encumbrance.** (a) A payment may not be made without prior obligation. An obligation may not be incurred against any fund, allotment, or appropriation unless the commissioner has certified a sufficient unencumbered balance or the accounting system shows sufficient allotment or encumbrance balance in the fund, allotment, or appropriation to meet it. The commissioner shall determine when the accounting system may be used to incur obligations without the commissioner's certification of a sufficient unencumbered balance. An expenditure or obligation authorized or incurred in violation of this chapter is invalid and ineligible for payment until made valid. A payment made in violation of this chapter is illegal. An employee authorizing or making the payment, or taking part in it, and a person receiving any part of the payment, are jointly and severally liable to the state for the amount paid or received. If an employee knowingly incurs an obligation or authorizes or makes an expenditure in violation of this chapter or takes part in the violation, the violation is just cause for the employee's removal by the appointing authority or by the governor if an appointing authority other than the governor fails to do so. In the latter case, the governor shall give notice of the violation and an opportunity to be heard on it to the employee and to the appointing authority. A claim presented against an appropriation without prior allotment or encumbrance may be made valid on investigation, review, and approval by the commissioner, if the services, materials, or supplies to be paid for were actually furnished in good faith without collusion and without intent to defraud. The commissioner may then draw a warrant to pay the claim just as properly allotted and encumbered claims are paid.

(b) The commissioner may approve payment for materials and supplies in excess of the obligation amount when increases are authorized by section 16B.07, subdivision 2.

(c) To minimize potential construction delay claims, an agency with a project funded by a building appropriation may allow a contractor to proceed with supplemental work within the limits of the appropriation before money is encumbered. Under this circumstance, the agency may requisition funds and allow contractors to expeditiously proceed with a construction sequence. While the contractor is proceeding, the agency shall immediately act to encumber the required funds.

Subd. 4. **Periodic allotment.** In the case of appropriations made for permanent improvements, including acquisition of real property, which appropriations do not lapse until the purposes of the appropriations are accomplished or abandoned, the commissioner may dispense with periodic allotments and shall make rules to ensure the proper application and encumbrance of funds.

Subd. 5. [Renumbered 16A.152 subd 6]

Subd. 6. [Renumbered 16A.152 subdivision 1]

Subd. 7. [Renumbered 16A.152 subd 7]

History: *1973 c 492 s 23–26; 1976 c 231 s 10; 1978 c 793 s 47; 1981 c 1 s 2; 1Sp1981 c 5 s 1; 2Sp1981 c 1 s 3; 3Sp1981 c 1 art 1 s 1; 3Sp1981 c 2 art 2 s 3; 1983 c 342 art 18 s 1–3; 1984 c 502 art 1 s 1; 1984 c 544 s 89; 1984 c 628 art 2 s 1; 1Sp1985 c 14 art 18 s 1,2; 1Sp1986 c 1 art 5 s 1,2; 1987 c 268 art 18 s 1,2; 1988 c 719 art 13 s 1; 1Sp1989 c 1 art 15 s 1; 1991 c 291 art 21 s 2; 1992 c 511 art 9 s 1; 1992 c 514 s 1; 1993 c 192 s 58–60,111; 1993 c 375 art 17 s 1; 1994 c 632 art 3 s 27*

16A.152 BUDGET RESERVE AND CASH FLOW ACCOUNT.

Subdivision 1. **Cash flow account established.** (a) A cash flow account is created in the general fund in the state treasury. The commissioner of finance shall restrict part or all of the balance before reserves in the general fund as may be necessary to fund the cash flow account as provided by law.

(b) The commissioner of finance shall transfer the amount necessary to bring the total amount of the cash flow account to $350,000,000 on July 1, 1995. The amounts restricted shall remain in the account until drawn down and used to meet cash flow deficiencies resulting from uneven distribution of revenue collections and required expenditures during a fiscal year.

Subd. 1a. **Budget reserve.** A budget reserve account is created in the general fund in the state treasury. The commissioner of finance shall transfer to the budget reserve account on July 1 of each odd–numbered year any amounts specifically appropriated by law to the budget reserve.

Subd. 2. **Additional revenues; priority.** If on the basis of a forecast of general fund revenues and expenditures the commissioner of finance determines that there will be a positive unrestricted budgetary general fund balance at the close of the biennium, the commissioner of finance must allocate money to the budget reserve until the total amount in the account is $270,000,000. An amount equal to any additional biennial unrestricted budgetary general fund balance made available as the result of a forecast in an odd–numbered calendar year after November 1 is appropriated in January of the following year to reduce the property tax levy recognition percent under section 121.904, subdivision 4a, to zero before additional money beyond $270,000,000 is allocated to the budget reserve account. The amount appropriated is the full amount forecast to be available at the end of the biennium and is not limited to the amount forecast to be available at the end of the current fiscal year.

The amounts necessary to meet the requirements of this section are appropriated from the general fund.

Subd. 3. **Use.** The use of the budget reserve should be governed by principles based on the full economic cycle rather than the budget cycle. The budget reserve may be used when a negative budgetary balance is projected and when objective measures, such as reduced growth in total wages, retail sales, or employment, reflect downturns in the state's economy.

Subd. 4. **Reduction.** (a) If the commissioner determines that probable receipts for the general fund will be less than anticipated, and that the amount available for the remainder of the biennium will be less than needed, the commissioner shall, with the approval of the governor, and after consulting the legislative advisory commission, reduce the amount in the budget reserve account as needed to balance expenditures with revenue.

(b) An additional deficit shall, with the approval of the governor, and after consulting the legislative advisory commission, be made up by reducing unexpended allotments of any prior appropriation or transfer. Notwithstanding any other law to the contrary, the commissioner is empowered to defer or suspend prior statutorily created obligations which would prevent effecting such reductions.

(c) If the commissioner determines that probable receipts for any other fund, appropriation, or item will be less than anticipated, and that the amount available for the remainder of the term of the appropriation or for any allotment period will be less than needed, the commissioner shall notify the agency concerned and then reduce the amount allotted or to be allotted so as to prevent a deficit.

(d) In reducing allotments, the commissioner may consider other sources of revenue available to recipients of state appropriations and may apply allotment reductions based on all sources of revenue available.

(e) In like manner, the commissioner shall reduce allotments to an agency by the amount of any saving that can be made over previous spending plans through a reduction in prices or other cause.

Subd. 5. **Restoration.** The restoration of the budget reserve should be governed by principles based on the full economic cycle rather than the budget cycle. Restoration of the budget reserve should occur when objective measures, such as increased growth in total wages, retail sales, or employment, reflect upturns in the state's economy. The budget reserve should be restored before new or increased spending commitments are made.

Subd. 6. **Notice to committees.** The commissioner shall notify the committees on finance and taxes and tax laws of the senate and the committees on ways and means and taxes of the house of representatives of a reduction in an allotment under this section. The notice must be in writing and delivered within 15 days of the commissioner's act. The notice must specify:

(1) the amount of the reduction in the allotment;

(2) the agency and programs affected;

(3) the amount of any payment withheld; and

(4) any additional information the commissioner determines is appropriate.

Subd. 7. **Delay; reduction.** The commissioner may delay paying up to 15 percent of an appropriation to a special taxing district or a system of higher education in that entity's fiscal year for up to 60 days after the start of its next fiscal year. The delayed amount is subject to allotment reduction under subdivision 1.

History: *1973 c 492 s 23; 1978 c 793 s 47; 1981 c 1 s 2; 1Sp1981 c 5 s 1; 2Sp1981 c 1 s 3; 3Sp1981 c 1 art 1 s 1; 3Sp1981 c 2 art 2 s 3; 1983 c 342 art 18 s 1–3; 1984 c 502 art 1 s 1; 1984 c 628 art 2 s 1; 1Sp1985 c 14 art 18 s 1,2,4; 1Sp1986 c 1 art 5 s 1–3; 1987 c 268 art 18 s 1–3; 1988 c 690 art 2 s 1; 1988 c 719 art 13 s 1,2; 1989 c 329 art 1 s 1; 1Sp1989 c 1 art 15 s 1,2; 1990 c 604 art 10 s 4; 1991 c 291 art 21 s 2; 1992 c 511 art 9 s 1; 1993 c 192 s 58–63,111; 1993 c 375 art 17 s 1,2; 1994 c 632 art 5 s 1; 1994 c 647 art 1 s 1; 1995 c 264 art 6 s 1; 1Sp1995 c 3 art 14 s 1–3; 1996 c 461 s 1; 1996 c 471 art 10 s 1*

16A.153 [Repealed, 1983 c 342 art 18 s 4]

16A.154 [Repealed, 1Sp1986 c 1 art 5 s 12]

16A.1541 [Renumbered 16A.152 subd 2]

16A.155 REFUNDS; CHARGED WHEN PAID.

Notwithstanding sections 16A.14 and 16A.15, or any other law to the contrary, the payment of a refund shall be charged to the fund, appropriation, allotment or encumbrance for the period in which the refund is paid.

History: *1976 c 231 s 11; 1984 c 628 art 2 s 1*

16A.16 [Repealed, 1983 c 299 s 36]

16A.17 PREPARATION OF STATE PAYROLL.

Subdivision 1. **Salaries; when paid.** The commissioner, with the approval of the governor, may choose to pay salaried employees semimonthly or biweekly.

Subd. 2. [Repealed, 1976 c 231 s 34]

Subd. 3. **Equal payments.** The commissioner may adjust the salary of an employee to provide equal payments through the year and to make use of modern accounting in preparing the payroll. Adjusted salaries must be based on a year of 2088 working hours. Fractions may be dropped or added in order to permit equal payments even if the salary is then slightly changed.

Subd. 4. **Allocations.** The commissioner shall set procedures for allocating and encumbering equal salary payments when a payroll period extends beyond the end of the fiscal year.

Subd. 4a. **Application.** Subdivision 4 applies to salaries of state officers and employees payable in equal payments throughout the year notwithstanding any other provision in Minnesota Statutes. No provision of any subsequent law relating to the budget, allotment, and encumbrance system or to appropriations for the payment of salaries of state officers and employees shall be construed as inconsistent with this subdivision except as expressly provided in the subsequent act that subdivision 4 does not apply or is superseded, modified, amended, or repealed.

Subd. 5. **Payroll duties.** When the department prepares the payroll for an agency, the commissioner assumes the agency head's duties to make authorized or required deductions from, or employer contributions on, the pay of the agency's employees and to prepare and issue the necessary warrants.

Subd. 5a. **Voluntary deductions.** The commissioner may require an employee making a voluntary deduction and the recipient of the deduction to provide information on the amount of or a change in the amount of the deduction. The employee making a voluntary deduction must sign and send the deduction instructions to the intended recipient of the deduction. The intended recipient shall forward the original signed instruction and other required information to the employee's payroll preparer.

Subd. 6. **Branch payrolls.** The commissioner shall prepare the payroll for the executive branch. Upon request of the rules committee of the senate or house of representatives or the supreme court, as appropriate, the commissioner shall prepare the payrolls of the legislative and judicial branches in a similar way.

Subd. 7. **Certify hours.** The commissioner may authorize an official to certify the hours worked for payroll purposes in anticipation of the hours actually worked.

Subd. 8. [Repealed, 1975 c 273 s 3]

Subd. 8. **Exceptions.** The commissioner shall prescribe procedures to assure payment is made only for hours worked except:

(1) for leave under a collective bargaining agreement;

(2) for leave under a plan according to section 43A.18 or the rules of the department of employee relations; or

(3) to resolve a formal employee grievance permitted by law or collective bargaining agreement.

Subd. 8a. **Overpayment.** The head of an agency shall release to the commissioner money held for an employee when the commissioner certifies to the head that the money is required to correct an overpayment to an employee. An employee's contribution to a retirement fund may not be released until the person otherwise entitled to the employee's retirement account has been notified of the release certification and is eligible to apply for a refund. Released funds are the equivalent of a refund. Funds may not be released if the employee or a survivor is entitled to an immediate or deferred annuity or to a survivor's benefit.

Subd. 9. **Agencies share.** If a direct appropriation for payroll preparation is made, the commissioner shall bill an agency for its share of payroll costs. The billing shall be done through the indirect cost billing system. Money collected must be deposited in the general fund.

History: *1957 c 414 s 1; 1961 c 222 s 1,2; 1969 c 281 s 1; 1971 c 803 s 1,2; Ex1971 c 32 s 19; 1973 c 435 s 1; 1973 c 492 s 14; 1976 c 231 s 12–17; 1977 c 340 s 1; 1977 c 410 s 6; 1980 c 617 s 47; 1981 c 210 s 49; 1984 c 628 art 2 s 1*

16A.18 ACCOUNTING, PAYROLL FOR COURTS, LEGISLATURE.

The judicial and legislative branches are not required to use the state accounting system or a computerized payroll system.

History: *1973 c 720 s 74; 1984 c 628 art 2 s 1*

16A.19 RETIREMENT, SOCIAL SECURITY DEFICIENCIES.

Subdivision 1. **Procedure.** If a direct appropriation for retirement contributions, benefits, or administrative expenses, or for social security contributions under section 355.46, is determined by the chief administrative official of the agency to which or by the officer to whom the appropriation was made to be insufficient to meet the state's obligation under the program for which it is made for the fiscal year for which it is made, the official or the officer shall certify to the finance committee, the appropriations committee, and the commissioner the amount necessary to meet the deficiency. Upon this certification, the commissioner shall transfer the necessary amounts to the appropriate accounts.

Subd. 2. **Appropriation.** The amount necessary to make the transfer under subdivision 1 is appropriated from the general fund in the state treasury to the agency to which or to the officer to whom the transfer is made.

History: *1980 c 614 s 57; 1981 c 224 s 17; 1984 c 628 art 2 s 1*

16A.25 SALE OF SECURITIES BEFORE MATURITY.

The commissioner shall notify the board of investment if invested funds are needed for current purposes before maturity of the securities held. The board of investment shall then order the needed amount of securities sold or cashed.

History: *1973 c 492 s 10; 1984 c 628 art 2 s 1*

16A.26 ONE DEPOSITORY ACCOUNT FOR EACH TAX.

Notwithstanding sections 297.13, 298.17, 298.282, 298.39, 298.396, 297C.02 to 297C.08 and similar laws to the contrary relating to the depositing, disposition, or apportionment of tax receipts, the commissioner may use one depository account for each tax. To do so, there must be enough information to identify and dispose of or apportion the tax under law. The commissioner shall ask the appropriate officials for the transfers and necessary certifications. The commissioner may issue directives to carry out this section.

History: *1973 c 492 s 14; 1973 c 720 s 65; 1978 c 674 s 6; 1980 c 509 s 4; 1984 c 628 art 2 s 1; 1985 c 305 art 12 s 5; 1Sp1985 c 16 art 2 s 26; 1987 c 268 art 9 s 1; 1989 c 209 art 2 s 4*

16A.27 STATE FUNDS; DEPOSIT; CONTROL BY COMMISSIONER.

Subdivision 1. **Treasurer to comply.** The commissioner shall, in the public interest, control the amount and manner of deposit of state funds in depositories by the treasurer. The treasurer shall comply with the controls.

Subd. 2. **Daily report.** By 9:00 a.m. every business day, a depository holding a total of over $100,000 in non–interest–bearing state deposits shall report the balances as of the close of the last business day to the treasurer and the commissioner. The commissioner shall record the balances, send a copy of them to the legislative reference library, and report them monthly to the legislative audit commission.

Subd. 3. **Competitive bids.** The depository for a state account must be selected by competitive bid. The commissioner shall invite bids by written notice to designated depositories. The notice must specify the considerations, financial activities, and conditions the commissioner requires for the bid. The account must be awarded to the lowest bidding depository that can, in the opinion of the commissioner, meet the requirements.

Subd. 4. **Exceptions.** In exceptional cases, the commissioner may dispense with bidding. The commissioner shall report the circumstances and reasons to the legislative audit commission within five days after opening the account.

Subd. 5. **Charges, compensating balances.** The commissioner may, after consulting with the state treasurer, agree that the treasurer may pay a depository a reasonable charge from appropriated money, maintain appropriate compensating balances with the depository, or purchase non–interest–bearing certificates of deposit from the depository for performing depository related services.

History: *1973 c 492 s 8; 1977 c 403 s 2; 1984 c 628 art 2 s 1; 1989 c 271 s 2; 1991 c 345 art 1 s 52*

16A.275 AGENCY RECEIPTS; DEPOSIT, REPORT, CREDIT.

Subdivision 1. **If $250, daily.** Except as otherwise provided by law, an agency shall deposit receipts totaling $250 or more in the state treasury daily. The depositing agency shall send a report to the commissioner on the disposition of receipts since the last report. The commissioner shall credit the deposits received during a month to the proper funds not later than the first day of the next month.

Notwithstanding the general rule stated above, the commissioner of revenue is not required to make daily deposits if (1) the volume of tax receipts cannot be processed daily with available resources, or (2) receipts cannot be immediately identified for posting to accounts.

Subd. 2. **Exception.** The commissioner may authorize an agency to deposit receipts totaling $250 or more less frequently than daily for those locations where the agency furnishes documentation to the commissioner that the cost of making daily deposits exceeds the lost interest earnings and the risk of loss or theft of the receipts.

History: *1976 c 231 s 18; 2Sp1981 c 1 s 4; 1984 c 628 art 2 s 1; 1Sp1985 c 13 s 103; 1987 c 268 art 18 s 4; 1987 c 275 s 5*

16A.276 CASH OVERAGE AND SHORTAGE ACCOUNT.

The commissioner may keep accounts to record daily the difference between actual and recorded cash receipts including losses from forged and uncollectible checks. At the end of the fiscal year, the commissioner shall clear the accounts by transferring the balances to the general fund and paying the deficits from operating accounts of the agencies charged with the deficit and shall report an adjustment to the legislative audit commission.

History: *1978 c 793 s 48; 1984 c 628 art 2 s 1*

16A.28 TREATMENT OF UNUSED APPROPRIATIONS.

Subdivision 1. **Carryforward.** Agencies may carry forward unexpended and unencumbered nongrant operating balances from the first year of a biennium into the second year of the biennium.

Subd. 2. **Use of carryforward.** No money shall be carried forward without the approval of the commissioner of finance.

Subd. 3. **Lapse.** Any portion of any appropriation not carried forward and remaining unexpended and unencumbered at the close of a fiscal year lapses to the fund from which it was originally appropriated. Any appropriation amounts not carried forward and remaining unexpended and unencumbered at the close of a biennium lapse to the fund from which the appropriation was made.

Subd. 4. **Reinstatement; final lapse.** The commissioner may reinstate a lapsed appropriation within three months of the lapse. A reinstated appropriation lapses again no later than three months after it first lapsed. A payment under a reinstated appropriation may be made only under section 16A.15, subdivision 3.

Subd. 5. **Permanent improvements.** An appropriation to acquire or better public land or buildings or other public improvements of a capital nature, including the acquisition of real property does not lapse until the purposes of the appropriation are determined by the commissioner, after consultation with the affected agencies, to be accomplished or abandoned. This subdivision also applies to any part of an appropriation for a fiscal year that has been requisitioned to acquire real property or construct permanent improvements. An appropriation to pay moving expenses lapses at the end of the third fiscal year during which it was made available.

Subd. 6. **Canceled October 15.** On October 15 all allotments and encumbrances for the last fiscal year shall be canceled unless an agency head certifies to the commissioner that there is an encumbrance for services rendered or goods ordered in the last fiscal year, or certifies that funding will be carried forward under subdivision 1. The commissioner may: reinstate the part of the cancellation needed to meet the certified encumbrance or charge the certified encumbrance against the current year's appropriation.

Subd. 7. **Exceptions.** Except as otherwise expressly provided by law, subdivisions 1 to 6 apply to every appropriation of a stated sum for a specified purpose or purposes heretofore or hereafter made, but do not, unless expressly provided by law, apply to any fund or balance of a fund derived wholly or partly from special taxes, fees, earnings, fines, federal grants, or other sources that are by law appropriated for special purposes by standing, continuing, or revolving appropriations.

Subd. 8. **Historical society.** Except as provided by law, an appropriation made to the Minnesota historical society, if not spent during the first year, may be spent during the second year of a biennium. An unexpended balance remaining at the end of a biennium lapses and shall be returned to the fund from which appropriated. An appropriation made to the society for all or part of a biennium may be spent in either year of the biennium.

History: *(53–18p) 1939 c 431 art 2 s 17; 1969 c 399 s 1; 1973 c 720 s 77; 1976 c 231 s 19; 1984 c 628 art 2 s 1; art 6 s 1; 1984 c 654 art 2 s 62; 1993 c 192 s 64; 1993 c 369 s 39; 1995 c 254 art 1 s 48,49; 1996 c 463 s 29*

16A.281 APPROPRIATIONS TO LEGISLATURE.

Except as provided in this section, section 16A.28 applies to appropriations made to the legislature, the senate, the house of representatives, or its committees or commissions. An appropriation made to the legislature, the senate, the house of representatives, or a legislative commission or committee other than a standing committee, if not spent during the first year, may be spent during the second year of a biennium. An unexpended balance not carried forward and remaining unexpended and unencumbered at the end of a biennium lapses and shall be returned to the fund from which appropriated. Balances may be carried forward into the next biennium and credited to special accounts to be used only as follows: (1) for nonrecurring expenditures on investments that enhance efficiency or improve effectiveness; (2) to pay expenses associated with special sessions, interim activities, public hearings, or other public outreach efforts and related activities; and (3) to pay severance costs of involuntary terminations. The approval of the commissioner of finance under section 16A.28, subdivision 2, does not apply to the legislature. An appropriation made to the legislature, the senate, the house of representatives, or a standing committee for all or part of a biennium may be spent in either year of the biennium.

History: *1978 c 793 s 49; 1984 c 628 art 2 s 1; 1993 c 192 s 65*

16A.283 APPROPRIATIONS TO COURTS.

If an appropriation for the courts or for an agency in the judicial branch for either fiscal year of a biennium is insufficient, the appropriation for the other fiscal year of the biennium is available for it.

History: *1Sp1985 c 13 s 104*

16A.284 APPROPRIATIONS TO CONSTITUTIONAL OFFICERS.

If an appropriation for a constitutional officer for either fiscal year of a biennium is insufficient, the appropriation for the other fiscal year of the biennium is available for it.

History: *1987 c 404 s 77*

16A.285 ALLOWED APPROPRIATION TRANSFERS.

An agency in the executive, legislative, or judicial branch may transfer state agency operational money between programs within the same fund if: (1) the agency first notifies the commissioner as to the type and intent of the transfer; and (2) the transfer is consistent with legislative intent. If an amount is specified for an item within an activity, that amount must not be transferred or used for any other purpose.

The commissioner shall report the transfers to the chairs of the senate finance and house of representatives ways and means committees.

History: *1993 c 192 s 66; 1995 c 226 art 1 s 18*

16A.30 APPLICATIONS FOR NONSTATE FUNDS.

Subdivision 1. **On original application; rules and approval.** An executive agency may not apply for nonstate money without getting the approval of the commissioner on the original of the application. The commissioner may make rules and directives to carry out this section.

Subd. 2. **Historical society.** Subdivision 1 does not apply to the Minnesota historical society.

History: *1976 c 231 s 20; 1984 c 628 art 2 s 1*

16A.35 [Repealed, 1993 c 192 s 110]

16A.36 GRANTS FROM AND ADVANCES TO UNITED STATES.

Subdivision 1. **Use of grants.** Money received by the state from the federal government as federal assistance must be used only for the purpose for which the money is received. If required by the proper federal authorities, interest or income arising from the money received may be credited by the commissioner to the particular account for which the money is received and used only for the purpose of that federal assistance program, or may be repaid to the federal treasury. If not so required, the interest or income shall be credited to the general fund or to another fund authorized to receive the interest or income.

Subd. 2. **Reciprocal interest policy.** The commissioner may, if required by the federal government or by agreement with the proper federal authorities, establish an equitable policy providing for the state to pay interest on undisbursed federal money, and providing for the federal government to pay interest to the state on state funds advanced for a federal assistance program. The amount needed to pay the interest is appropriated from the general fund or another fund earning the interest on undisbursed federal money. The interest received from the federal government shall be deposited in the fund that lost interest on state funds advanced for a federal assistance program.

History: *(53–18a) 1937 c 25 s 1; 1955 c 863 s 14; 1973 c 717 s 8; 1983 c 301 s 92; 1984 c 628 art 2 s 1; art 6 s 1; 1984 c 654 art 2 s 63; 1987 c 275 s 6*

16A.40 WARRANTS.

Money must not be paid out of the state treasury except upon the warrant of the commissioner or an electronic fund transfer approved by the commissioner. Warrants must be drawn on printed blanks that are in numerical order. The commissioner shall enter, in numerical order in a warrant register, the number, amount, date, and payee for every warrant issued.

History: *(67) RL s 35; 1917 c 480 s 1; 1955 c 863 s 3; 1984 c 628 art 2 s 1; 1Sp1985 c 13 s 105; 1995 c 254 art 1 s 50*

16A.41 CLAIMS AGAINST STATE.

Subdivision 1. **Certified.** Except as provided in subdivision 1a, when claims against the state are made for which there is an appropriation available, an official with authority to pay a claim shall approve the claim by certifying that the service was performed, the goods or material furnished, or monthly telephone service is in effect. The claim must be sent to the commissioner accompanied by a transmittal form as prescribed by the commissioner.

Subd. 1a. **Exception to certification.** When a claim against the state is made by a county, municipality, or other governmental subdivision, under an agreement with the commissioner of transportation, and that agreement provides for payment of the state's contractual obligations before commencing the work, certification that the services have been performed or that the goods or materials have been furnished is not required as a prerequisite to payment of the claim.

Subd. 2. **Declaration.** The commissioner may require a claimant to declare that the claim and its amount are just and correct and that no part of it has been paid. The following form may be used:

"I declare under the penalties of perjury that this claim is just and correct and that no part of it has been paid.

Signature of Claimant."

Subd. 3. **Declaration same as oath.** To sign the declaration in subdivision 2 is the same as to sign and swear under oath.

History: *(68) 1905 c 96 s 1; 1909 c 120 s 1; 1917 c 480 s 2; 1955 c 863 s 4; 1957 c 93 s 1; 1973 c 492 s 14; 1984 c 416 s 1,2; 1984 c 628 art 2 s 1; art 6 s 1; 1988 c 613 s 2*

16A.42 CLAIMS: FORM, APPROVAL, REGISTER.

Subdivision 1. **Form.** The commissioner shall prescribe the form of a claim.

Subd. 2. **Approval.** If the claim is approved, the commissioner shall complete and sign a warrant in the amount of the claim.

Subd. 3. [Repealed, 1Sp1985 c 13 s 376]

Subd. 4. **Register.** The commissioner shall enter a warrant in the warrant register as if it were a cash payment.

History: *(69) 1905 c 96 s 1; 1909 c 120 s 2; 1909 c 169 s 1; 1917 c 480 s 3; 1955 c 863 s 5; 1973 c 492 s 14; 1984 c 628 art 2 s 1; 1Sp1985 c 13 s 106*

16A.43 WARRANT A RECEIPT.

The endorsement by the payee of a warrant is a receipt in full for the claim paid by the warrant.

History: *(70) 1905 c 96 s 2; 1909 c 120 s 3; 1917 c 480 s 4; 1955 c 863 s 6; 1984 c 628 art 2 s 1*

16A.44 COMMISSIONER MAY COMPEL TESTIMONY.

The commissioner may subpoena, administer oaths to, and examine under oath, the parties and witnesses to any transaction between the state and a person, partnership, or corporation.

History: *(72) 1917 c 498 s 2; 1955 c 863 s 7; 1973 c 492 s 14; 1984 c 628 art 2 s 1*

16A.45 OUTSTANDING UNPAID WARRANTS, CANCELLATION.

Subdivision 1. **Cancel; credit.** Once each fiscal year the commissioner and the treasurer shall cancel upon their books all outstanding unpaid commissioner's warrants, except warrants issued for federal assistance programs, that have been issued and delivered for more than six months prior to that date and credit to the general fund the respective amounts of the canceled warrants. These warrants are presumed abandoned under section 345.38 and are subject to the provisions of sections 345.31 to 345.60. The commissioner and the treasurer shall cancel upon their books all outstanding unpaid commissioner's warrants issued for federal assistance programs that have been issued and delivered for more than the period of time set pursuant to the federal program and credit to the general fund and the appropriate account in the federal fund, the amount of the canceled warrants.

Subd. 2. [Repealed, 1993 c 192 s 110]

Subd. 3. [Repealed, 1993 c 192 s 110]

Subd. 4. **Locating unpaid warrants.** A person may not seek or receive from another person, or contract with a person for, a fee or compensation for locating outstanding unpaid commissioner's warrants before the warrants have been reported to the commissioner of commerce under section 345.41.

History: *(73) 1923 c 288 s 1,2; 1955 c 863 s 8; 1969 c 399 s 1; 1973 c 492 s 14; 1984 c 628 art 2 s 1; art 6 s 1; 1984 c 654 art 2 s 64; 1Sp1985 c 13 s 107; 1991 c 345 art 1 s 53; 1992 c 513 art 4 s 28,29*

16A.46 LOST OR DESTROYED WARRANT DUPLICATE; INDEMNITY.

The commissioner may issue a duplicate to an owner if the loss or destruction of an unpaid warrant is documented by affidavit. When the duplicate is issued, the original is void. The commissioner may require an indemnity bond from the applicant to the state for double the amount of the warrant for anyone damaged by the issuance of the duplicate. The commissioner may refuse to issue a duplicate of an unpaid state warrant. If the commissioner acts in good faith the commissioner is not liable, whether the application is granted or denied.

History: *(74) RL s 36; 1955 c 863 s 9; 1973 c 492 s 14; 1984 c 628 art 2 s 1*

16A.47 COMMISSIONER'S ACCOUNT, DOCUMENT DUTIES.

The commissioner shall make and keep in the department's office a record of all accounts and documents required by law to be returned to or filed with the commissioner. The commissioner shall file and keep all official receipts and vouchers. The commissioner shall also keep an account for each appropriation, showing the disbursements. The commissioner shall keep other accounts needed to show the daily condition of state finances.

History: *(75) RL s 37; 1955 c 863 s 10; 1973 c 492 s 14; 1984 c 628 art 2 s 1; 1Sp1985 c 13 s 108*

16A.48 REFUND OF ERRONEOUS DEPOSITS.

Subdivision 1. **Procedure.** A verified claim may be submitted to the concerned agency head for refund of money in the treasury to which the state is not entitled. The claimant must submit with the claim a complete statement of facts and reasons for the refund. The agency head shall consider and approve or disapprove the claim, attach a statement of reasons, and forward the claim to the commissioner for settlement.

Subd. 2. **Appropriation.** The amount needed to pay a refund under subdivision 1 is appropriated to the person entitled to it from the fund to which the money was credited.

History: *1947 c 416 s 1,2; 1955 c 863 s 11; 1973 c 492 s 14; 1984 c 628 art 2 s 1; 1987 c 268 art 19 s 1; 1992 c 513 art 4 s 30*

16A.49 REFUNDS OF $1 OR LESS.

A refund of $1 or less may not be paid from the treasury unless the receipts giving rise to the refund were $1 or less. The commissioner shall set requirements for the small refunds, which may differ from the procedure in section 16A.48.

History: *Ex1967 c 48 s 69; 1973 c 492 s 4 subd 3; 1984 c 628 art 2 s 1*

16A.50 FINANCIAL REPORT TO LEGISLATURE.

By December 31 of each year, the commissioner shall report to the legislature on the operation of all state funds during the last fiscal year. The report shall contain financial statements and disclosures which show the state's financial operations and position. The report must conform with generally accepted government accounting principles.

History: *(79) RL s 40; 1955 c 847 s 1; 1955 c 863 s 12; 1959 c 51 s 1; 1973 c 492 s 14; 1974 c 406 s 56; 1979 c 314 s 2; 1983 c 301 s 93; 1984 c 628 art 2 s 1*

16A.501 REPORT ON MATCHING MONEY.

The commissioner of finance must report annually to the legislature on the degree to which entities receiving appropriations of bond proceeds contingent upon obtaining matching money have been successful in raising that money. The report must be submitted to the chairs of the house of representatives ways and means committee and the senate finance committee by February 1 of each year.

History: *1994 c 643 s 33*

16A.51 [Repealed, 1984 c 654 art 2 s 155]

16A.52 [Repealed, 1984 c 628 art 2 s 4]

16A.53 BOOKKEEPING ACCOUNTS.

Subdivision 1. **Fund creates accounts.** When a law creates a fund in the treasury into which are deposited certain revenues and out of which certain expenditures are appropriated, the commissioner may consider the creation of the fund as the creation of a bookkeeping account in the state's general books of account so as to reflect the revenues deposited in the treasury and credited to the account and the expenditures appropriated from the treasury and charged to the account.

Subd. 2. **Exception.** Subdivision 1 does not apply to a fund created by the constitution or to a fund required to be created in the treasury by federal law.

History: *1959 c 30 s 2; 1973 c 492 s 14; 1984 c 628 art 2 s 1*

16A.531 FUNDS CREATED.

Subdivision 1. **Environmental fund.** There is created in the state treasury an environmental fund as a special revenue fund for deposit of receipts from environmentally related fees and activities conducted by the state.

Subd. 2. **Natural resources fund.** There is created in the state treasury a natural resources fund as a special revenue fund for deposit of certain receipts from fees and services associated with natural resource management by the state.

History: *1989 c 335 art 4 s 8*

16A.54 GENERAL FUND DEFINED.

Except as provided in section 16A.671, subdivision 3, the term "general fund" appearing in any existing or hereafter enacted law relating to revenues deposited in or expenditures appropriated from the treasury means such moneys as have been deposited in the treasury for the usual, ordinary, running, and incidental expenses of the state government and does not include moneys deposited in the treasury for a special or dedicated purpose.

History: *1959 c 30 s 3; 1969 c 399 s 2; 1984 c 597 s 32; 1984 c 628 art 2 s 1; art 6 s 1*

16A.55 [Repealed, 1984 c 628 art 2 s 4]

16A.56 COMMISSIONER'S RECEIPT AND CLAIM DUTIES.

The commissioner or a designee shall examine every receipt and claim, and if proper, approve them, name the account to be charged or credited, and issue warrants to pay claims.

History: *(80–3) 1939 c 431 art 3 s 2; 1955 c 863 s 16; 1973 c 492 s 14; 1984 c 628 art 2 s 1*

16A.57 APPROPRIATION, ALLOTMENT, AND WARRANT NEEDED.

Unless otherwise expressly provided by law, state money may not be spent or applied without an appropriation, an allotment, and issuance of a warrant or electronic fund transfer.

History: *(80–4) 1939 c 431 art 3 s 3; 1955 c 863 s 17; 1973 c 492 s 14; 1984 c 628 art 2 s 1; 1995 c 254 art 1 s 51*

16A.575 APPROPRIATIONS; NOT DISCLOSING SOURCE.

If money is appropriated from the state treasury and the appropriation does not disclose its source, the appropriation is from the general fund.

History: *Ex1971 c 3 s 97; 1988 c 469 art 1 s 1*

16A.58 COMMISSIONER CUSTODIAN OF PAYMENT DOCUMENTS.

The commissioner or the head of a state agency designated by the commissioner is the custodian of original documents on which money has been or may be paid out of or received in the state treasury.

History: *(80–5) 1939 c 431 art 3 s 4; 1955 c 863 s 18; 1973 c 492 s 14; 1984 c 628 art 2 s 1; 1Sp1985 c 13 s 109; 1989 c 271 s 3; 1993 c 192 s 67*

16A.59 [Repealed, 1984 c 654 art 2 s 155]

16A.60 COST TO COLLECT HIGHWAY TAXES TO GENERAL FUND.

The commissioner, when authorized from time to time by law, shall transfer money from the highway user tax distribution fund to the general fund. The transfer is to reimburse the general fund for the cost of collecting the taxes mentioned in the constitution, article XIV.

History: *1959 c 403 s 1; 1973 c 492 s 14; 1976 c 2 s 172; 1978 c 793 s 50; 1984 c 628 art 2 s 1*

16A.61 CERTIFICATE MONEY TO GENERAL FUND.

The commissioner shall transfer money credited to a fund set up for paying off certificates of indebtedness to the general fund when the purpose of the certificates is accomplished.

History: *Ex1961 c 88 s 57; 1969 c 399 s 3; Ex1971 c 3 s 56; 1973 c 492 s 14; 1984 c 628 art 2 s 1*

16A.62 MONEY IN ABOLISHED FUND TO GENERAL FUND.

Each June 30, the commissioner shall transfer to and credit to the general fund, money in a special fund or account abolished by law.

History: *Ex1967 c 48 s 97; 1969 c 399 s 4; 1984 c 628 art 2 s 1*

16A.625 [Repealed, 1988 c 646 art 5 s 10]

16A.63 [Repealed, 1984 c 597 s 55]

16A.631 BOND PROCEEDS FUND.

The bond proceeds fund is established to receive the proceeds of state bonds issued under the constitution, article XI, section 5, clause (a). The commissioner shall establish in the fund accounts having titles that reflect the state purpose or program for which the bond proceeds are appropriated and authorized to be expended.

History: *1984 c 597 s 33; 1Sp1986 c 3 art 1 s 4; 1989 c 271 s 4; 1990 c 610 art 1 s 33*

16A.632 CAPITAL ASSET PRESERVATION AND REPLACEMENT ACCOUNT.

Subdivision 1. **Establishment.** A capital asset preservation and replacement account is established in the state bond proceeds fund established by section 16A.631, separate from any other accounts maintained in that fund, to receive state bond proceeds appropriated to the commissioner of administration to be expended for the purpose and in accordance with the standards and criteria set forth in this section.

Subd. 2. **Standards.** Article XI, section 5, clause (a), of the constitution states general obligation bonds may be issued to finance only the acquisition or betterment of state land, buildings, and improvements of a capital nature. In interpreting this and applying it to the purposes of the program contemplated in this section, the following standards are adopted for the disbursement of money from the capital asset preservation and replacement account:

(a) No new land, buildings, or major new improvements will be acquired. These projects, including all capital expenditures required to permit their effective use for the intended purpose on completion, will be estimated and provided for individually through a direct appropriation for each project.

(b) An expenditure will be made from the account only when it is a capital expenditure on a capital asset previously owned by the state, within the meaning of accepted accounting principles as applied to public expenditures. The commissioner of administration will consult with the commissioner of finance to the extent necessary to ensure this and will furnish the commissioner of finance a list of projects to be financed from the account in order of their priority. The commissioner shall also furnish each revision of the list. The legislature assumes that many provisions for preservation and replacement of portions of existing capital assets will constitute betterments and capital improvements within the meaning of the constitution and capital expenditures under correct accounting principles, and will be financed more efficiently and economically under the program than by direct appropriations for specific projects. However, the purpose of the program is to accumulate data showing how additional costs may be saved by appropriating money from the general fund for preservation measures, the necessity of which is predictable over short periods.

(c) The commissioner of administration will furnish instructions to agencies to apply for funding of capital expenditures for preservation and replacement from the account, will review applications, will make initial allocations among types of eligible projects enumerated below, will determine priorities, and will allocate money in priority order until the available appropriation has been committed. Under section 14.02, subdivision 4, these instructions and allocations do not constitute rules and the other provisions of chapter 14 do not apply to them.

(d) Categories of projects considered likely to be most needed and appropriate for financing are the following:

(1) unanticipated emergencies of all kinds, for which a relatively small amount should be initially reserved, replaced from money allocated to low–priority projects, if possible, as emergencies occur, and used for stabilization rather than replacement if the cost would exhaust the account and should be specially appropriated;

(2) projects to remove life safety hazards, like replacement of mechanical systems, building code violations, or structural defects, at costs not large enough to require major capital requests to the legislature;

(3) elimination or containment of hazardous substances like asbestos or PCBs; and

(4) moderate cost replacement and repair of roofs, windows, tuckpointing, and structural members necessary to preserve the exterior and interior of existing buildings.

Subd. 3. **Criteria for priority.** Criteria can be stated only in general terms, as it is the purpose of the program to improve the allocation of limited amounts of borrowed money by enlisting the engineering expertise of the department of administration and the closer knowledge and experience of this and all other agencies in determining relative needs as they develop. The following criteria must be considered:

(a) Urgency in ensuring the safety of use of existing buildings is the first criterion to be applied. It will require judgments, for example, about the useful life of electric and mechanical systems and roofs, in relation to the remaining useful life of each building, and about the presence of hazardous substances and structural defects in the light of present building regulations.

(b) Economy is also to be determined and may even reinforce a decision based on the first criterion, if the project would forestall a larger future capital expenditure or would reduce operating expense.

(c) Absolute cost must also be considered. It may be too high to warrant funding except by an additional appropriation, or so high as to warrant a recommendation to abandon or to replace the building. It may be so low as to permit payment out of an agency's operating budget.

Subd. 4. **Report.** By January 15 of each year the commissioner of administration, with respect to each state agency, shall submit to the commissioner of finance, the chairs of the finance divisions that oversee the appropriations to that state agency, and to the chairs of the senate finance committee and the house of representatives capital investment committee, a list of the projects in the agency that have been funded with money from the capital asset preservation and replacement account during the preceding calendar year, as well as a list of those priority projects for which CAPRA appropriations will be sought for the agency in that year's legislative session.

History: *1990 c 610 art 1 s 34; 1996 c 463 s 30*

16A.64 [Repealed, 1984 c 597 s 55]

16A.641 STATE BONDS; APPROPRIATIONS.

Subdivision 1. **Authority.** When authorized by a law enacted in accordance with the constitution, article XI, sections 5 and 7, the commissioner may sell and issue general obligation bonds of the state evidencing public debt incurred for any purpose stated in those sections. The full faith, credit, and taxing powers of the state are irrevocably pledged for the prompt and full payment of the bonds and interest.

Subd. 2. **Report.** Before a sale of general obligation bonds, the commissioner shall report the amount of bonds to be issued and a detailed list of the projects or a statement of the program to be financed to the chairs of the house appropriations and tax committees and of the senate finance and tax committees, and the minority leaders of the house and senate, for their advisory recommendation. The recommendation is positive if not received within ten days.

Subd. 3. **Series of bonds.** Bonds authorized by a law may be issued in more than one series, and bonds authorized by more than one law may be combined in a single series, as determined by order of the commissioner. The order must state the principal amount of the bonds to be issued under each law, and the aggregate principal amount and the maturity dates and amounts of the bonds included in the series that are to be issued for the purpose of each special fund.

At any time during the 18 months following the issuance of any series of bonds, the commissioner may, by amendment to the order authorizing their issuance, determine that any portion of the bonds were issued, or shall be deemed to have been issued, pursuant to a law other than the one specified in the original order and for a different purpose, and reallocate and transfer their proceeds to the appropriate account in the bond proceeds fund or the appropriate special fund, for expenditure pursuant to the law pursuant to which the amendment determines they were issued. No such amendment shall be adopted unless:

(1) on the date of the original order, the bonds could have been issued and their proceeds expended as determined in the amended order;

(2) all actions required for the issuance of the transferred bonds have been taken on or before the date of the amendment; and

(3) the commissioner determines upon advice of counsel that the taxability of the interest on the bonds for federal income tax purposes will not be affected by the amendment.

Subd. 4. **Sale and issuance.** State bonds must be sold and issued upon sealed bids in the manner and on the terms and conditions determined by the commissioner in accordance with the laws authorizing them and subject to the approval of the attorney general, but not subject to chapter 14. For each series, in addition to provisions required by subdivision 3, the commissioner may determine:

(1) the time, place, and notice of sale and method of comparing bids;

(2) the price, not less than par for highway bonds;

(3) the principal amount and date of issue;

(4) the interest rates and payment dates;

(5) the maturity amounts and dates, not more than 20 years from the date of issue, subject to subdivision 5;

(6) the terms, if any, on which the bonds may or must be redeemed before maturity, including notice, times, and redemption prices; and

(7) the form of the bonds and the method of execution, delivery, payment, registration, conversion, and exchange, in accordance with section 16A.672.

Subd. 5. **Planning maturities.** In issuing each series of state bonds the commissioner shall try to establish the maturities and other terms so that transfers to the state bond fund required in each year of the then current biennium under subdivision 10 may be made with the least practical effect on orderly spending plans for other appropriations from the general fund.

Subd. 6. **Taxability; certification.** The commissioner shall ascertain from state records and certify to the holders of each series of state bonds, subject to the approval of the attorney general, that all conditions exist and all actions have been taken that are needed to make the bonds valid and binding general obligations of the state in accordance with their terms.

The bonds may be issued with or without regard to whether the interest to be paid on them is includable in gross income for federal tax purposes. If it is intended that the interest on the bonds be exempt from federal income taxes, the commissioner shall certify for the state on the date of issue the facts, estimates, and circumstances that lead the commissioner reasonably to expect that the proceeds of the bonds and the projects financed by them will not be used in a way that would cause the interest on the bonds to be subject to federal income taxes. The commissioner may covenant with the holders of the bonds that the state will comply with the provisions of the United States Internal Revenue Code then or later enacted that apply or may apply to the bonds and that establish conditions under which the interest to be paid on the bonds will not be subject to federal income taxes. The commissioner and all other state officers shall act or refrain from acting as necessary to comply with the covenants. A sum sufficient to meet the cost of compliance is annually appropriated to the commissioner from the general fund.

Subd. 7. **Credit of proceeds.** (a) Proceeds of bonds issued under each law must be credited by the commissioner to a special fund, as provided in this subdivision.

(b) Accrued interest and any premium received on sale of the bonds must be credited to the state bond fund created by the constitution, article XI, section 7.

(c) Except as otherwise provided by law, proceeds of state bonds issued under the constitution, article XI, section 5, clause (a), must be credited to the bond proceeds fund established by section 16A.631.

(d) Proceeds of state highway bonds must be credited to the trunk highway fund under the constitution, article XIV, section 6.

(e) Proceeds of bonds issued for programs of grants or loans to political subdivisions must be credited to special accounts in the bond proceeds fund or to special funds established by laws stating the purposes of the grants or loans, and the standards and criteria under which an executive agency is authorized to make them.

(f) Proceeds of refunding bonds must be credited to the state bond fund as provided in section 16A.66, subdivision 1.

(g) Proceeds of other bonds must be credited as provided in the law authorizing their issuance.

Subd. 8. **Appropriation of proceeds.** (a) The proceeds of bonds issued under each law are appropriated for the purposes described in the law and in this subdivision. This appropriation may never be canceled.

(b) Before the proceeds are received in the proper special fund, the commissioner may transfer to that fund from the general fund amounts not exceeding the expected proceeds from the next bond sale. The commissioner shall return these amounts to the general fund by transferring proceeds when received. The amounts of these transfers are appropriated from the general fund and from the bond proceeds.

(c) Actual and necessary travel and subsistence expenses of employees and all other nonsalary expenses incidental to the sale, printing, execution, and delivery of bonds must be paid from the proceeds. The proceeds are appropriated for this purpose. Bond proceeds must not be used to pay any part of the salary of a state employee involved in the sale, printing, execution, or delivery of the bonds.

(d) Bond proceeds remaining in a special fund after the purposes for which the bonds were issued are accomplished or abandoned, as certified by the head of the agency administering the special fund, or as determined by the commissioner, unless devoted under the appropriation act to another purpose designated in the act, shall be transferred to the state bond fund.

Subd. 9. **Special accounts; appropriation.** (a) The commissioner shall establish separate accounts in the state bond fund for:

(1) state building bonds, and for other state bonds issued for each program of grants to political subdivisions for a particular class of capital expenditures, to record debt service payments and receipts of amounts appropriated from the general fund under subdivision 10;

(2) state highway bonds, to record debt service payments, receipts of amounts appropriated for debt service from the trunk highway fund pursuant to the constitution, article XIV, section 6, and additional receipts, if any, of amounts appropriated from the general fund under subdivision 10;

(3) state bonds issued for each capital loan and for each program of capital loans to agencies or political subdivisions, to record debt service payments, receipts of loan repay-

ments appropriated for debt service or reimbursement of debt service by the law authorizing the loan or program, and any additional receipts of amounts appropriated from the general fund under subdivision 10; and

(4) refunding bonds, as provided in section 16A.66, subdivision 1.

(b) All money credited, transferred, or appropriated to the state bond fund and all income from the investment of that money is appropriated to the commissioner for the payment of principal and interest on state bonds.

Subd. 10. **Appropriation from general fund.** There is annually appropriated to the state bond fund from the general fund the amount that, added to the amount in the state bond fund on November 1 each year for state bonds issued by January 1, 1985, and the amount that added to the amount in the state bond fund on December 1 each year for state bonds issued after January 1, 1985, is needed to pay the principal of and interest on all state bonds due and to become due through July 1 in the second ensuing year. The money appropriated must be available in the state bond fund each year before the tax otherwise required by the constitution, article XI, section 7, is levied.

Subd. 11. **Constitutional tax levy.** Under the constitution, article XI, section 7, the state auditor must levy each year on all taxable property within the state a tax sufficient, with the amount then on hand in the state bond fund, to pay all principal and interest on state bonds due and to become due to and including July 1 in the second ensuing year. The tax is not subject to limitation of rate or amount. However, the amount of money appropriated from other sources as provided in subdivision 10, and actually received and on hand prior to the levy in any year, reduces the amount of the tax otherwise required to be levied. The proceeds of the tax must be credited to the state bond fund.

Subd. 12. **Supplemental appropriation from general fund.** If the proceeds of the tax levied under subdivision 11 are ever insufficient to make the principal and interest payments on state bonds when due, the balance must be paid out of the general fund. The amount needed to pay the balance is appropriated from the general fund to the commissioner.

Subd. 13. **Application.** This section applies to all state bonds issued after January 1, 1985, notwithstanding other laws relating to specific bonding programs.

History: *1984 c 597 s 34; 1Sp1985 c 13 s 111,112; 1Sp1985 c 14 art 4 s 2; 1986 c 444; 1989 c 271 s 5; 1990 c 610 art 1 s 35,36; 1991 c 345 art 1 s 54; 1994 c 643 s 34; 1996 c 463 s 31*

16A.642 STATE BONDS: REPORTS; CANCELLATIONS.

Subdivision 1. **Reports.** The commissioner of finance shall report to the chairs of the senate committee on finance and the house of representatives committees on ways and means and on capital investment by February 1 of each even–numbered year on the following:

(1) all state building projects for which bonds have been authorized and issued by a law enacted more than seven years before February 1 of that even–numbered year and of which 20 percent or less of a project's authorization has been encumbered or otherwise obligated for the purpose stated in the law authorizing the issue; and

(2) all state bonds authorized and issued for purposes other than building projects reported under clause (1), by a law enacted more than seven years before February 1 of that even–numbered year, and the amount of any balance that is unencumbered or otherwise not obligated for the purpose stated in the law authorizing the issue.

The commissioner shall also report on bond authorizations or bond proceed balances that may be canceled because projects have been canceled, completed, or otherwise concluded, or because the purposes for which the bonds were authorized or issued have been canceled, completed, or otherwise concluded. The bond authorizations or bond proceed balances that are unencumbered or otherwise not obligated that are reported by the commissioner under this subdivision are canceled, effective July 1 of the year of the report, unless specifically reauthorized by act of the legislature.

Subd. 2. **Cancellation.** If the commissioner determines that the purposes for which general obligation bonds of the state have been issued are accomplished or abandoned, after consultation with the affected agencies, and there is a remaining authorization for a specific project of $500 or less, the commissioner may cancel the remaining authorization for that project. The commissioner must notify the chairs of the senate finance committee and the house capital investment committee of any bond authorizations canceled under this subdivision.

History: *1Sp1995 c 2 art 1 s 16*

16A.643 ASSESSMENTS IF AGENCY MUST PAY DEBT SERVICE.

Subdivision 1. **When payment required.** The commissioner of finance shall assess each board, agency, or other public entity, other than the higher education systems described in Laws 1992, chapter 558, section 31, for the amount that would otherwise need to be paid for debt service with respect to general obligation bonds sold to finance capital improvement projects for the entity if the law authorizing the project requires debt service for the project to be paid by the agency.

Subd. 2. **Method of payment.** After each sale of state general obligation bonds, the commissioner of finance shall notify the entity of the amounts for which the entity is responsible under subdivision 1 for each year for the life of the bonds. Each entity shall pay its assessment of debt service payments to the commissioner of finance by December 1 each year. If an entity fails to make an assessment payment when due, the commissioner of finance shall reduce allotments for appropriations from the appropriate accounts to be used by the entity to pay the assessment payment and apply the amount of the reduction to cover the missed payment. The commissioner of finance shall credit the payments received from the entities, or the amount of the reduction made, to the bond debt service account in the state bond fund each December 1 before money is transferred from the general fund under section 16A.641, subdivision 10.

History: *1992 c 558 s 32*

16A.65 Subdivision 1. [Repealed, 1984 c 597 s 55]

Subd. 2. [Repealed, 1984 c 597 s 55]

Subd. 3. [Repealed, 1984 c 597 s 55; 1984 c 628 art 2 s 4]

Subd. 4. [Repealed, 1984 c 597 s 55]

16A.651 [Repealed, 1990 c 610 art 1 s 59]

16A.66 REFUNDING BONDS.

Subdivision 1. **Authority; reduction of tax and appropriation for refunded bonds.** The commissioner may, with the approval by resolution of the executive council, issue state bonds in accordance with section 16A.641 to refund any outstanding state bonds and interest on them. The proceeds of refunding bonds shall be credited to the account established within the state bond fund for the bonds to be refunded, and shall be credited only against the appropriations in section 16A.641, subdivisions 9 and 10 and the tax required by the Constitution with respect to the refunded bonds and interest.

Subd. 2. **Special provisions for sale and issuance.** Refunding bonds may be sold publicly, or directly to the state board of investment without bids, or may be exchanged for bonds refunded by agreement with their holders. The refunding bonds must be prepared, executed, delivered, and secured in the same way as the refunded bonds. The proceeds of refunding bonds may be deposited, invested, and applied to accomplish the refunding as provided in section 475.67, subdivisions 5 to 10. The interest rate on refunding bonds may exceed that on the refunded bonds if the purpose of refunding is to extend the maturities and to reduce the amount needed annually to pay and to secure the debt.

Subd. 3. **Appropriation.** The money needed to carry out this section is appropriated annually.

History: *1969 c 1047 s 2; 1973 c 35 s 1; 1973 c 492 s 14; 1976 c 2 s 172; 1Sp1981 c 1 art 10 s 1; 1983 c 301 s 96–98; 1984 c 597 s 36; 1984 c 628 art 2 s 1; art 6 s 1*

16A.661 GENERAL OBLIGATION SPECIAL TAX BONDS.

Subdivision 1. **Authority.** When authorized by law enacted in accordance with the constitution, article XI, sections 5 and 7, the commissioner may by order sell and issue general obligation special tax bonds of the state evidencing public debt incurred for any purpose stated in the law. The bonds are payable primarily from the proceeds of special taxes appropriated to special tax bond debt service accounts established in subdivision 3 and other money on hand in that fund from time to time; however, the bonds are general obligations of the state, and the full faith and credit of the state are pledged for their payment.

Subd. 2. **Manner of issuance; maturities.** The bonds must be issued and sold in accordance with section 16A.641, except that the maturities of the bonds and the interest rates applicable to the bonds must be fixed so that the principal and interest coming due in the 1987–1989 biennium on all bonds outstanding at any time does not exceed $46,750,000. Sections 16A.672 and 16A.675 apply to the bonds.

Subd. 3. **Establishment of debt service fund; appropriation of debt service fund money.** (a) There is established within the state bond fund a separate and special account designated as a general obligation special tax bond debt service account. There must be credited to this debt service account in each fiscal year from the tobacco tax revenue fund established in section 297.13 an amount sufficient to increase the balance on hand in the debt service account on each December 1 to an amount equal to the full amount of principal and interest to come due on all outstanding bonds whose debt service is payable primarily from proceeds of the tax to and including the second following July 1. The money on hand in the debt service account must be used solely for the payment of the principal of, and interest on, the bonds, and is appropriated for this purpose. This appropriation does not cancel as long as any of the bonds remain outstanding.

(b) There is established within the state bond fund a separate and special account designated as a general obligation special tax bond debt service account. There must be credited to this debt service account in each fiscal year from the sports and health club sales tax revenue fund established in section 297A.44 an amount sufficient to increase the balance on hand in the debt service account on each December 1 to an amount equal to the full amount of principal and interest to come due on all outstanding bonds whose debt service is payable primarily from proceeds of the tax to and including the second following July 1. The money on hand in the debt service account must be used solely for the payment of the principal of, and interest on, the bonds, and is appropriated for this purpose. This appropriation does not cancel as long as any of the bonds remain outstanding.

Subd. 4. **Appropriation from general fund.** There is annually appropriated to the general obligation special tax bond debt service accounts from the general fund the amount that, added to the amount in the general obligation special tax bond debt service accounts on December 1 each year, after giving effect to subdivision 3, is equal to the full amount of principal and interest to come due on all bonds to and including July 1 in the second ensuing year.

Subd. 5. **Constitutional tax levy.** Under the constitution, article XI, section 7, the state auditor must levy each year on all taxable property within the state a tax sufficient, with the amount then on hand in the general obligation special tax bond debt service accounts, to pay all principal and interest on the bonds due and to become due to and including July 1 in the second ensuing year. The tax is not subject to limit as to rate or amount. However, the amount of money appropriated from other sources as provided in subdivisions 3 and 4, and actually received and on hand before the levy in any year, reduces the amount of the tax otherwise required to be levied. The proceeds of the tax must be credited to the appropriate general obligation special tax bond debt service account.

Subd. 6. [Repealed, 1990 c 610 art 1 s 59]

Subd. 7. **Application and appropriation of proceeds.** The proceeds of the bonds must be deposited and spent as provided in this subdivision and are appropriated for those purposes. Any accrued interest and any premium received on the sale of the bonds, and any amount of bond proceeds determined by the commissioner to be needed to pay interest payable on the bonds up to 18 months following their issuance, must be credited to the appropriate general obligation special tax bond debt service account. Except as otherwise required by law, the balance of the bond proceeds shall be credited to the bond proceeds fund and spent for the purposes specified in the law authorizing the issuance of the bonds. So much of the proceeds as is necessary must be used to pay costs incurred in issuing and selling the bonds.

History: *1987 c 400 s 31; 1988 c 633 s 1; 1989 c 271 s 6*

16A.662 INFRASTRUCTURE DEVELOPMENT BONDS.

Subdivision 1. **Infrastructure development fund.** The infrastructure development fund is created as an account in the state treasury. The commissioner of finance shall credit to the fund income from the sources provided by law. The commissioner of finance shall from time to time certify to the state board of investment the assets of the fund not currently needed. The amount certified must be invested by the state board of investment subject to section 11A.24. Investment income and investment losses attributable to investment of fund assets must be credited to or borne by the fund.

Subd. 2. **Bonds authorized.** When authorized by law enacted in accordance with the constitution, article XI, sections 5 and 7, the commissioner may by order sell and issue bonds of the state evidencing public debt incurred for any purpose stated in the law. The bonds are general obligations of the state, and the full faith and credit of the state are pledged for their payment.

Subd. 3. **Manner of issuance; maturities.** The bonds must be issued and sold in accordance with section 16A.641. Sections 16A.672 and 16A.675 apply to the bonds.

Subd. 4. **Establishment of debt service account; appropriation of debt service account money.** There is established within the state bond fund a separate and special account designated as the infrastructure development bond debt service account. The money on hand in the debt service account must be used solely for the payment of the principal of and interest on bonds issued under Laws 1990, chapter 610, article 1, section 30, subdivision 2, and is appropriated for this purpose. This appropriation does not cancel as long as any of the bonds remain outstanding.

Subd. 5. **Assessment to higher education systems.** (a) In order to reduce the amount otherwise required to be transferred to the state bond fund with respect to bonds heretofore or hereafter issued under Laws 1990, chapter 610, article 1, section 30, subdivision 2, the commissioner of finance shall assess each higher education system for one–third the amount that would otherwise need to be transferred with respect to those bonds sold to finance capital improvement projects at institutions under the control of the system; provided that, to the extent that the amount to be transferred is for payment of principal and interest on bonds sold to finance life safety improvements, the commissioner must not assess the higher education systems for the transfer.

(b) After each sale of the bonds, the commissioner of finance shall notify the state board for vocational technical education, the state board for community colleges, the state university board, and the regents of the University of Minnesota of the amounts for which each system is responsible for each year for the life of the bonds. The amounts payable each year are reduced by one–third of the net income from investment of those bond proceeds that must be allocated among the systems in proportion to the amount of principal and interest otherwise required to be paid by each. Each higher education system shall pay its annual share of debt service payments to the commissioner of finance by December 1 each year. If a higher education system fails to make a payment when due, the commissioner of finance shall reduce allotments for appropriations from the general fund otherwise payable to the system to cover the amount of the missed debt service payment. The commissioner of finance shall credit the payments received from the higher education systems to the infrastructure development bond debt service account in the state bond fund each December 1 before the transfer is made under subdivision 4.

Subd. 6. **Appropriation from general fund.** There is annually appropriated from the general fund for transfer to the infrastructure development bond debt service account the amount that, added to the amount in the infrastructure development bond debt service account on December 1 each year, after giving effect to subdivisions 4 and 5, is equal to the full amount of principal and interest to come due on all bonds to and including July 1 in the second ensuing year.

Subd. 7. **Constitutional tax levy.** Under the constitution, article XI, section 7, the state auditor must levy each year on all taxable property within the state a tax sufficient, with the amount then on hand in the infrastructure development bond debt service account, to pay all principal and interest on the bonds due and to become due to and including July 1 in the second ensuing year. The tax is not subject to limit as to rate or amount. However, the amount of money appropriated from other sources as provided in subdivisions 4, 5, and 6, and actually received and on hand before the levy in any year, reduces the amount of the tax otherwise required to be levied. The proceeds of the tax must be credited to the infrastructure development bond debt service account.

Subd. 8. **Application and appropriation of proceeds.** The proceeds of the bonds must be deposited and spent as provided in this subdivision and are appropriated for those purposes. Any accrued interest and any premium received on the sale of the bonds must be credited to the infrastructure development bond debt service account. Except as otherwise required by law, the balance of the bond proceeds shall be credited to the infrastructure development fund and spent for the purposes specified in the law authorizing the issuance of the bonds. So much of the proceeds as is necessary must be used to pay costs incurred in issuing and selling the bonds.

History: *1990 c 610 art 1 s 37; 1991 c 233 s 39–41; 1991 c 345 art 1 s 55*

16A.67 [Repealed, 2Sp1981 c 1 s 7]

16A.67 JUDGMENT BONDS.

Subdivision 1. **Authorization.** The commissioner of finance, upon request of the governor, is authorized to sell and issue state bonds to fund the judgment rendered against the state by the Minnesota supreme court in Cambridge State Bank et al. v. James, 514 N.W. 2d 565, on April 1, 1994, and related claims, and interest accrued on the judgment and related claims, to fund any bond reserve determined to be necessary, and to pay costs of issuance of the bonds. The proceeds of the bonds are appropriated for these purposes. The principal amount of the bonds shall not exceed $400,000,000. The bonds shall be sold and issued upon such terms and in such manner as the commissioner shall determine to be in the best interests of the state. The final maturity of the bonds shall be not later than June 30, 2005.

Subd. 2. **Security; bonds not public debt.** The bonds and the interest thereon shall be payable solely from and secured by the revenues appropriated and transferred to the debt service fund established for this purpose in subdivision 4 and investment income thereon, and any bond reserve established for the bonds. The bonds are not public debt, and the full faith, credit, and taxing powers of the state are not pledged for their payment. The bonds and the interest thereon shall not be paid, directly or indirectly, in whole or in part, from a tax of statewide application on any class of property, income, transaction, or privilege.

Subd. 3. **Special revenue fund.** There is established in the state treasury a separate and special revenue fund for deposit of the revenues from net proceeds of the lottery in accordance with section 349A.10, subdivision 5, money received for payment or reimbursement of health care costs in accordance with section 246.18, subdivision 7, state license and service fees as defined in section 16A.6701, and investment income thereon.

Subd. 4. **Debt service fund.** There is established in the state treasury a separate and special debt service fund. Money transferred or appropriated to the fund and investment income thereon on hand or required to be transferred to the fund shall be used and are irrevocably appropriated for the payment of the principal of and interest on the bonds authorized in this section when due.

Subd. 5. **Covenants; agreements.** The commissioner may, for and on behalf of the state, enter into such covenants and agreements not inconsistent with subdivisions 1 to 4 and sections 246.18, subdivisions 4 and 6; and 349A.10, subdivision 5, as may be necessary or desirable to facilitate the sale and issuance of the bonds on terms favorable to the state, including, but not limited to, covenants and agreements relating to the payment of and security for the bonds, tax–exemption, and disclosure of information required by federal and state securities laws. Such covenants and agreements of the commissioner constitute an enforceable contract of the state and the state pledges and agrees with the holders of any bonds that the state will not limit or alter the rights vested in the commissioner to fulfill the terms of any such covenants or agreements made with the holders of the bonds, or in any way impair the rights and remedies of the holders until the bonds, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged. The commissioner is authorized to include this pledge and agreement of the state in any covenant or agreement with the holders of such bonds. Such covenants may not include covenants to continue to operate the state lottery but may include covenants to continue to seek payment by and reimbursement from nonstate sources of health care costs so long as any bonds issued pursuant to this section are outstanding. The provisions of sections 16A.672 and 16A.675 are applicable to the bonds.

History: *1995 c 263 s 15; 1995 c 264 art 6 s 2; 1996 c 471 art 13 s 1*

16A.6701 DEPOSIT OF CERTAIN STATE LICENSE FEES, SERVICE FEES, AND CHARGES.

Subdivision 1. **State license and service fees.** For purposes of section 16A.67, subdivision 3, and this section, the term "state license and service fees" means, and refers to, all license fees, service fees, and charges imposed by law and collected by any state officer, agency, or employee, which are listed below or which are defined as departmental earnings under section 16A.1285, subdivision 1, and the use of which is not otherwise restricted by law, and which are not required to be credited or transferred to a fund other than the general fund:

Minnesota Statutes 1994, sections 3.9221; 5.12; 5.14; 5.16; 5A.04; 6.58; 13.03, subdivision 10; 16A.155; 16A.48; 16A.54; 16A.72; 16B.59; 16B.70; 17A.04; 18.51, subdivision 2; 18.53; 18.54; 18C.551; 19.58; 19.64; 27.041, subdivision 2, clauses (d) and (e); 27.07, subdivision 5; 28A.08; 32.071; 32.075; 32.392; 35.71; 35.824; 35.95; 41C.12; 45.027, subdivisions 3 and 6; 46.041, subdivision 1; 46.131, subdivisions 2, 7, 8, 9, and 10; 47.101, subdivision 2; 47.54, subdivisions 1 and 4; 47.62, subdivision 4; 47.65; 48.475, subdivision 1; 48.61, subdivision 7; 48.93; 49.36, subdivision 1; 52.01; 52.203; 53.03, subdivisions 1, 5, and 6; 53.09, subdivision 1; 53A.03; 53A.05, subdivision 1; 53A.081, subdivision 3; 54.294, subdivision 1; 55.04, subdivision 2; 55.095; 56.02; 56.04; 56.10; 59A.03, subdivision 2; 59A.06, subdivision 3; 60A.14, subdivisions 1 and 2; 60A.23, subdivision 8; 60K.19, subdivision 5; 65B.48, subdivision 3; 70A.14, subdivision 4; 72B.04, subdivision 10; 79.251, subdivision 5; 80A.28, subdivisions 1, 2, 3, 4, 5, 6, 7, 7a, 8, and 9; 80C.04, subdivision 1; 80C.07; 80C.08, subdivision 1; 80C.16, subdivisions 2 and 3; 80C.18, subdivision 2; 82.20, subdivision 8 and 9; 82A.04, subdivision 1; 82A.08, subdivision 2; 82A.16, subdivisions 2 and 6; 82B.09, subdivision 1; 83.23, subdivisions 2, 3, and 4; 83.25, subdivisions 1 and 2; 83.26, subdivision 2; 83.30, subdivision 2; 83.31, subdivision 2; 83.38, subdivision 2; 85.052; 85.053; 85.055; 88.79, subdivision 2; 89.035; 89.21; 115.073; 115.77, subdivisions 1 and 2; 116.41, subdivision 2; 116C.69; 116C.712; 116J.9673; 125.08; 136C.04, subdivision 9; 155A.045; 155A.16; 168.27, subdivision 11; 168.33, subdivisions 3 and 7; 168.54; 168.67; 168.705; 168A.152; 168A.29; 169.345; 171.06, subdivision 2a; 171.29, subdivision 2; 176.102; 176.1351; 176.181, subdivision 2a; 177.30; 181A.12; 183.545; 183.57; 184.28; 184.29; 184A.09; 201.091, subdivision 5; 204B.11; 207A.02; 214.06; 216C.261; 221.0355; 239.101; 240.06; 240.07; 240.08; 240.09; 240.10; 246.51; 270.69, subdivision 2; 270A.07; 272.484; 296.06; 296.12; 296.17; 297.04; 297.33; 299C.46; 299C.62; 299K.09; 299K.095; 299L.07; 299M.04; 300.49; 318.02; 323.44, subdivision 3; 325D.415; 326.22; 326.3331; 326.47; 326.50; 326.92, subdivisions 1 and 3; 327.33; 331A.02; 332.15, subdivisions 2 and 3; 332.17; 332.22, subdivision 1; 332.33, subdivisions 3 and 4; 332.54, subdivision 7; 333.055; 333.20; 333.23; 336.9–413; 336A.04; 336A.05; 336A.09; 345.35; 345.43, subdivision 2a; 345.44; 345.55, subdivision 3; 347.33; 349.151; 349.161; 349.162; 349.163; 349.164; 349.165; 349.166; 349.167; 357.08; 359.01, subdivision 3; 360.018; 360.63; 386.68; and 414.01, subdivision 11; Minnesota Statutes 1994, chapters 154; 216B; 237; 302A; 303; 308A; 317A; 322A; and 322B; Laws 1990, chapter 593; Laws 1993, chapter 254, section 7; and Laws 1994, chapter 573, section 4; Minnesota Rules, parts 1800.0500; 1950.1070; 2100.9300; 7515.0210; and 9545.2000 to 9545.2040.

Subd. 2. **Fees credited to special revenue fund.** All state license and service fees must be credited to the special revenue fund created in section 16A.67, subdivision 3. Money credited to the special revenue fund must be transferred to the debt service fund established in section 16A.67, subdivision 4, at the times and in the amounts determined by the commissioner of finance to be necessary to provide for the payment and security of bonds issued pursuant to section 16A.67. On or before the tenth day of each month, any money in the special revenue fund not required to be transferred to the debt service fund must be transferred to the general fund.

Subd. 3. **Applicability.** If any state license or service fee described in subdivision 1 is determined by the attorney general or a court of competent jurisdiction to be a tax, the provisions of subdivisions 1 and 2 no longer apply to it.

History: *1995 c 264 art 6 s 3; 1996 c 305 art 1 s 9; 1996 c 439 art 1 s 1*

16A.671 CERTIFICATES OF INDEBTEDNESS.

Subdivision 1. **Authority; advisory recommendation.** To ensure that cash is available when needed to pay warrants drawn on the general fund under appropriations and allotments, the governor may authorize the commissioner (1) to issue certificates of indebtedness in anticipation of the collection of taxes levied for and other revenues appropriated to the general fund for expenditure during each biennium; and (2) to issue additional certificates to refund outstanding certificates and interest on them, under the constitution, article XI, section 6.

Subd. 2. **Advisory recommendation.** Before certificates are initially sold by any of the methods authorized in subdivision 6, the governor shall seek the advisory recommendation of the legislative advisory commission, or if there is no commission, the executive council, on (1) the necessity of issuing them, (2) the terms and conditions of the sale, and (3) the maximum amount to be issued and outstanding under the authorization. If the commission or council does not make a recommendation promptly, the recommendation is negative. An additional recommendation is not required for refunding outstanding certificates or for each issuance of certificates in accordance with an approved line of credit, underwriting, or placement agreement.

Subd. 3. **Definitions.** As used in this section, the terms defined in this subdivision have the meanings given them:

(a) "General fund" means all cash and investments from time to time received and held in the treasury, except proceeds of state bonds and amounts received and held in special or dedicated funds created by the constitution, or by or pursuant to federal laws or regulations, or by bond or trust instruments, pension contracts, or other agreements of the state or its agencies with private persons, entered into under state law.

(b) "Maximum current cash flow requirement" means the commissioner's written estimate of the largest of the amounts by which, on a particular designated date in each month of the term for which certificates are to be issued, the sum of (1) the warrants then outstanding against the general fund plus (2) those that must be drawn on the fund before the same date in the following month, in payment of claims due for expenditure under all appropriations and allotments, will exceed the amount of cash or cash equivalent assets held in the general fund on the first of these dates, excluding the proceeds of the certificates to be issued.

Subd. 4. **Limitations of amount.** The principal amount of certificates to be issued at any time must not exceed the lesser of the following:

(1) An amount which, with interest thereon to maturity, added to the then outstanding amount of certificates not simultaneously paid and retired, will equal the then unexpended balance of all money which will be credited to the general fund during the current biennium under existing laws, as estimated by the commissioner; or

(2) The maximum current cash flow requirement.

Subd. 5. **Terms.** The commissioner may establish by order with the approval of the attorney general, but not subject to chapter 14, the terms of each series of certificates of indebtedness including:

(1) the manner of sale under subdivision 6;

(2) the price, principal amount, and date of issue;

(3) the interest rate or rates and payment dates, or the basis of computation of a variable rate;

(4) the maturity date or dates, within the current biennium except as provided in subdivision 10;

(5) the terms, if any, of redemption before maturity;

(6) the form and method of execution, delivery, payment, registration, conversion, and exchange, under section 16A.672.

Subd. 6. **Sale.** Certificates of indebtedness may be sold in any of the ways listed in paragraphs (a) to (e).

(a) The commissioner may advertise for competitive bids.

(b) The commissioner may negotiate contracts with suitable banks in or out of state to establish lines of credit, for an agreed compensation. The contracts must provide that the commissioner may issue certificates of indebtedness up to a maximum outstanding amount within an agreed period, bearing interest at a fixed or variable rate. The certificates must be subject to redemption at par plus accrued interest at any time at the commissioner's option.

(c) The commissioner may negotiate contracts with firms of underwriters that will purchase or act as agents in the placement of certificates of indebtedness issued within an agreed period, up to a maximum amount outstanding. The certificates may be sold to the underwriters or investors (1) at an agreed discount with the interest included in the face amount payable at maturity, or (2) bearing interest at a stated interest rate on the face amount, payable on one or more dates. For the further security of these certificates the commissioner may negotiate agreements for lines of credit under paragraph (b) to pay the certificates with interest to maturity, if necessary, by the issuance of new certificates under the lines of credit.

(d) The commissioner may make contracts for agreed fees with suitable banks in or out of state to authenticate, issue, pay principal and interest on, cancel, and otherwise deal as fiscal agents of the state with certificates of indebtedness issued under paragraph (a), (b), or (c).

(e) The commissioner may sell certificates of indebtedness to the state board of investment without advertising for bids. The board must determine that the terms are not less favorable than those available at the time for the purchase of direct obligations of the federal government or its agencies, of comparable maturities. The board may purchase the certificates with any money under its control except money in a pension fund.

Subd. 6a. **Fiscal agent bank.** The commissioner may enter into an agreement with a suitable bank or banks located within or outside the state to authenticate, issue, pay principal and interest on, cancel or otherwise deal with certificates of indebtedness issued pursuant to this section, for an agreed compensation.

Subd. 7. **Appropriation of proceeds.** The proceeds of all certificates of indebtedness must be deposited in the general fund, and shall be available for spending under any appropriation from that fund for any purpose, subject to subdivision 9.

Subd. 8. **Appropriation and accounting for payment of certificates and expenses from the general fund.** The amounts needed for the purposes in this subdivision are appropriated and must be paid from the general fund. These appropriations are irrevocable and shall not be canceled. They must be included in the computation of current cash flow requirements and of amounts available for allotment. The purposes of the appropriations are:

(1) payment of the principal of and interest and premium, if any, on all certificates when due;

(2) actual and necessary travel and subsistence expenses of state officers and employees and other expenses incidental to the sale or placement, printing, execution, and delivery of certificates; and

(3) costs of lines of credit.

Subd. 9. **Priority of certificate payments; covenants.** (a) The proceeds of certificates of indebtedness issued in whole or in part to refund outstanding certificates and interest as authorized in the constitution are available only for that purpose until the refunded certificates and interest are paid.

(b) The commissioner may covenant by order, on behalf of the state, for the security of the holders of any certificates, to segregate cash and cash equivalent assets in a special account within the general fund in the amounts and at the times in advance of the due dates that the commissioner determines to be advisable for marketing the certificates, and to act under section 16A.152, subdivision 4, to perform the covenant. The amount in the account is available only to pay the principal of and interest and premium, if any, on the certificates referred to in the order.

Subd. 10. **Covenant to refund.** If cash and cash equivalent assets in the general fund in excess of the amount of outstanding warrants is not sufficient to pay any certificates of indebtedness or interest when due, the commissioner may issue refunding certificates maturing not later than December 1 in the next calendar year to pay the deficiency. With the approval of the governor, the commissioner may covenant on behalf of the state, in the order issuing any certificates, to offer refunding certificates for sale if a deficiency is expected.

Subd. 11. **Constitutional tax levy.** If cash and cash equivalent assets in the general fund in excess of the amount of outstanding warrants, on December 1 immediately following the close of a biennium, is not sufficient to pay:

(1) all refunding certificates of indebtedness;

(2) all other certificates outstanding at the end of the biennium and not refunded; and

(3) all interest accrued on the certificates referred to in clauses (1) and (2);

the state auditor shall levy upon all taxable property in the state the tax required by the constitution, article XI, section 6, collectible in the next calendar year and sufficient to pay all amounts described in clauses (1), (2), and (3) on or before December 1 in the collection year with interest to the date or dates of payment.

History: *2Sp1981 c 1 s 5; 3Sp1981 c 2 art 7 s 2–5; 1982 c 424 s 130; 1982 c 639 s 28; 1Sp1982 c 3 s 2,3; 1984 c 597 s 37; 1984 c 628 art 2 s 1; art 6 s 1; 1993 c 192 s 111*

16A.672 BONDS AND CERTIFICATES OF INDEBTEDNESS.

Subdivision 1. **Authority.** The commissioner may issue, execute, deliver, register, and pay bonds and certificates of indebtedness in the form and manner provided in this section, when authorized under section 16A.641 or 16A.671.

Subd. 2. **Application of commercial code.** All bonds and certificates are securities under sections 336.8–101 to 336.8–408. The commissioner may do for the state whatever may or must be done under those sections to comply with the orders authorizing them. The bonds or certificates may be issued:

(1) in one or more denominations;

(2) in bearer form, with interest coupons attached; and

(3) with provision for registration as to principal only; or

(4) in fully registered form; and

(5) with provision for registration of conversion and exchange of forms and denominations, transfer of ownership, and replacement of lost or damaged bonds.

Subd. 3. **Preparation and execution.** (a) Bonds and certificates of indebtedness may be printed or otherwise reproduced in the style and form the commissioner prescribes. They may state in a general way the purpose for which they are issued and the security provided for their payment or may incorporate the authorizing order by reference.

(b) They must be executed by the commissioner under the commissioner's official seal. The signature may be a reproduced facsimile, but no bond or certificate is valid for any purpose unless it is manually signed on its face by the commissioner or by a duly authorized representative of a bank or trust company named by the commissioner as an agent of the state to authenticate it.

Subd. 4. **Delivery.** The commissioner may name a bank or trust company in or out of the state to act as the state's agent to deliver bonds or certificates to the initial purchaser upon payment of the purchase price.

Subd. 5. **Registrar.** The commissioner, in order to issue any bonds or certificates, may name a registrar to act for the state under sections 336.8–101 to 336.8–408, and to authenticate and deliver obligations upon initial issuance and registration of transfer, exchange, or conversion. The registrar must be an incorporated bank or trust company, in or out of the state, authorized by the laws of the United States or the state in which it is located to perform these duties.

Subd. 6. **Payment.** The order authorizing bonds or certificates to be issued may contain provisions that the commissioner considers necessary to ensure full and prompt payment of principal and interest when due. The order may provide for payment at the office of a bank or trust company in or out of the state. The order may provide that interest due on any interest payment date is payable to the person or entity shown as the owner of the bond or certificate in the register on a specified date preceding the interest payment date, by check, draft, or other transfer to the order of that owner.

Subd. 7. **Agreements.** The commissioner may make agreements to carry out orders issued under this section. The agreements may provide for the paying for services performed and expenses incurred on behalf of the state, from:

(1) proceeds of the bonds or certificates;

(2) other money appropriated to the commissioner;

(3) charges to holders of the bonds or certificates; or

(4) a combination of sources in clauses (1), (2), and (3).

Subd. 8. **Appropriations.** The proceeds of the bonds or certificates under subdivision 7 are appropriated as necessary to pay expenses incurred under that subdivision.

Subd. 9. **Appropriation.** The money needed to pay when due the compensation and expenses of registrars, delivery agents, and paying agents, and the expenses of other agreements under subdivision 7 is appropriated annually to the commissioner from the general fund.

Subd. 9a. **Taxability; certification.** Certificates may be issued with or without regard to whether the interest to be paid on them is includable in gross income for federal tax purposes. If it is intended that the interest on the certificates be exempt from federal income taxes, the commissioner shall certify for the state on the date of issue the facts, estimates, and circumstances that lead the commissioner reasonably to expect that the proceeds of the certificates will not be used in a way that would cause the interest on the certificates to be subject to federal income taxes. The commissioner may covenant with the holders of the certificates that the state will comply with the provisions of the United States Internal Revenue Code then or later enacted that apply or may apply to the certificates and that establish conditions under which the interest to be paid on the certificates will not be subject to federal income taxes. The commissioner and all other state officers shall act or refrain from acting as necessary to comply with the covenants. A sum sufficient to meet the cost of compliance is annually appropriated to the commissioner from the general fund.

Subd. 10. **Approval by attorney general.** An agreement under subdivision 7 is not effective until approved as to form and execution by the attorney general or a designee.

Subd. 11. **Registration not public information.** Information in any register of ownership of bonds or certificates is nonpublic data under section 13.02, subdivision 9, or private data on individuals under section 13.02, subdivision 12. The information is open only to the subject of it, except as disclosure:

(1) is necessary for the registrar, the commissioner, the treasurer, or the legislative auditor to perform a duty; or

(2) is requested by an authorized representative of the state commissioner of revenue, the state attorney general, or the United States commissioner of internal revenue to determine the application of a tax; or

(3) is required under section 13.03, subdivision 4.

Subd. 12. **Exchange listing.** The commissioner may provide for listing of any bonds or certificates of indebtedness on an exchange or similar arrangement to facilitate their sale and exchange in the secondary market.

Subd. 13. **Continuing disclosure agreements.** The commissioner and any other officer of a state department or state agency charged with the responsibility of issuing bonds for or on behalf of the state department or agency, may enter into written agreements or contracts relating to the continuing disclosure of information necessary to comply with, or facilitate the issuance of bonds in accordance with, federal securities laws, rules, and regulations, including securities and exchange commission rules and regulations, section 240.15c2–12. An agreement may be in the form of covenants with purchasers and holders of bonds set forth in the order or resolution authorizing the issuance of the bonds, or a separate document authorized by the order or resolution.

History: *1983 c 301 s 99; 1984 c 597 s 38; 1984 c 628 art 2 s 1; art 6 s 1; 1Sp1985 c 13 s 113–115; 1986 c 444; 1990 c 610 art 1 s 39; 1991 c 345 art 1 s 56; 1Sp1995 c 2 art 1 s 17,18*

16A.673 CERTIFICATES OF INDEBTEDNESS ISSUED BY STATE, NEGOTIABILITY.

Certificates of indebtedness and interest coupons appurtenant thereto, heretofore or hereafter issued by the state of Minnesota in anticipation of the collection of taxes and payable as to principal and interest exclusively from the proceeds of such taxes, shall be negotiable instruments within the meaning and for all purposes of the uniform commercial code, notwithstanding that they may be payable from a particular fund.

History: *1959 c 1 s 1; 1965 c 812 s 27*

16A.675 PERSONS EXECUTING OBLIGATIONS NOT LIABLE.

No officer or other person executing state bonds or certificates is liable personally on them or accountable by reason of issuing them.

History: *1977 c 410 s 7; 1984 c 597 s 39; 1984 c 628 art 2 s 1; art 6 s 1*

16A.68 FEDERAL FUNDS TO THE GAME AND FISH ACCOUNT.

Subdivision 1. **Pittman–Robertson Act funds.** Federal aid reimbursements for the Pittman–Robertson account shall be deposited to the credit of the game and fish receipts account in the treasury.

Subd. 2. **Dingell–Johnson Act funds.** Federal aid reimbursements for the Dingell–Johnson account shall be deposited to the credit of the game and fish receipts account in the treasury.

History: *Ex1967 c 48 s 74; 1984 c 628 art 2 s 1*

16A.69 APPROPRIATIONS INTO SINGLE PROJECT ACCOUNT.

Subdivision 1. **Appropriations into single project account.** The commissioner shall place the money from two or more appropriations for the same or related projects in one account if all the appropriations do not lapse until their purposes are accomplished or abandoned. The agency to whom the appropriation was made shall first certify which accounts are involved to the commissioner.

Subd. 2. **Transfer between accounts.** Upon the awarding of final contracts for the completion of a project for construction or other permanent improvement, or upon the abandonment of the project, the agency to whom the appropriation was made may transfer the unencumbered balance in the project account to another project enumerated in the same section of that appropriation act. The transfer must be made only to cover bids for the other project that were higher than was estimated when the appropriation for the other project was made and not to cover an expansion of the other project. The money transferred under this section is appropriated for the purposes for which transferred. For transfers by the state board of technical colleges, the total cost of both projects and the required local share for both projects are adjusted accordingly. The agency proposing a transfer shall report to the chair of the senate finance committee and the chair of the house of representatives ways and means committee before the transfer is made under this subdivision.

Subd. 3. **Capitol area planning.** The department shall set aside from a state appropriation available for that purpose funds for the planning and consulting services of the capitol area architectural and planning board when a state agency or the Minnesota historical society plans and constructs any capital improvement in the capitol area as defined in section 15.50, subdivision 2, paragraph (a).

History: *1969 c 1155 s 11; 1973 c 492 s 14; 1984 c 628 art 2 s 1; 1989 c 300 art 1 s 24; 1990 c 375 s 3; 1990 c 610 art 1 s 40; 1991 c 345 art 1 s 57; 1993 c 4 s 10; 1993 c 192 s 68*

16A.695 PROPERTY PURCHASED WITH STATE BOND PROCEEDS.

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

(b) "State bond financed property" means property acquired or bettered in whole or in part with the proceeds of state general obligation bonds authorized to be issued under article XI, section 5, clause (a), of the Minnesota Constitution.

(c) "Public officer or agency" means a state officer or agency, the University of Minnesota, the Minnesota historical society, and any county, home rule charter or statutory city, school district, special purpose district, or other public entity, or any officer or employee thereof.

(d) "Fair market value" means, with respect to the sale of state bond financed property, the price that would be paid by a willing and qualified buyer to a willing and qualified seller as determined by an appraisal of the property, or the price bid by a purchaser under a public bid procedure after reasonable public notice.

(e) "Outstanding state bonds" means the dollar amount certified by the commissioner, upon the request of a public officer or agency, to be the principal amount of state bonds, including any refunding bonds, issued with respect to the state bond financed property, less the principal amount of state bonds paid or defeased before the date of the request.

Subd. 2. **Leases and management contracts.** (a) A public officer or agency that is authorized by law to lease or enter into a management contract with respect to state bond financed property shall comply with this subdivision.

(b) The lease or management contract may be entered into for the express purpose of carrying out a governmental program established or authorized by law and established by official action of the contracting public officer or agency, in accordance with orders of the commissioner intended to ensure the legality and tax–exempt status of bonds issued to finance the property, and with the approval of the commissioner. A lease or management contract, including any renewals that are solely at the option of the lessee, must be for a term substantially less than the useful life of the property, but may allow renewal beyond that term upon a determination by the lessor that the use continues to carry out the governmental program. A lease or management contract must be terminable by the contracting public officer or agency if the other contracting party defaults under the contract or if the governmental program is terminated or changed, and must provide for program oversight by the contracting public officer or agency. Money received by the public officer or agency under the lease or management contract that is not needed to pay and not authorized to be used to pay operating costs of the property, or to pay the principal, interest, redemption premiums, and other expenses when due on debt related to the property other than state bonds, must be:

(1) paid to the commissioner in the same proportion as the state bond financing is to the total public debt financing for the property, excluding debt issued by a unit of government for which it has no financial liability;

(2) deposited in the state bond fund; and

(3) used to pay or redeem or defease bonds issued to finance the property in accordance with the commissioner's order authorizing their issuance.

The money paid to the commissioner is appropriated for this purpose.

(c) With the approval of the commissioner, a lease or management contract between a city and a nonprofit corporation under section 471.191, subdivision 1, need not require the lessee to pay rentals sufficient to pay the principal, interest, redemption premiums, and other expenses when due with respect to state bonds issued to acquire and better the facilities.

Subd. 3. **Sale of property.** A public officer or agency shall not sell any state bond financed property unless the public officer or agency determines by official action that the property is no longer usable or needed by the public officer or agency to carry out the governmental program for which it was acquired or constructed, the sale is made as authorized by law, the sale is made for fair market value, and the sale is approved by the commissioner. If any state bonds issued to purchase or better the state bond financed property that is sold remain outstanding on the date of sale, the net proceeds of sale must be applied as follows:

(1) if the state bond financed property was acquired and bettered solely with state bond proceeds, the net proceeds of sale must be paid to the commissioner, deposited in the state bond fund, and used to pay or redeem or defease the outstanding state bonds in accordance with the commissioner's order authorizing their issuance, and the proceeds are appropriated for this purpose; or

(2) if the state bond financed property was acquired or bettered partly with state bond proceeds and partly with other money, the net proceeds of sale must be used: first, to pay to the state the amount of state bond proceeds used to acquire or better the property; second, to

pay in full any outstanding public or private debt incurred to acquire or better the property; and third, any excess over the amount needed for those purposes must be divided in proportion to the shares contributed to the acquisition or betterment of the property and paid to the interested public and private entities, other than any private lender already paid in full, and the proceeds are appropriated for this purpose.

When all of the net proceeds of sale have been applied as provided in this subdivision, this section no longer applies to the property.

Subd. 3a. **Involuntary sale of property.** Notwithstanding subdivision 3, this subdivision applies to the sale of state bond financed property by a lender that has provided money to acquire or better the property. Purchase by the lender in a foreclosure sale, acceptance of a deed in lieu of foreclosure, or enforcement of a security interest in personal property, by the lender, is not a sale. Following purchase by the lender, the lender shall not operate the property in a manner inconsistent with the governmental program established as provided in subdivision 2, paragraph (b). The lender shall exercise its best efforts to sell the property to a third party as soon as feasible following acquisition of marketable title to the property by the lender. A sale by the lender must be made as authorized by law and must be made for fair market value.

Subd. 4. **Relation to other laws.** This section applies to all state bond financed property unless otherwise provided by law.

Subd. 5. **Program funding.** Recipients of grants from money appropriated from the bond proceeds fund must demonstrate to the commissioner of the agency making the grant that the recipient has the ability and a plan to fund the program intended for the facility. A private nonprofit organization that leases or manages a facility acquired or bettered with grant money appropriated from the bond proceeds fund must demonstrate to the commissioner of the agency making the grant that the organization has the ability and a plan to fund the program intended for the facility.

History: *1994 c 643 s 36; 1Sp1995 c 2 art 1 s 19–22; 1996 c 463 s 32*

16A.70 [Repealed, 1994 c 416 art 1 s 65]

16A.71 [Repealed, 1994 c 416 art 1 s 65]

16A.711 Subdivision 1. [Repealed, 1994 c 587 art 3 s 21]

Subd. 2. [Repealed, 1994 c 587 art 3 s 21]

Subd. 3. [Repealed, 1992 c 511 art 1 s 26; 1994 c 587 art 3 s 21]

Subd. 4. [Repealed, 1994 c 587 art 3 s 21]

Subd. 5. [Repealed, 1994 c 587 art 3 s 21]

16A.712 [Repealed, 1994 c 587 art 3 s 21]

16A.72 INCOME CREDITED TO GENERAL FUND; EXCEPTIONS.

All income, including fees or receipts of any nature, shall be credited to the general fund, except:

(1) federal aid;

(2) contributions, or reimbursements received for any account of any division or department for which an appropriation is made by law;

(3) income to the University of Minnesota;

(4) income to revolving funds now established in institutions under the control of the commissioners of corrections or human services;

(5) investment earnings resulting from the master lease program, except that the amount credited to another fund or account may not exceed the amount of the additional expense incurred by that fund or account through participation in the master lease program;

(6) receipts from the operation of patients' and inmates' stores and vending machines, which shall be deposited in the social welfare fund in each institution for the benefit of the patients and inmates;

(7) money received in payment for services of inmate labor employed in the industries carried on in the state correctional facilities which receipts shall be credited to the current expense fund of those facilities;

(8) as provided in sections 16B.57 and 85.22;

(9) income to the Minnesota historical society;

(10) the percent of income collected by a private collection agency and retained by the collection agency as its collection fee; or

(11) as otherwise provided by law.

History: *Ex1971 c 3 s 54; 1976 c 163 s 3; 1979 c 102 s 13; 1984 c 544 s 89; 1984 c 628 art 2 s 1; 1984 c 654 art 5 s 58; 1Sp1986 c 3 art 4 s 1; 1993 c 192 s 69; 1993 c 369 s 40; 1995 c 254 art 5 s 2*

16A.721 STATE SEMINAR FEES, APPROPRIATION.

Subdivision 1. **Account, rules.** The commissioner may make rules for charging fees for seminars and workshops conducted by agencies. The commissioner may keep accounts for deposit of the seminar and workshop fee receipts. The commissioner may allow the unobligated balances in these accounts to be carried forward provided that the funds are expended in the following fiscal year. Unobligated balances that are not carried forward shall cancel to the general fund.

Subd. 2. **Appropriation.** The receipts collected under subdivision 1 are appropriated for payment of expenses relating to the workshops and seminars.

History: *1978 c 793 s 52; 1980 c 614 s 59; 1984 c 628 art 2 s 1; 1991 c 345 art 1 s 58*

16A.722 LOSS OR DAMAGE TO STATE PROPERTY.

Notwithstanding any other law to the contrary, an agency that receives a reimbursement for the loss of or damage to state property may deposit the reimbursement in the current year's account. The reimbursement is reappropriated for the purpose of replacing or repairing the state property.

History: *1984 c 544 s 5*

16A.723 GOVERNOR'S RESIDENCE; REIMBURSEMENT OF EXPENSES.

Subdivision 1. **Account procedures.** The commissioner may establish procedures to accept funds for reimbursement of expenditures at the governor's residence.

Subd. 2. **Appropriation.** The reimbursements collected under subdivision 1 are appropriated for payment of residence expenses, including dry cleaning, carpet cleaning, and the repair and replacement of household equipment and supplies used for events conducted at the governor's residence.

History: *1991 c 345 art 1 s 59; 1992 c 513 art 4 s 31*

16A.724 HEALTH CARE ACCESS FUND.

A health care access fund is created in the state treasury. The fund is a direct appropriated special revenue fund. The commissioner shall deposit to the credit of the fund money made available to the fund. Notwithstanding section 11A.20, after June 30, 1997, all investment income and all investment losses attributable to the investment of the health care access fund not currently needed shall be credited to the health care access fund.

History: *1992 c 549 art 9 s 1; 1995 c 234 art 9 s 1*

16A.73 [Repealed, 1984 c 654 art 2 s 155]

16A.75 [Repealed, 1981 c 356 s 377]

16A.751 [Repealed, 1981 c 356 s 377]

16A.752 [Repealed, 1981 c 356 s 377]

16A.753 [Repealed, 1981 c 356 s 377]

16A.754 [Repealed, 1981 c 356 s 377]

16A.79 MATCHING FEDERAL APPROPRIATIONS.

Specific appropriations that are made to match federal appropriations shall be considered change requests in the following biennial budget submission if, during the biennium, the federal funding has been reduced or eliminated.

History: *1990 c 594 art 1 s 45*

16A.80 [Repealed, 1993 c 192 s 110]

16A.85 MASTER LEASE.

Subdivision 1. **Authorization.** The commissioner of administration may determine, in conjunction with the commissioner of finance, the personal property needs of the various state departments, agencies, boards, commissions and the legislature of the kinds of property identified in this subdivision that may be economically funded through a master lease program and request the commissioner of finance to execute a master lease. The master lease may be used only to finance the following kinds of purchases:

(a) The master lease may be used to finance purchases by the commissioner of administration with money from an internal services fund.

(b) The master lease may be used to refinance a purchase of equipment already purchased under a lease–purchase agreement.

(c) The master lease may be used to finance purchases of large equipment with a capital value of more than $100,000 and a useful life of more than ten years.

(d) The legislature may specifically authorize a particular purchase to be financed using the master lease. The legislature anticipates that this authorization will be given only to finance the purchase of major pieces of equipment with a capital value of more than $10,000.

The commissioner of finance may authorize the sale and issuance of certificates of participation relative to a master lease in an amount sufficient to fund these personal property needs. The term of the certificates must be less than the expected useful life of the equipment whose purchase is financed by the certificates. The commissioner of administration may use the proceeds from the master lease or the sale of the certificates of participation to acquire the personal property through the appropriate procurement procedure in chapter 16B. Money appropriated for the lease or acquisition of this personal property is appropriated to the commissioner of finance to make master lease payments.

Subd. 2. **Covenants.** The commissioner of finance may covenant in a master lease that the state will abide by the terms and provisions that are customary in net lease or lease–purchase transactions including, but not limited to, covenants providing that the state:

(1) will maintain insurance as required under the terms of the lease agreement;

(2) is responsible to the lessor for any public liability or property damage claims or costs related to the selection, use, or maintenance of the leased equipment, to the extent of insurance or self–insurance maintained by the lessee, and for costs and expenses incurred by the lessor as a result of any default by the lessee;

(3) authorizes the lessor to exercise the rights of a secured party with respect to the equipment subject to the lease in the event of default by the lessee and, in addition, for the present recovery of lease rentals due during the current term of the lease as liquidated damages.

Subd. 3. **Master leases not debt.** The commissioner of finance may not enter into a master lease unless the commissioner of finance has conducted a demand survey of the amount of projected rentals and determines that money has been appropriated and allotted for the payment of the maximum amount of rentals that are projected to be payable from state money and that are projected to be due or to become due during the appropriation period in which the lease contract is entered into. A master lease does not constitute or create a general or moral obligation or indebtedness of the state in excess of the money from time to time appropriated or otherwise available for the payment of rent coming due under the lease, and the state has no continuing obligation to appropriate money for the payment of rent or other obligations under the lease. Rent due under a master lease during a current lease term for which money has been appropriated is a current expense of the state.

Subd. 4. **Tax exemption.** Property subject to a master lease is not subject to personal property taxes. Property purchased by a lessor for lease to the state under a valid master lease and rent due under the lease are not subject to sales tax.

Subd. 5. **Investment income.** The net income from investment of the proceeds of the certificates of participation, as estimated by the commissioner of finance, must be credited to the fund whose assets will be used to pay off the certificates of participation.

Subd. 6. **Budget offset.** The commissioner of finance shall reduce the operating budgets of state agencies that use the master lease program. The amount of the reduction is the difference between the budgeted purchase price of the equipment and the actual master lease payments.

History: *1Sp1985 c 13 s 116; 1987 c 404 s 78; 1989 c 271 s 7,8; 1990 c 506 art 2 s 8; 1994 c 643 s 38*