

32B-2-301 State property -- Liquor Control Fund -- Markup Holding Fund.

- (1) The following are property of the state:
 - (a) the money received in the administration of this title, except as otherwise provided; and
 - (b) property acquired, administered, possessed, or received by the department.
- (2)
 - (a) There is created an enterprise fund known as the "Liquor Control Fund."
 - (b) Except as provided in Sections 32B-3-205 and 32B-2-304, money received in the administration of this title shall be transferred to the Liquor Control Fund.
- (3)
 - (a) There is created an enterprise fund known as the "Markup Holding Fund."
 - (b) In accordance with Section 32B-2-304, the State Tax Commission shall deposit revenue remitted to the State Tax Commission from the markup imposed under Section 32B-2-304 into the Markup Holding Fund.
 - (c) Money deposited into the Markup Holding Fund may be expended:
 - (i) to the extent appropriated by the Legislature; and
 - (ii) to fund the deposits required by Subsection 32B-2-304(4) and Subsection 32B-2-305(4).
- (4) The department may draw from the Liquor Control Fund only to the extent appropriated by the Legislature or provided for by statute, except that the department may draw by warrant without an appropriation from the Liquor Control Fund for an expenditure that is directly incurred by the department:
 - (a) to purchase an alcoholic product;
 - (b) to transport an alcoholic product from the supplier to a warehouse of the department; and
 - (c) for variances related to an alcoholic product.
- (5) The department shall transfer annually from the Liquor Control Fund and the State Tax Commission shall transfer annually from the Markup Holding Fund to the General Fund a sum equal to the amount of net profit earned from the sale of liquor since the preceding transfer of money under this Subsection (5). The transfers shall be calculated by no later than September 1 and made by no later than September 30 after a fiscal year. The Division of Finance may make year-end closing entries in the Liquor Control Fund and the Markup Holding Fund in order to comply with Subsection 51-5-6(2).
- (6)
 - (a) By the end of each day, the department shall:
 - (i) make a deposit to a qualified depository, as defined in Section 51-7-3; and
 - (ii) report the deposit to the state treasurer.
 - (b) A commissioner or department employee is not personally liable for a loss caused by the default or failure of a qualified depository.
 - (c) Money deposited in a qualified depository is entitled to the same priority of payment as other public funds of the state.
- (7) If the cash balance of the Liquor Control Fund is not adequate to cover a warrant drawn against the Liquor Control Fund by the department, the cash resources of the General Fund may be used to the extent necessary. At no time may the fund equity of the Liquor Control Fund fall below zero.

Amended by Chapter 349, 2013 General Session