Subd. 4. **REMEDY.** The sole remedy for a violation of subdivision 2 is a civil action for damages. Damages are limited to wages and benefits lost by the individual because of the violation. A court shall award the prevailing party in the action, whether plaintiff or defendant, court costs and a reasonable attorney fee.

Presented to the governor April 17, 1992

Signed by the governor April 29, 1992, 8:02 a.m.

CHAPTER 539—S.F.No. 1917

An act relating to the state board of investment; management of funds under board control; authorizing certain investments by the board; amending Minnesota Statutes 1990, sections 11A.14, subdivision 2; 11A.16, subdivision 5; 11A.17, subdivisions 1, 4, 9, 14, and by adding a subdivision; 11A.18, subdivision 11; 116P.11; 352D.04, subdivision 1; 352D.09, subdivision 7; and 354B.05, subdivision 3; Minnesota Statutes 1991 Supplement, sections 11A.24, subdivision 4; 353D.05, subdivisions 2 and 3; and 354B.07, subdivision 2.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1990, section 11A.14, subdivision 2, is amended to read:

Subd. 2. **ASSETS.** The assets of the combined investment funds shall consist of the money certified to and received by the state board from participating retirement plans and funds which shall be used to purchase investment shares in the appropriate investment accounts. Each participating fund shall own an undivided participation in all the assets of the particular accounts of the combined funds in which it participates. As of any date, the total claim of a participating fund on the assets in each account shall be equal to the ratio of units owned by a fund in each account to the total issued units then outstanding.

Sec. 2. Minnesota Statutes 1990, section 11A.16, subdivision 5, is amended to read:

Subd. 5. **CALCULATION OF INCOME.** As of the end of each fiscal year, the state board shall calculate the investment income earned by the permanent school fund. The investment income earned by the fund shall equal the amount of interest on debt securities and dividends on equity securities. Gains and losses arising from the sale of securities shall be apportioned as follows:

(a) If the sale of securities results in a net gain during a fiscal year, the gain shall be apportioned in equal installments over the next ten fiscal years to offset net losses in those years. If any portion of an installment is not needed to recover subsequent losses identified in paragraph (b) it shall be added to the principal of the fund.

New language is indicated by underline, deletions by ~~strikeout~~.

(b) If the sale of securities results in a net loss during a fiscal year, the net loss shall be recovered first from the gains in paragraph (a) apportioned to that fiscal year. If these gains are insufficient, any remaining net loss shall be recovered from interest and dividend income in equal installments over ~~a period equal to (a) the average period prior to maturity remaining on the debt securities which were sold if the sale of debt securities resulted in the loss, or (b) over a period of five years if the sale of equity securities resulted in the loss unless there is a net gain in the sale of securities sufficient to eliminate the amount of the loss prior to the end of the period. In any fiscal year in which gains on the sale of securities exceed the losses on the sales of securities, the excess shall be added to~~ the ~~principal of the fund~~ the following ten fiscal years.

Sec. 3. Minnesota Statutes 1990, section 11A.17, subdivision 1, is amended to read:

Subdivision 1. **PURPOSE.** The purpose of the supplemental investment fund is to provide an investment vehicle for the assets of various public retirement plans and funds. The fund consists of six investment accounts: an income share account, a growth share account, a money market account, a ~~guaranteed return~~ fixed interest account, a bond market account, and a common stock index account. The supplemental investment fund is a continuation of the supplemental retirement fund in existence on January 1, 1980.

Sec. 4. Minnesota Statutes 1990, section 11A.17, subdivision 4, is amended to read:

Subd. 4. **INVESTMENT.** The assets of the supplemental investment fund must be invested by the state board subject to section 11A.24; provided, however, that:

(1) the bond market account and the money market account must be invested entirely in debt obligations;

(2) the growth share account and the common stock index account may be invested entirely in corporate stocks; and

(3) the ~~guaranteed return~~ fixed interest account may be invested ~~entirely~~ in guaranteed investment contracts and debt obligations.

Sec. 5. Minnesota Statutes 1990, section 11A.17, subdivision 9, is amended to read:

Subd. 9. **VALUATION OF INVESTMENT SHARES.** The value of investment shares in the income share account, the growth share account, the bond market account, and the common stock index account must be determined by dividing the total market value of the securities constituting the respective account by the total number of shares then outstanding in the investment account. The value of investment shares in the money market account and the ~~guaranteed return~~ fixed interest account is $1 a share. Terms as to withdrawal schedules will be agreed upon by the public retirement fund and the state board.

Sec. 6. Minnesota Statutes 1990, section 11A.17, is amended by adding a subdivision to read:

Subd. 10a. **DISTRIBUTION OF EARNINGS.** Once each month the state board shall deduct from the investment earnings of each account an amount equal to one-twelfth of an annual charge equal to one-tenth of one percent of the assets in each account. Unless otherwise directed by the participating plan or fund, the state board shall distribute the deductions to participating plans or funds to pay administrative expenses. Any deductions not distributed must be used to purchase additional units in the accounts.

Sec. 7. Minnesota Statutes 1990, section 11A.17, subdivision 14, is amended to read:

Subd. 14. **PROCEDURES FOR DISTRIBUTION OF INCOME FOR MONEY MARKET ACCOUNT, AND ~~GUARANTEED RETURN~~ FIXED INTEREST ACCOUNT.** At the end of each ~~fiscal year, and at other times that the state board might determine appropriate~~ month, the state board shall determine the earnings of the money market account and the ~~guaranteed return~~ fixed interest account and deduct from the earnings an amount equal to one-twelfth of an annual charge equal to one-tenth of one percent of the assets in each account. ~~The~~ Unless otherwise directed by the participating plan or fund, the state board shall distribute the deductions to participating plans or funds to pay administrative expenses. Any earnings not deducted and distributed must be used to purchase additional shares in the respective accounts on behalf of each participating public retirement plan or fund.

Sec. 8. Minnesota Statutes 1990, section 11A.18, subdivision 11, is amended to read:

Subd. 11. **ADJUSTMENT FOR MORTALITY GAINS AND LOSSES.** As of June 30 annually, the commission-retained actuary shall calculate the amount of required reserves representing any mortality gains and any mortality losses incurred by each participating public pension fund or plan during the fiscal year and report the results of those calculations to the applicable participating public pension fund or plan. The actuary shall report separately the amount of the reserves for annuitants and benefit recipients who are eligible for a postretirement benefit adjustment and the amount of reserves for annuitants and benefit recipients who are not eligible for a postretirement benefit adjustment. If the net amount of required reserves represents a mortality gain, the participating public pension fund or plan shall certify that amount to the state board, which shall sell sufficient securities or transfer sufficient available cash to equal the amount of money certified. If the amount of required reserves represents a mortality loss, the participating public pension fund or plan shall transfer to the state board an amount equal to the amount of the net mortality loss. The amount of the transfers shall be determined before any postretirement benefit adjustments have been made. All transfers resulting from mortality adjustments shall be completed annually by December 31 for the preceding June 30. Interest shall be charged or credited on any transfers after December 31 based upon the ~~average short-term rate earned by the postretirement investment fund~~ preretirement interest assumption for the participating plan or fund as specified in section 356.215, subdivision 4d, stated as a monthly rate. Book values of the assets of the fund for the purposes of subdivision 9 shall be determined only after all adjustments for mortality gains and losses for the fiscal year have been made.

Sec. 9. Minnesota Statutes 1991 Supplement, section 11A.24, subdivision 4, is amended to read:

Subd. 4. **OTHER OBLIGATIONS.** (a) The state board may invest funds in bankers acceptances, certificates of deposit, deposit notes, commercial paper, mortgage participation certificates and pools, repurchase agreements and reverse repurchase agreements, guaranteed investment contracts, savings accounts, and guaranty fund certificates, surplus notes, or debentures of domestic mutual insurance companies if they conform to the following provisions:

(1) bankers acceptances and deposit notes of United States banks are limited to those issued by banks rated in the highest four quality categories by a nationally recognized rating agency;

(2) certificates of deposit are limited to those issued by United States banks and savings institutions that are rated in the highest four quality categories by a nationally recognized rating agency or whose certificates of deposit are fully insured by federal agencies;

(3) commercial paper is limited to those issued by United States corporations or their Canadian subsidiaries and rated in the highest two quality categories by a nationally recognized rating agency;

(4) mortgage participation or pass through certificates evidencing interests in pools of first mortgages or trust deeds on improved real estate located in the United States where the loan to value ratio for each loan as calculated in accordance with section 61A.28, subdivision 3, does not exceed 80 percent for fully amortizable residential properties and in all other respects meets the requirements of section 61A.28, subdivision 3;

(5) collateral for repurchase agreements and reverse repurchase agreements is limited to letters of credit and securities authorized in this section;

(6) guaranteed investment contracts are limited to those issued by insurance companies or banks rated in the top four quality categories by a nationally recognized rating agency or to alternative guaranteed investment contracts where the underlying assets comply with the requirements of this section; and

(7) savings accounts are limited to those fully insured by federal agencies.

(b) Sections 16A.58 and 16B.06 do not apply to ~~certifications~~ certificates of deposit and collateralization agreements executed by the state board under paragraph (a), clause (2).

(c) In addition to investments authorized by paragraph (a), clause (4), the state board may purchase from the Minnesota housing finance agency all or any part of a pool of residential mortgages, not in default, that has previously been financed by the issuance of bonds or notes of the agency. The state board may also enter into a commitment with the agency, at the time of any issue of bonds or notes, to purchase at a specified future date, not exceeding 12 years from the date of the issue, the amount of mortgage loans then outstanding and not in default that have been made or purchased from the proceeds of the bonds or notes. The state board may charge reasonable fees for any such commitment and may agree to purchase the mortgage loans at a price sufficient to produce a yield to the state board comparable, in its judgment, to the yield available on similar mortgage loans at the date of the bonds or notes. The state board may also enter into agreements with the agency for the investment of any portion of the funds of the agency. The agreement must cover the period of the investment, withdrawal privileges, and any guaranteed rate of return.

Sec. 10. Minnesota Statutes 1990, section 116P.11, is amended to read:

116P.11 **AVAILABILITY OF FUNDS FOR DISBURSEMENT.**

(a) The amount biennially available from the trust fund for the budget plan developed by the commission consists of the interest earnings generated from the trust fund. Interest earnings generated from the trust fund shall equal the amount of interest on debt securities and dividends on equity securities. Gains and losses arising from the sale of securities shall be apportioned as follows:

(1) if the sale of securities results in a net gain during a fiscal year, the gain shall be apportioned in equal installments over the next ten fiscal years to offset net losses in those years. If any portion of an installment is not needed to recover subsequent losses identified in paragraph (b), it shall be added to the principal of the fund; and

(2) if the sale of securities results in a net loss during a fiscal year, the net loss shall be recovered from the gains in paragraph (a) apportioned to that fiscal year. If such gains are insufficient, any remaining net loss shall be recovered from interest and dividend income in equal installments over the following five fiscal years.

(b) For funding projects through fiscal year 1997, the following additional amounts are available from the trust fund for the budget plans developed by the commission:

(1) for the 1991-1993 biennium, up to 25 percent of the revenue deposited in the trust fund in fiscal years 1990 and 1991;

(2) for the 1993-1995 biennium, up to 20 percent of the revenue deposited in the trust fund in fiscal year 1992 and up to 15 percent of the revenue deposited in the fund in fiscal year 1993; and

(3) for the 1995-1997 biennium, up to ten percent of the revenue deposited in the fund in fiscal year 1994 and up to five percent of the revenue deposited in the fund in fiscal year 1995.

(c) Any appropriated funds not encumbered in the biennium in which they are appropriated cancel and must be credited to the principal of the trust fund.

Sec. 11. Minnesota Statutes 1990, section 352D.04, subdivision 1, is amended to read:

Subdivision 1. (a) An employee exercising an option to participate in the retirement program provided by this chapter may elect to purchase shares in one or a combination of the income share account, the growth share account, the money market account, the bond market account, the ~~guaranteed return~~ fixed interest account, or the common stock index account established in section 11A.17. The employee may elect to participate in one or more of the investment accounts in the fund by specifying, on a form provided by the executive director, the percentage of the employee's contributions provided in subdivision 2 to be used to purchase shares in each of the accounts.

(b) Twice in any calendar year, a participant may indicate in writing on forms provided by the Minnesota state retirement system a choice of options for subsequent purchases of shares. Until a different written indication is made by the participant, the executive director shall purchase shares in the supplemental fund as selected by the participant. If no initial option is chosen, 100 percent income shares must be purchased for a participant. A change in choice of investment option is effective no later than the first pay date first occurring after 30 days following the receipt of the request for a change.

(c) One month before the start of a new guaranteed investment contract, a participant or former participant may elect to transfer all or a portion of the participant's shares previously purchased in the income share, growth share, common stock index, bond market, or money market accounts to the new guaranteed investment contract in the ~~guaranteed return~~ fixed interest account. Upon expiration of a guaranteed investment contract, the participant's shares attributable to that contract must be transferred to a new guaranteed investment contract unless the executive director is otherwise directed by the participant. Shares in the ~~guaranteed return~~ fixed interest account may not be withdrawn from the fund or transferred to another account until the guaranteed investment contract has expired, unless the participant qualifies for withdrawal under section 352D.05 or for benefit payments under sections 352D.06 to 352D.075.

(d) Twice in any calendar year a participant or former participant may also change the investment options selected for all or a portion of the participant's shares previously purchased in accounts other than the ~~guaranteed return~~ fixed interest account. Changes in investment options for the participant's shares must be effected as soon as cash flow to an account practically permits, but not later than six months after the requested change.

Sec. 12. Minnesota Statutes 1990, section 352D.09, subdivision 7, is amended to read:

Subd. 7. Up to one-tenth of one percent of salary shall be deducted from the employee contributions and up to one-tenth of one percent of salary from the employer contributions authorized by section 352D.04, subdivision 2, to pay the administrative expenses of the unclassified program.

Sec. 13. Minnesota Statutes 1991 Supplement, section 353D.05, subdivision 2, is amended to read:

Subd. 2. **INVESTMENT OPTIONS.** (a) A participant may elect to purchase shares in the income share account, the growth share account, the money market account, the bond market account, the ~~guaranteed return~~ fixed interest account, or the common stock index account established by section 11A.17, or a combination of those accounts. The participant may elect to purchase shares in a combination of those accounts by specifying the percentage of the total contributions and ambulance service personnel incentive allocation to be used to purchase shares in each of the accounts.

(b) A participant may indicate in writing a choice of options for subsequent purchases of shares. After a choice is made, until the participant makes a different written indication, the executive director of the association shall purchase shares in the supplemental investment fund or funds specified by the participant. If no initial option is indicated by a participant or the specifications made by the participant exceed 100 percent to be invested in more than one account, the executive director shall invest all contributions made by or on behalf of a participant in the income share account. If the specifications are less than 100 percent, the executive director shall invest the remaining percentage in the income share account. A choice of investment options is effective no later than the first pay date occurring more than 30 days after receipt of the written choice of options.

(c) One month before the start of a new guaranteed investment contract, a participant may elect to transfer all or a portion of the participant's shares previously purchased in the income share, growth share, common stock index, bond market, or money market accounts to the new guaranteed investment contract in the ~~guaranteed return~~ fixed interest account. Upon expiration of a guaranteed investment contract, the participant's shares attributable to that contract must be transferred to a new guaranteed investment contract unless the executive director is otherwise directed by the participant. Shares in the ~~guaranteed return~~ fixed interest account may not be withdrawn from the fund or transferred to another account until the guaranteed investment contract has expired, unless the participant qualifies for a benefit payment under section 353D.07.

(d) A participant or former participant may also change the investment options selected for all or a portion of the individual's previously purchased shares in accounts other than the guaranteed return account. A change under this paragraph is effective as soon as cash flow to an account permits, but not later than six months from the requested change.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 14. Minnesota Statutes 1991 Supplement, section 353D.05, subdivision 3, is amended to read:

Subd. 3. **ADMINISTRATIVE EXPENSES.** ~~The public employees retirement association may deduct an amount to defray the expenses of the association in administering the plan. The amount must be set annually by~~ The executive director of the association~~, but not to exceed two percent of the total amount of the employing unit contributions to the plan and the ambulance service personnel incentive allocation received by the plan~~ shall annually set an amount to recover the costs of the association in administering the public employees defined contribution plan. If the amount recovered under section 11A.17 does not meet the annual costs of administering the defined contribution plan, the executive director may assess an additional amount up to two percent of the employer and employee contributions.

Sec. 15. Minnesota Statutes 1990, section 354B.05, subdivision 3, is amended to read:

Subd. 3. **SELECTION OF FINANCIAL INSTITUTIONS.** The supplemental investment fund administered by the state board of investment is one of the investment options for the plan. The state university board and the community college board shall select no more than two other financial institutions to provide annuity contracts or custodial accounts. Each board may at its discretion change a selection of an institution. Investment programs offered by the institutions must meet the requirements of section 401(a) or 403(b) of the Internal Revenue Code of 1986, as amended. In making their selections, the boards shall consider these criteria:

(1) the experience and ability of the financial institution to provide retirement and death benefits suited to the needs of the covered employees;

(2) the relationship of the benefits to their cost; and

(3) the financial strength and stability of the institution.

The chancellor of the state university system and the chancellor of the state community college system shall redeem all shares in the accounts of the Minnesota supplemental investment fund held on behalf of personnel in the supplemental plan who elect an investment option other than the supplemental investment fund, except that shares in the ~~guaranteed return~~ fixed interest account must not be redeemed until the expiration dates for the guaranteed investment contracts. The chancellors shall transfer the cash realized to the financial institutions selected by the state university board and the community college board under section 354B.05.

Sec. 16. Minnesota Statutes 1991 Supplement, section 354B.07, subdivision 2, is amended to read:

Subd. 2. **REDEMPTIONS.** The chancellor of the state university system and the chancellor of the state community college system shall redeem all shares in the accounts of the Minnesota supplemental investment fund held on behalf of personnel in the supplemental plan who elect an investment option other than the supplemental investment fund, except that shares in the ~~guaranteed return~~ fixed interest account may not be redeemed until the expiration dates for the guaranteed investment contracts. The chancellors shall transfer the cash realized to the financial institutions selected by the state university board and the community college board under section 354B.05.

Sec. 17. **EFFECTIVE DATE.**

Sections 1 to 16 are effective July 1, 1992.

Presented to the governor April 17, 1992

Signed by the governor April 27, 1992, 1:57 p.m.

CHAPTER 540—S.F.No. 2463

An act relating to insurance; solvency; making various technical corrections; requiring notice; regulating business transacted with a producer controlled insurer; modifying various provisions relating to the guaranty association; amending Minnesota Statutes 1990, sections 45.025, subdivision 2, as amended; 60A.03, subdivision 6; 60A.10, subdivision 4; 61B.03, subdivision 5; 61B.06, subdivision 7; and 61B.12, by adding subdivisions; Minnesota Statutes 1991 Supplement, sections 60A.031, subdivision 1; 60A.092, subdivision 3; 60A.11, subdivisions 13 and 20; 60A.112; 60A.12, subdivision 10; 60A.124; 60D.17, subdivision 1; 61A.28, subdivision 1; and 61B.12, subdivision 6; Laws 1991, chapter 325, article 5, section 6; proposing coding for new law in Minnesota Statutes, chapters 60C; and 60J; repealing Minnesota Statutes 1991 Supplement, sections 60J.01; 60J.02; 60J.03; 60J.04; 60J.05; and 72A.206.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

ARTICLE 1

BUSINESS TRANSACTED WITH PRODUCER CONTROLLED PROPERTY/CASUALTY INSURER ACT

Section 1. **[60J.06] SHORT TITLE.**

Sections 1 to 6 may be cited as the "business transacted with producer controlled insurer act."

Sec. 2. **[60J.07] DEFINITIONS.**