16A.99 TOBACCO APPROPRIATION BONDS.

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

(b) "Appropriation bond" means a bond, note, or other similar instrument of the state payable during a biennium in whole or in part from tobacco settlement revenues and from one or more of the following sources:

(1) money appropriated by law in any biennium for debt service due with respect to obligations described in subdivision 2, paragraph (b);

(2) proceeds of the sale of obligations described in subdivision 2, paragraph (b);

(3) payments received for that purpose under agreements and ancillary arrangements described in subdivision 2, paragraph (d); and

(4) investment earnings on amounts in clauses (1) to (3).

(c) "Consent judgment" means the consent judgment, as the same has been and may be corrected, amended or modified, in the action styled as *The State of Minnesota, By Hubert Humphrey, III, Its Attorney General, and Blue Cross and Blue Shield of Minnesota v. Philip Morris Incorporated, et al.*, No. C1-94-8565 (Minnesota District Court, Second Judicial District, May 8, 1998).

(d) "Debt service" means the amount payable in any biennium of principal, premium, if any, and interest on appropriation bonds.

(e) "Settlement agreement" means the settlement agreement and Stipulation for Entry of Consent Judgment, dated May 8, 1998, between the State of Minnesota, By Hubert Humphrey, III, Its Attorney General, and Blue Cross and Blue Shield of Minnesota, on the one hand, and Philip Morris Incorporated, et al., on the other hand, and the subject of the consent judgment.

(f) "Tobacco settlement revenues" means all tobacco settlement payments received by the state on and after July 21, 2011, and required to be made, pursuant to the terms of the settlement agreement, by participating manufacturers and the state's rights to receive the tobacco settlement payments on and after July 21, 2011, exclusive of any payments made with respect to liability to make those payments for calendar years completed before July 21, 2011.

Subd. 2. **Authority.** (a) Subject to the limitations of this subdivision, the commissioner may sell and issue appropriation bonds of the state under this section for public purposes as provided by law. Proceeds of the bonds must be credited to a special appropriation bond proceeds fund in the state treasury. Net income from investment of the proceeds, as estimated by the commissioner, must be credited to the special appropriation bond proceeds fund.

(b) Appropriation bonds may be sold and issued in amounts that, in the opinion of the commissioner, are necessary to provide sufficient funds, not to exceed $640,000,000 and subject to the limitation in section 16A.97, for achieving the purposes authorized as provided under paragraph (a), and pay debt service, pay costs of issuance, make deposits to reserve funds, pay the costs of credit enhancement, or make payments under other agreements entered into under paragraph (d); provided, however, that bonds issued and unpaid shall not exceed $800,000,000 in principal amount, excluding refunding bonds sold and issued under subdivision 4.

(c) Appropriation bonds may be issued from time to time in one or more series on the terms and conditions the commissioner determines to be in the best interests of the state, but the term on any series of bonds may

not exceed 30 years. The bonds of each issue shall be dated and bear interest, and may be includable in or excludable from the gross income of the owners for federal income tax purposes.

(d) At the time of, or in anticipation of, issuing the appropriation bonds, and at any time thereafter, so long as the appropriation bonds are outstanding, the commissioner may enter into agreements and ancillary arrangements relating to the appropriation bonds, including but not limited to trust indentures, liquidity facilities, remarketing or dealer agreements, letter of credit agreements, insurance policies, guaranty agreements, reimbursement agreements, indexing agreements, or interest exchange agreements. Any payments made or received according to the agreement or ancillary arrangement shall be made from or deposited as provided in the agreement or ancillary arrangement. The determination of the commissioner included in an interest exchange agreement that the agreement relates to an appropriation bond shall be conclusive.

(e) The commissioner may enter into written agreements or contracts relating to the continuing disclosure of information necessary to comply with, or facilitate the issuance of appropriation bonds in accordance with federal securities laws, rules, and regulations, including Securities and Exchange Commission rules and regulations in Code of Federal Regulations, title 17, section 240.15c 2-12. An agreement may be in the form of covenants with purchasers and holders of appropriation bonds set forth in the order or resolution authorizing the issuance of the appropriation bonds, or a separate document authorized by the order or resolution.

(f) The appropriation bonds are not subject to chapter 16C.

Subd. 3. **Form; procedure.** (a) Appropriation bonds may be issued in the form of bonds, notes, or other similar instruments, and in the manner provided in section 16A.672. In the event that any provision of section 16A.672 conflicts with this section, this section shall control.

(b) Every appropriation bond shall include a conspicuous statement of the limitation established in subdivision 6.

(c) Appropriation bonds may be sold at either public or private sale upon such terms as the commissioner shall determine are not inconsistent with this section and may be sold at any price or percentage of par value. Any bid received may be rejected.

(d) Appropriation bonds may bear interest at a fixed or variable rate.

(e) Notwithstanding any other law, appropriation bonds issued pursuant to this section shall be fully negotiable.

Subd. 4. **Refunding bonds.** The commissioner from time to time may issue appropriation bonds for the purpose of refunding any appropriation bonds then outstanding, including the payment of any redemption premiums on the bonds, any interest accrued or to accrue to the redemption date, and costs related to the issuance and sale of the refunding bonds. The proceeds of any refunding bonds may, in the discretion of the commissioner, be applied to the purchase or payment at maturity of the appropriation bonds to be refunded, to the redemption of the outstanding bonds on any redemption date, or to pay interest on the refunding bonds and may, pending application, be placed in escrow to be applied to the purchase, payment, retirement, or redemption. Any escrowed proceeds, pending such use, may be invested and reinvested in obligations that are authorized investments under section 11A.24. The income earned or realized on the investment may also be applied to the payment of the bonds to be refunded or interest or premiums on the refunded bonds, or to pay interest on the refunding bonds. After the terms of the escrow have been fully satisfied, any balance of the proceeds and any investment income may be returned to the general fund or, if applicable, the appropriation bond proceeds account for use in any lawful manner. All refunding bonds issued under this

subdivision must be prepared, executed, delivered, and secured by appropriations in the same manner as the bonds to be refunded.

Subd. 5. **Appropriation bonds as legal investments.** Any of the following entities may legally invest any sinking funds, money, or other funds belonging to them or under their control in any appropriation bonds issued under this section:

(1) the state, the investment board, public officers, municipal corporations, political subdivisions, and public bodies;

(2) banks and bankers, savings and loan associations, credit unions, trust companies, savings banks and institutions, investment companies, insurance companies, insurance associations, and other persons carrying on a banking or insurance business; and

(3) personal representatives, guardians, trustees, and other fiduciaries.

Subd. 6. **No full faith and credit; state not required to make appropriations.** The appropriation bonds are not public debt of the state, and the full faith, credit, and taxing powers of the state are not pledged to the payment of the appropriation bonds or to any payment that the state agrees to make under this section. Appropriation bonds shall not be obligations paid directly, in whole or in part, from a tax of statewide application on any class of property, income, transaction, or privilege. Appropriation bonds shall be payable in each fiscal year only from amounts that the legislature may appropriate for debt service for any fiscal year, provided that nothing in this section shall be construed to require the state to appropriate funds sufficient to make debt service payments with respect to the bonds in any fiscal year. Appropriation bonds shall be canceled and shall no longer be outstanding on the earlier of (1) the first day of a fiscal year for which the legislature shall not have appropriated amounts sufficient for debt service, or (2) the date of final payment of the principal of and interest on the appropriation bonds.

Subd. 7. **Appropriation of proceeds.** The proceeds of appropriation bonds and interest credited to the special appropriation bond proceeds fund are appropriated to the commissioner for payment of working capital, capital expenses, debt service on outstanding indebtedness of the state and the funding of debt service reserves for the appropriation bonds, each as permitted by state and federal law, and nonsalary expenses incurred in conjunction with the sale of the appropriation bonds.

Subd. 8. **Appropriation for debt service.** The amount needed to pay principal and interest on appropriation bonds issued under this section is appropriated each year to the commissioner from the general fund subject to the repeal, unallotment under section 16A.152, or cancellation otherwise pursuant to subdivision 6.

Subd. 9. **Validation.** (a) Appropriation bonds issued pursuant to this section may be validated in the manner provided by this subdivision. Nothing in this subdivision shall be construed to prevent sale or delivery of any appropriation bonds or notes after entry of a judgment of validation by the Minnesota Supreme Court.

(b) Any appropriation bonds issued pursuant to this section that are validated shall be validated in the manner provided by this subdivision.

(c) The Minnesota Supreme Court shall have original jurisdiction to determine the validation of appropriation bonds and all matters connected therewith.

(d) The commissioner may determine the commissioner's authority to issue appropriation bonds and the legality of all proceedings in connection therewith. For this purpose a complaint shall be filed by the commissioner in the Minnesota Supreme Court against the state and the taxpayers and citizens thereof.

(e) As a condition precedent to filing of a complaint for the validation of appropriation bonds, the commissioner shall take action providing for the issuance of such appropriation bonds in accordance with law.

(f) The complaint shall set out the state's authority to issue appropriation bonds, the action or proceeding authorizing the issue and its adoption, all other essential proceedings had or taken in connection therewith, the amount of the bonds to be issued and the maximum interest they are to bear, and all other pertinent matters.

(g) The Minnesota Supreme Court shall issue an order directed against the state and taxpayers, citizens and others having or claiming any right, title, or interest affected by the issuance of appropriation bonds, or to be affected thereby, allowing all persons, in general terms and without naming them, and the state through its attorney general to appear before the Minnesota Supreme Court at a designated time and place and show why the complaint should not be granted and the proceedings and bonds validated. A copy of the complaint and order shall be served on the attorney general at least 20 days before the time fixed for hearing. The attorney general shall examine the complaint, and, if it appears or there is reason to believe that it is defective, insufficient, or untrue, or if in the opinion of the attorney general the issuance of the bonds in question has not been duly authorized, defense shall be made by the attorney general as the attorney general deems appropriate.

(h) Before the date set for hearing, as directed by the Minnesota Supreme Court, either the clerk of the Minnesota Appellate Courts or the commissioner shall publish a copy of the order in a legal newspaper of general circulation in Ramsey County and the state, at least once each week for two consecutive weeks, commencing with the first publication, which shall not be less than 20 days before the date set for hearing. By this publication, all taxpayers, citizens, and others having or claiming any right, title, or interest in the state, are made parties defendant to the action and the Minnesota Supreme Court has jurisdiction of them to the same extent as if named as defendants in the complaint and personally served with process.

(i) Any taxpayer, citizen, or person interested may become a party to the action by moving against or pleading to the complaint at or before the time set for hearing. The Minnesota Supreme Court shall determine all questions of law and fact and make such orders as will enable it to properly try and determine the action and render a final judgment within 30 days of the hearing with the least possible delay.

(j) If the judgment validates such appropriation bonds, such judgment is forever conclusive as to all matters adjudicated and as against all parties affected and all others having or claiming any right, title, or interest affected by the issuance of said bonds, or to be affected in any way thereby, and the validity of said bonds or of any revenues pledged for the payment thereof, or of the proceedings authorizing the issuance thereof, including any remedies provided for their collection, shall never be called in question in any court by any person or party.

(k)(1) Bonds, when validated under this section, shall have stamped or written thereon, by the proper officers of the state issuing them, a statement in substantially the following form: "This bond is one of a series of bonds which were validated by judgment of the Supreme Court of the State of Minnesota, rendered on ....., (year) ....."

(2) A certified copy of the judgment or decree shall be received as evidence in any court in this state.

(l) The costs shall be paid by the state, except when a taxpayer, citizen, or other person contests the action or intervenes, the court may tax the whole or any part of the costs against the person that is equitable.

(m) A justice of the Minnesota Supreme Court is not disqualified in any validation action because the justice is a landowner or taxpayer of the state.

History: *1Sp2011 c 7 art 11 s 4; 2024 c 85 s 7*