

## CHAPTER 11A

### INVESTMENT OF STATE AND PENSION ASSETS

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#### 11A.01 STATEMENT OF PURPOSE.

The purpose of sections 11A.01 to 11A.25 is to establish standards which will insure that state and pension assets subject to this legislation will be responsibly invested to maximize the total rate of return without incurring undue risk.

**History:** 1980 c 607 art 14 s 1

#### 11A.02 DEFINITIONS.

Subdivision 1. For the purposes of sections 11A.01 to 11A.25, the terms defined in this section shall have the meanings given them.

Subd. 2. "State board" means the Minnesota state board of investment created by article XI, section 8 of the constitution of the state of Minnesota for the purpose of administering and directing the investment of all state funds and pension funds.

Subd. 3. "Council" means the investment advisory council created by section 11A.08.

Subd. 4. "Fund" means any of the individual funds, including but not limited to the permanent school fund, general fund of the state, retirement funds and other funds and accounts for which the state board has responsibilities.

Subd. 5. "Director" means the executive director of the state board.

Subd. 6. "Management" means the performance or delegation of general management duties relating to any fund established pursuant to this chapter.

**History:** 1980 c 607 art 14 s 2

#### 11A.03 STATE BOARD; MEMBERSHIP; ORGANIZATION.

Pursuant to article XI, section 8, of the constitution of the state of Minnesota, the state board shall be composed of the governor, state auditor, state treasurer, secretary of state and attorney general. The governor shall serve as ex officio chairman of the state board.

**History:** 1980 c 607 art 14 s 3

#### 11A.04 DUTIES AND POWERS.

The state board shall:

(1) Act as trustees for each fund for which it invests or manages moneys in accordance with the standard of care set forth in section 11A.09.

(2) Formulate policies and procedures deemed necessary and appropriate to carry out its functions. Procedures adopted by the board shall allow fund beneficiaries and members of the public to become informed of proposed board actions. Procedures and policies of the board shall not be subject to the administrative procedure act.

(3) Employ an executive director as provided in section 11A.07.

(4) Employ investment advisors and consultants as it deems necessary.

(5) Prescribe policies concerning personal investments of all employees of the board to prevent conflicts of interest.

(6) Maintain a record of its proceedings.

(7) As it deems necessary, establish advisory committees subject to the provisions of section 15.059 to assist the board in carrying out its duties.

(8) Not permit state funds to be used for the underwriting or direct purchase of municipal securities from the issuer or his agent.

(9) Direct the state treasurer to sell property other than money which has escheated to the state when the board determines that sale of the property is in the best interest of the state. Escheated property shall be sold to the highest bidder in the manner and upon terms and conditions prescribed by the board.

(10) Undertake any other activities necessary to implement the duties and powers set forth in this section.

(11) Establish a formula or formulas to measure management performance and return on investment. All public pension funds in the state shall utilize the formula or formulas developed by the state board.

(12) Except as otherwise provided in article XI, section 8 of the constitution of the state of Minnesota, employ, at its discretion, qualified private firms to invest and manage the assets of funds over which the state board has investment management responsibility. There is annually appropriated to the state board, from the assets of the funds for which the state board utilizes a private investment manager, sums sufficient to pay the costs therefor. Each year, by January 15, the board shall report to the governor and legislature on the cost and the investment performance of each investment manager employed by the board.

**History:** 1980 c 607 art 14 s 4; 1982 c 587 s 1

#### **11A.07 EXECUTIVE DIRECTOR.**

Subdivision 1. **Selection.** The state board shall select an executive director.

Subd. 2. **Qualifications.** The director of the state board shall be well qualified by training to administer and invest the money available for investment and possess experience in the management of institutional investment portfolios. The director shall be in the unclassified state service and serve at the pleasure of the state board.

Subd. 3. [Repealed, 1983 c 305 s 28]

Subd. 4. **Duties and powers.** The director, at the direction of the state board, shall:

(1) Plan, direct, coordinate and execute administrative and investment functions in conformity with the policies and directives of the state board.

(2) Employ such professional and clerical staff as is necessary within the complement limits established by the legislature. Employees whose primary responsibility is to invest or manage moneys or employees who hold positions designated as unclassified pursuant to section 43A.08, subdivision 1a shall be in the unclassified service of the state. Other employees shall be in the classified service.

(3) Report to the state board on all operations under his control and supervision.

(4) Maintain accurate and complete records of securities transactions and official activities.

(5) Establish a policy relating to the purchase and sale of all securities on the basis of competitive offerings or bids. The policy is subject to board approval.

(6) Cause all securities acquired to be kept in the custody of the state treasurer or such other depositories as the state board deems appropriate.

(7) Prepare and file with the director of the legislative reference library on or before December 31 of each year, a report summarizing the activities of the state board, the council and the director during the preceding fiscal year. The report shall be prepared so as to provide the legislature and the people of the state with a clear, comprehensive summary of the portfolio composition, the transactions, the total annual rate of return and the yield to the state treasury and to each of the funds whose assets are invested by the state board, and the recipients of business placed or commissions allocated among the various commercial banks, investment bankers and brokerage organizations. This report shall contain financial statements for funds managed by the board prepared in accordance with generally accepted accounting principles.

(8) Require state officials from any department or agency to produce and provide access to any financial documents the state board deems necessary in the conduct of their investment activities.

(9) Receive and expend legislative appropriations.

(10) Undertake any other activities necessary to implement the duties and powers set forth in this subdivision.

**History:** 1980 c 607 art 14 s 5; 1982 c 560 s 3; 1983 c 324 s 1

## 11A.08 INVESTMENT ADVISORY COUNCIL.

**Subdivision 1. Membership.** There is created an investment advisory council consisting of 17 members. Ten of these members shall be experienced in general investment matters. They shall be appointed by the state board. The other seven members shall be: the commissioner of finance; the executive director of the Minnesota state retirement system; the executive director of the public employees retirement association; the executive director of the teachers retirement association; a retiree currently receiving benefits from the post retirement investment fund; and two public employees who are active members of funds whose assets are invested by the state board. The retiree and the public employees shall be appointed by the governor for four year terms.

**Subd. 2. Duties and powers.** The council shall:

(1) Advise the state board and the director on general policy matters relating to investments;

(2) Advise the state board and the director on methods to improve the rate of return on invested money while insuring adequate security for that money;

(3) Advise the state board and the director on the form and content of the report required by section 11A.07, subdivision 4, clause (7), so that the report clearly and objectively discloses the investment activities of the state board and the director;

(4) Perform other tasks of an advisory nature as requested by the state board.

**Subd. 3. Officers; meetings.** The council shall annually elect a chairman and vice chairman from among its members, and may elect other officers as necessary. The council shall meet upon the call of the chairman of the council or the chairman of the state board.

Subd. 4. **Terms; compensation; removal; vacancies; expiration.** The membership terms, compensation, removal of members appointed by the state board, filling of vacancies of members, and expiration of the council shall be as provided in section 15.059 except that council members shall not receive a per diem.

Subd. 5. **Liability; indemnification.** A member of the council shall be indemnified and held harmless by the state for any reasonable costs or expenses incurred as a result of any actual or threatened litigation or administrative proceedings arising out of the performance of the member's duties, except an action brought by the state or agency thereof arising from the failure of a council member to perform duties in the manner prescribed in section 11A.09.

Subd. 6. **Conflict of interest; economic interest statement.** No member of the council may participate in deliberations or vote on any matter before the council which will or is likely to result in direct, measurable economic gain to the member. Additionally, no member of the council appointed by the state board may participate in deliberations or vote on any matter before the council which will or is likely to result in direct, measurable economic gain to his employer. Members of the council shall file with the board of ethical practices an economic interest statement in a manner as prescribed by section 10A.09, subdivisions 5 and 6.

**History:** 1980 c 607 art 14 s 6; 1981 c 298 s 3; 3Sp1982 c 1 art 2 s 3; 1983 c 260 s 4; 1983 c 324 s 2; 1984 c 654 art 2 s 38

#### 11A.09 STANDARD OF CARE.

In the discharge of their respective duties, the members of the state board, director, board staff, members of the council and any other person charged with the responsibility of investing money pursuant to the standards set forth in sections 11A.01 to 11A.25 shall act in good faith and shall exercise that degree of judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived therefrom.

**History:** 1980 c 607 art 14 s 7

#### 11A.10 DUTIES OF OTHER OFFICIALS.

Subdivision 1. **Custody of securities.** The state treasurer and other custodians of securities belonging to the various funds shall provide in the appropriate cases the state board and its delegates with reasonable access thereto. Each security shall be held as an asset of the fund from which the investment expenditure was made.

Subd. 2. **Escheated property.** The commissioner of finance shall report immediately to the state board all personal property other than money received by the state of Minnesota as escheated property. If the state board elects to sell escheated property, all moneys received from the sale shall be credited to the general fund of the state.

Subd. 3. **Audits.** State audits of the activities of the state board and its delegates shall be conducted by the legislative auditor.

Subd. 4. **Office space.** The commissioner of administration shall provide the director and staff with suitable office and storage space in the state capitol complex as near as practicable to the office of the state treasurer.

**History:** 1980 c 607 art 14 s 8

**11A.11 INVESTMENT AND EXPENSE APPROPRIATION.**

There is appropriated to the state board annually, and from time to time, the various moneys as are available for investment in the various funds subject to their supervision and control, for the purposes of the purchase, sale, exchange and lending of securities, reinvestment activities, payment of the execution expenses of securities transactions, amortization of premiums or accumulation of discounts, and contribution and redemption of participation in the funds.

**History:** 1980 c 607 art 14 s 9

**11A.12 GAINS AND LOSSES; DISPOSITION.**

All interest and profit accruing from and all losses incurred by investment activity shall be credited to or borne by the fund from which the investment was made.

**History:** 1980 c 607 art 14 s 10

**11A.13 ASSETS AND DOCUMENTATION.**

Subdivision 1. **Legal title to fund assets.** Legal title to the assets of state funds to be invested by the state board shall be in the state of Minnesota, or its nominees. Legal title to pension funds to be invested by the state board shall be in the state board, or its nominees, as trustees for any person having a beneficial interest in the applicable fund subject to the rights of the particular funds maintaining shares, investment participation or units in the accounts to their credit.

Subd. 2. **Rights of employees; validity of documentation.** The rights of any public employee to any assets in the retirement funds shall be as fixed by the law or laws authorizing or requiring a retirement fund to purchase or order the redemption of investment participations or units on behalf of the public employee. The state board may rely on the documents, forms and applications of the various retirement funds which accompany money for investment or orders to redeem assets as being made in concert with the applicable law and with the rights of the public employees concerned. Accordingly, the state board need not inquire into the legality or validity of any documents, forms and applications.

**History:** 1980 c 607 art 14 s 11

**11A.14 MINNESOTA COMBINED INVESTMENT FUNDS.**

Subdivision 1. **Establishment.** The Minnesota combined investment funds are established for the purpose of providing investment vehicles for assets of the participating funds. The combined funds shall consist of the following investment accounts: cash management accounts, equity accounts, fixed income accounts, and any other accounts determined appropriate by the state board.

Subd. 2. **Assets.** The assets of the combined investment funds shall consist of the moneys 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 combined funds. 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.

Subd. 3. **Management.** The combined investment funds shall be managed by the state board.

Subd. 4. **Investments.** The assets of the combined investment funds shall be invested by the state board subject to the provisions of section 11A.24, except that any individual account may be completely invested in a single asset class.

Subd. 5. **Participating public retirement plans or funds.** The following public retirement plans and funds shall participate in the Minnesota combined investment funds:

- (1) State employees retirement fund established pursuant to chapter 352;
- (2) Correctional employees retirement plan established pursuant to chapter 352;
- (3) State patrol retirement fund established pursuant to chapter 352B;
- (4) Public employees retirement fund established pursuant to chapter 353;
- (5) Public employees police and fire fund established pursuant to chapter 353;
- (6) Teachers retirement fund established pursuant to chapter 354;
- (7) Judges retirement fund established pursuant to chapter 490; and
- (8) Any other fund required by law to participate.

Subd. 6. **Initial transfer of assets.** As of July 1, 1980, or a later date as determined by the state board, the participating funds shall transfer to the combined investment funds all appropriate securities then held together with cash necessary for the purchase of units in the combined fund accounts.

Subd. 7. **Initial valuation of assets and units.** All assets transferred to the Minnesota combined investment funds shall be valued at their current market value as determined by the state board, including accrued interest. The initial value of each account unit shall be \$1,000 with each participating fund allocated units in the various accounts of the Minnesota combined investment funds in the same proportion as their assets are to the total assets in each account.

Subd. 8. **Realized appreciation (depreciation).** Any realized gains or losses in the value of investments incurred by a transferring fund pursuant to subdivision 7 shall be recognized on the date of the transfer.

Subd. 9. **Valuation of units.** (1) Valuation of units for the accounts in the Minnesota combined investment funds shall be performed as of the last business day of each month, or more frequently should the state board determine that additional valuation dates are necessary.

(2) The value of a unit for each account shall be determined by the following procedure:

(a) As of the close of business on the valuation date the state board shall determine the fair market value of each asset in each account, using the references, pricing services, consultants, or other methods as the state board deems appropriate.

(b) The sum total of the market value of all securities plus cash, less the value of undistributed income in each account, shall be divided by the number of units issued and outstanding for the account to determine the value per account unit.

Subd. 10. **Purchase and redemption of units.** Purchase and redemption of units shall be on the first business day following the valuation date. All transactions shall be at the unit value established on the immediately preceding valuation date. Except for the initial purchase of units by an authorized participant, all purchases and redemptions shall be made in cash unless the state board determines that an exception is necessary.

Subd. 11. **Earnings defined.** Investment earnings shall be the sum total of the following of each account:

(1) Dividends receivable on securities trading ex-dividend to and including the valuation date.

(2) Cash dividends received to and including the valuation date that were not accounted for on a previous valuation date.

(3) Accrued interest to and including the valuation date.

(4) Interest received which had not been accrued and accounted for on a prior valuation date.

(5) Income from the sale of options, rights, warrants, or security lending.

(6) Other income received to and including the valuation date.

**Subd. 12. Distribution of earnings.** At least once each year the state board shall distribute to each participant net earnings determined proportionately in accordance with their average unit holdings in each account during the period. Unless otherwise directed by the participating fund, any distributions shall be used to purchase additional units in the accounts.

**Subd. 13. Records required.** The executive director of the state board shall keep accounting records. The records shall reflect the number of units in the Minnesota combined investment funds owned by each participating fund. No certificates or other evidence of ownership shall be required.

**Subd. 14. Reports required.** As of each valuation date, or as often as the state board determines, each participant shall be informed of the number of units owned and the current value of the units. Annually, the state board shall provide each participant financial statements prepared in accordance with generally accepted accounting principles.

**History:** 1980 c 607 art 14 s 12; 1981 c 37 s 2; 1984 c 383 s 1

## 11A.15 STATE BOND FUND.

**Subdivision 1. Establishment.** Pursuant to article XI, section 7, of the constitution of the state of Minnesota, there is hereby established a state bond fund for the purpose of the timely payment of principal and interest on bonds for which the full faith and credit of the state has been pledged. The state bond fund shall be a continuation of the state bond fund in existence on January 1, 1980.

**Subd. 2. Assets.** Any money appropriated to the state bond fund, any income arising from the invested assets of the state bond fund which is not immediately required to pay the principal or interest on state bonds and any proceeds arising from the sale of any securities in the state bond fund shall constitute the assets of the state bond fund.

**Subd. 3. Management.** The state bond fund shall be managed by the state treasurer who shall, from time to time, certify to the state board those portions of the state bond fund which in the judgment of the state treasurer are not required for immediate use.

**Subd. 4. Investment.** The state board shall invest assets of the state bond fund subject to the provisions of section 11A.25.

**Subd. 5. Withdrawal of assets.** Securities sufficient to equal the amount of money certified by the state treasurer as necessary to pay the principal or interest due on state bonds in excess of any cash on hand shall be sold at the request of the state treasurer and the certified amount of money shall be transferred to the state treasurer.

**Subd. 6. Credit of income towards subsequent appropriations.** Notwithstanding provisions of section 11A.12, the net income of the state bond fund after the recovery of any losses from the sale of securities shall be deducted from the amount

of any subsequent appropriations for the payment of principal and interest of state bonds.

**History:** 1980 c 607 art 14 s 13

#### 11A.16 PERMANENT SCHOOL FUND.

**Subdivision 1. Establishment.** Pursuant to article XI, section 8, of the constitution of the state of Minnesota, there is hereby established a permanent school fund which shall be a continuation of the permanent school fund in existence on January 1, 1980.

**Subd. 2. Assets.** The permanent school fund shall consist of the proceeds derived from the school lands, the swamp lands and the internal improvement lands granted to the state and all cash and investments credited to the permanent school fund, to the swamp land fund and to the internal improvement land fund.

**Subd. 3. Management.** The permanent school fund shall be managed by the commissioner of finance.

**Subd. 4. Investment.** The permanent school fund shall be invested by the state board in the following securities as directed by article XI, section 8 of the constitution of the state of Minnesota:

(a) Interest bearing fixed income securities of the United States and its agencies, including securities fully guaranteed by the United States, bonds of Minnesota or its political subdivisions or agencies, or of other states but not more than 50 percent of any issue by a political subdivision:

(b) Stocks of corporations with cash dividends paid from earnings for the five consecutive years prior to purchase, but not more than 20 percent of the fund shall be invested therein nor more than one percent in stock of any one corporation, nor more than five percent of the voting stock of any one corporation shall be owned;

(c) Bonds of corporations whose earnings have been at least three times the interest requirements on outstanding bonds for five consecutive years or longer immediately prior to purchase, but not more than 40 percent of the fund shall be so invested;

(d) The percentages referred to above shall be computed using the cost price of the stocks or bonds.

**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. If the sale of securities results in a net loss during a fiscal year, the 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.

**Subd. 6. Disposition of income.** Notwithstanding provisions of section 11A.12, the income of the permanent school fund as calculated pursuant to subdivision 5, shall be credited to the permanent school fund, and transferred to the school endowment fund as needed for payments made pursuant to section 124.08.

**History:** 1980 c 607 art 14 s 14

NOTE: Subdivision 4 was amended by Laws 1984, chapter 482, section 3 effective upon the ratification of the constitutional amendment proposed in Laws 1984, chapter 482, section 1. See Laws 1984, chapter 482, section 4. The subdivision, as amended, would read as follows:

"Subd. 4. **Investment.** The permanent school fund shall be invested by the state board subject to the provisions of section 11A.24."



**11A.17 MINNESOTA SUPPLEMENTAL INVESTMENT FUND.**

Subdivision 1. **Establishment.** There is hereby established a supplemental investment fund for the purpose of providing an investment vehicle for the assets of various public retirement plans and funds. This fund shall consist of four investment accounts: an income share account, a growth share account, a fixed-return account, and a bond account. The supplemental investment fund shall be a continuation of the supplemental retirement fund in existence on January 1, 1980.

Subd. 2. **Assets.** The assets of the supplemental investment fund shall consist of the moneys certified and transmitted to the state board from the participating public retirement plans and funds and shall be used to purchase investment shares in the investment accounts specified by the plan or fund.

Subd. 3. **Management.** The supplemental investment fund shall be managed by the state board.

Subd. 4. **Investment.** The assets of the supplemental investment fund shall be invested by the state board subject to the provisions of section 11A.24; provided, however, that the fixed-return account and the bond account shall be invested entirely in debt obligations and the growth share account may be invested entirely in corporate stocks.

Subd. 5. **Participating public retirement plans or funds.** Any public retirement plan or fund authorized or required by law to invest its assets in the supplemental investment fund may from time to time as provided by law certify moneys to the state board for the purchase of investment shares in the investment accounts of the supplemental investment account. The state board shall credit each purchase of investment shares to the appropriate participating public retirement plan or fund and shall confirm each purchase in writing to the appropriate plan or fund. Each participating public retirement plan or fund shall maintain adequate records to account for moneys certified to the supplemental investment fund.

Subd. 6. **Participation in fund.** Each public retirement plan or fund which has certified moneys to the state board for investment in the supplemental investment fund shall have a participation in each investment account of the fund in which it has moneys invested. The participation shall be determined by the ratio of the number of shares credited to the public retirement plan or fund to the total number of shares in that account.

Subd. 7. **Purchase of shares.** The state board shall allocate shares in the investment account or accounts at least monthly following the receipt of the funds for purchase of shares from the public retirement plan or fund as specified in the certification. The purchase price for shares shall be determined using the procedure specified in subdivision 9.

Subd. 8. **Redemption of shares.** The state board shall redeem shares in the investment account or accounts on the first business day after the valuation date next following the receipt of the request for redemption of shares from the public retirement plan or fund. The redemption value for shares shall be determined using the procedure specified in subdivision 9. Moneys representing the value of the redeemed shares shall be transmitted to the public retirement plan or fund making the request.

Subd. 9. **Valuation of investment shares.** The value of investment shares in the income share investment account or in the growth share investment account shall 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. Whenever the value of investment shares of an investment account has exceeded \$10 per share for a period of six consecutive months, each investment share in the investment account may be split at the direction of the board

on a two new shares for one prior share basis. The value of investment shares in the fixed-return investment account and the bond account shall be \$5 per share; provided, however, if the account shares are redeemed by a public retirement fund where the shares are not attributable to the individual account of any person prior to the expiration of the multi-year period set by the board for the payment of the applicable assumed rate, the value of the investment shares shall be at market value. Terms as to withdrawal schedules will be agreed upon by the public retirement fund and the state board. Notwithstanding the provisions of section 11A.12, the investment income earned by the fixed-return investment account shall be used to purchase additional shares on behalf of each participating public retirement plan or fund.

**Subd. 10. Certifications for investment and requests for redemption.** The state board may specify the required forms for certifications of moneys for investment and requests for redemption of investment shares and may require the filing of any other documents which it deems necessary.

**Subd. 11. Prospectus.** Annually, on or before July 1, the state board shall prepare and shall issue a prospectus for the supplemental investment fund with separate exhibits for each investment account. The exhibit for each account shall list for each security representing the current assets of the account the following items, whichever are applicable:

- (1) The purchase price of the security;
- (2) The current market value of the security;
- (3) The current dividend or interest rate of the security;
- (4) The rating of a debt security issued by a nationally recognized rating agency if it is other than a security issued or guaranteed by the United States government.

The prospectus shall set forth the statutory provisions governing the supplemental investment fund.

Sufficient copies of the prospectus shall be transmitted to each public retirement plan or fund participating in the supplemental investment account to meet the plan or fund's distribution requirements. Ten copies of the prospectus shall be filed with the director of the legislative reference library.

**Subd. 12. Deferred yield adjustment account for the bond account of the supplemental investment fund.** There is hereby established a deferred yield adjustment account which shall be increased by the sale or disposition of any debt securities at less than book value and shall be decreased by the sale or disposition of debt securities at more than book value. At the end of each fiscal year, a portion of the balance of this account shall be offset against the investment income for that year. The annual portion of the balance to be offset shall be proportional to the reciprocal of the period over which the established rate was set, unless the amounts are offset by gains on the future sales of securities. In any fiscal year in which the gains on the sales of debt securities exceed the discounts realized on the sales of such securities, the excess shall be used to reduce the balance of the account.

**Subd. 13. Rate of interest for fixed return account and bond account.** At the beginning of each fiscal year, the state board shall set an assumed interest rate for moneys invested in the accounts during that year, with the rate applicable to all sums invested during that 12 month period. At the end of the 12 months, the state board may determine for the bond account the period over which the established rate is to apply to funds so invested, depending on the average yield and maturity of the securities purchased. At the end of the 12 months, the state board may determine the annual rate for moneys invested in the fixed return account based on the average yield for the year. Any earnings accrued to the accounts above the rate earlier indicated may be used to purchase additional shares on behalf of each

participating public retirement plan or fund at fiscal year end after necessary reserves are established.

**History:** 1980 c 607 art 14 s 15; 1981 c 208 s 1; 1981 c 224 s 14; 1983 c 324 s 3

#### 11A.18 MINNESOTA POST-RETIREMENT INVESTMENT FUND.

**Subdivision 1. Establishment.** There is hereby established a post-retirement investment fund for the purpose of providing an investment vehicle for the reserves for various retirement annuities and benefits payable by the participating retirement funds and plans. The post-retirement investment fund shall be a continuation of the Minnesota adjustable fixed benefit fund in existence on January 1, 1980.

**Subd. 2. Assets.** The assets of the post-retirement investment fund shall consist of the moneys representing the reserves for various retirement annuities and benefits payable by participating retirement funds and plans which have been certified to and received by the state board from the participating public retirement funds and plans.

**Subd. 3. Management.** The post-retirement investment fund shall be managed by the state board.

**Subd. 4. Investment.** The assets of the post-retirement investment fund shall be invested by the state board subject to the provisions of section 11A.24.

**Subd. 5. Deferred yield adjustment account.** There is hereby established a deferred yield adjustment account which shall be increased by the sale or disposition of any debt securities at less than book value and shall be decreased by the sale or disposition of debt securities at more than book value. At the end of each fiscal year, a portion of the balance of this account shall be offset against the investment income for that year. The annual portion of the balance to be offset shall be proportional to the reciprocal of the average remaining life of the bonds sold, unless the amounts are offset by gains on the future sales of these securities. The amount of this account shall be included in the recognized value of assets other than corporate stocks and all other equity investments. In any fiscal year in which the gains on the sales of debt securities exceed the discounts realized on the sales of such securities, the excess shall be used to reduce the balance of the account. If the realized capital gains are sufficient to reduce the balance of the account to zero, any excess gains shall be available for the calculation of post-retirement adjustments made according to subdivision 9.

**Subd. 6. Participating public retirement funds or plans.** Any public retirement fund or plan authorized by law to participate in the post-retirement investment fund shall no later than the commencement of a benefit payment from the post-retirement investment fund, certify and transfer to the state board moneys equal to the actuarially determined reserves required for those retirement annuities and benefits which are payable by the public retirement fund or plan and which are specified in law to be included in the participation in the fund. The state board shall confirm in writing each certification and transfer of moneys made by a participating public retirement fund or plan. Each participating public retirement fund or plan shall maintain adequate records to account for moneys transferred to the post-retirement investment fund.

**Subd. 7. Participation in fund.** Each participating public retirement fund or plan which has transferred moneys to the state board for investment in the post-retirement investment fund shall have an undivided participation in the fund. The participation on any valuation date shall be determined by adding to the participation on the prior valuation date: (a) funds transferred in accordance with subdivision 6, (b) the amount of required investment income on its participation as

defined in subdivision 9, clause (1)(c) and (c) the reserves for any benefit adjustment made as of the current valuation date with the result adjusted for any mortality gains or losses determined pursuant to subdivision 11.

**Subd. 8. Withdrawal of moneys.** Upon certification by the applicable executive director that a portion of the certified moneys representing the required reserves for various retirement annuities or benefits payable from the participating public retirement fund or plan are required for the payment of a retirement annuity or benefit, the state board shall sell sufficient securities or transfer sufficient available cash to equal the amount of money certified as required and shall order the transfer of that amount to the appropriate executive director.

**Subd. 9. Calculation of post-retirement adjustment.** Annually, following June 30, the state board shall determine whether a post-retirement adjustment shall be payable and shall determine the amount of any post-retirement adjustment which shall be payable.

(1) The state board shall determine whether a post-retirement adjustment shall be payable using the following procedure:

(a) The state board shall determine the amount of dividends, interest, accruals and realized capital gains or losses applicable to the most recent fiscal year ending June 30;

(b) The participating public pension funds or plans shall determine the amount of reserves required for every annuitant and benefit recipient as of the current June 30. Every annuitant or benefit recipient who has been receiving an annuity or benefit for at least one year as of the current June 30 shall be eligible to receive a post-retirement adjustment. Each fund shall report separately the amount of the reserves for those annuitants and benefit recipients who are eligible to receive a post-retirement benefit adjustment and those annuitants and benefit recipients who are not eligible to receive a post-retirement adjustment. The amount of the required reserves shall be certified to the board as soon as is practical following the current June 30;

(c) The state board shall determine the amount of investment income required to equal five percent of the required reserves as of the preceding June 30 adjusted by five percent of each transfer in or transfer out multiplied by the fraction of a year from the date of transfer to the current June 30. This amount of required investment income shall be subtracted from the actual amount of investment income determined according to clause (1)(a), to determine the amount of excess investment income. If this amount is positive, then a post-retirement adjustment may be paid.

(2) The state board shall determine the amount of any post-retirement adjustment which is payable using the following procedure:

(a) The state board shall determine the amount of excess investment income by the method indicated in clause (1);

(b) The participating public pension funds and plans shall certify to the state board the total required reserves as of the first of January next following the end of the fiscal year for the annuitants and benefit recipients eligible to receive the post-retirement adjustment as determined by clause (1)(b). The required reserves shall be determined on the assumption that all annuitants and benefit recipients eligible to receive the post-retirement adjustment will be alive on the January 1 in question;

(c) If the state board determines that the book value of the assets of the fund is less than an amount equal to 100 percent of the current June 30 required reserves, with the book value and required reserves to be determined after the adjustments provided for in subdivision 11, then the board shall allocate five percent of the excess investment income as an asset of the fund. The excess investment income allocated

as an asset of the fund shall not exceed the difference between book value and required reserves. The remaining amount shall be termed available for distribution. The book value of assets on any given date shall be the net assets at cost less the excess investment income determined pursuant to clause (1)(c);

(d) The resulting total amount available for distribution shall be increased by 2-1/2 percent, and the result shall be stated as a percentage of the total required reserves pursuant to clause (2)(b), and if the percentage is equal to or greater than one percent, the amount shall be certified to each participating public pension fund or plan as the amount of the post-retirement adjustment. If the percentage is less than one percent, the amount shall be credited to a separate reserve established for this purpose. The reserve shall be invested in the same manner as all other assets of the fund and shall be credited with any investment income as specified in clause (1)(a). Amounts credited to the reserve shall be utilized in determining a post-retirement adjustment in the subsequent year. The amount certified shall be carried to five decimal places and stated as a percentage.

**Subd. 10. Payment of post-retirement adjustment.** Upon receiving the certification of the amount of the post-retirement adjustment from the state board, each participating public pension fund or plan shall determine the amount of the post-retirement adjustment payable to each eligible annuitant and benefit recipient. The dollar amount of the post-retirement adjustment payable to each annuitant or benefit recipient shall be calculated by applying the certified post-retirement adjustment percentage to the amount of the monthly annuity or benefit payable to each eligible annuitant or benefit recipient. The post-retirement adjustment shall commence to be paid on January 1 following the calculations required pursuant to this section and shall thereafter be included in the monthly annuity or benefit paid to the recipient. Notwithstanding section 356.18, any adjustment pursuant to this section shall be paid automatically unless the intended recipient files a written notice with the applicable participating public pension fund or plan requesting that the adjustment not be paid.

**Subd. 11. Adjustment for mortality gains and losses.** As of June 30 annually, the actuary of each participating public pension fund or plan shall calculate the amount of required reserves representing any mortality gains and any mortality losses incurred by the fund or plan during the fiscal year. The actuary shall report separately the amount of the reserves for annuitants and benefit recipients who are eligible for a post-retirement benefit adjustment and the amount of reserves for annuitants and benefit recipients who are not eligible for a post-retirement 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 post-retirement 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 post-retirement investment fund. All 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.

**Subd. 12. Appropriation of required amounts.** All moneys necessary to meet the requirements of the certification of withdrawals and all moneys necessary to pay

post-retirement adjustments pursuant to this section are hereby and from time to time appropriated from the post-retirement investment fund to the state board.

**History:** 1980 c 607 art 14 s 16; 1981 c 208 s 2; 1982 c 424 s 1; 1983 c 324 s 4-6

#### 11A.19 VARIABLE ANNUITY INVESTMENT FUND.

**Subdivision 1. Establishment.** There is hereby established a variable annuity investment fund for the purpose of providing an investment vehicle for the assets of the variable annuity program of the teachers retirement association. The variable annuity investment fund shall be a continuation of the variable annuity fund in existence on January 1, 1980.

**Subd. 2. Assets.** The assets of the variable annuity investment fund shall consist of all cash and investments credited to the variable annuity program of the teachers retirement association.

**Subd. 3. Management.** The variable annuity investment fund shall be managed by the state board.

**Subd. 4. Investment.** The assets of the variable annuity investment fund shall be invested by the state board subject to the provisions of section 11A.24 except that:

(a) Up to 100 percent of the book value may be invested in corporate stocks;

(b) Up to six percent of the book value may be invested in the stock of any one corporation;

(c) Up to ten percent of the book value may be invested in corporate stocks which do not conform with the dividend standard provided for in section 11A.24, subdivision 5.

**Subd. 5. Valuation of fund.** The variable annuity investment fund shall be valued by the state board bimonthly, using the closing market prices of the last business days of August, October, December, February, April and June of each fiscal year. The ratio of the total market value of investments to the admitted value of investments at the end of the preceding fiscal year, plus the cost of investments acquired, less the net receipts from investments sold during the fiscal year, shall be determined for each valuation date. The admitted value of the investments of the variable annuity investment fund at the end of each fiscal year shall be the book value of all investments held at that date multiplied by the average of the ratios at the 12 bimonthly valuation dates for the fiscal year and the immediately preceding fiscal year. The book value of investments during any fiscal year shall be the admitted value at the end of the preceding fiscal year or the cost of the investments if acquired during the fiscal year.

**Subd. 6. Accounting procedures.** Notwithstanding provisions of section 11A.12, the following procedures shall be employed by the state board:

(1) The earnings from the investments of the variable annuity investment fund shall consist of dividends, interest and all other income derived from the investments and shall be determined on an accrual basis as of each bimonthly valuation date. The income shall be attributed to those funds in the account at the beginning of the bimonthly period. Earnings from investments shall not include changes in the admitted values of the investments.

(2) Any realized gain or loss shall be recorded in a realized appreciation account, and shall consist of the amount received on sale less the cost of the security. Unrealized gains or losses for any fiscal year shall be determined as provided in subdivision 5.

**Subd. 7. Total annual increment or decrement.** The total annual increment or decrement for any one year shall be the sum of (a) the six bimonthly computa-

tions of earnings as computed under subdivision 6, clause (1); (b) total realized gains or losses for the fiscal year as computed under subdivision 6, clause (2), after adjusting for the approximate unrealized gain or loss evidenced for such securities in the admitted value; and (c) total unrealized gains or losses for the fiscal year as computed under subdivision 6, clause (2).

**Subd. 8. Rate of return.** The total annual increment or decrement divided by the admitted value of the assets of the Minnesota variable annuity investment fund, as computed pursuant to subdivision 5, shall be defined as the rate of return for the fiscal year. The rate of return is to be used as the percentage of increase or decrease which shall be credited to the individual member's account balances at the end of the fiscal year.

**History:** 1980 c 607 art 14 s 17,45 subd 1

#### **11A.20 INVESTMENT OF STATE TREASURY FUNDS NOT CURRENTLY NEEDED.**

**Subdivision 1. Certification of state treasury funds not currently needed.** The state treasurer shall make a report to the commissioner of finance daily or at other times as the commissioner of finance shall determine of the funds in the state treasury together with any other information which the commissioner may prescribe. When there are funds in the state treasury over and above the amount that the commissioner of finance has advised the treasurer is currently needed, the state treasurer shall certify to the state board the amount thereof.

**Subd. 2. Investment.** The certified amount of state treasury funds not currently needed shall be invested by the state board subject to the provisions of section 11A.25.

**Subd. 3. Crediting of investment income.** Notwithstanding provisions of section 11A.12, all investment income and all investment losses attributable to the investment of state treasury funds, other than the game and fish fund, not currently needed shall be credited to the general fund.

**History:** 1980 c 607 art 14 s 18; 1981 c 356 s 254

#### **11A.21 INVESTMENT OF HIGHWAY FUNDS.**

**Subdivision 1. Certification of highway funds.** The commissioner of transportation shall certify to the state board those portions of the trunk highway fund established pursuant to article XIV, section 6 of the constitution of the state of Minnesota, the county state-aid highway fund established pursuant to article XIV, section 7 of the constitution of the state of Minnesota and the municipal state-aid street fund established pursuant to article XIV, section 8 of the constitution of the state of Minnesota which in the judgment of the commissioner are not required for immediate use.

**Subd. 2. Investment.** The certified amount of highway funds not currently needed shall be invested by the state board subject to the provisions of section 11A.25.

**History:** 1980 c 607 art 14 s 19

#### **11A.22 STATE ZOOLOGICAL GARDEN OPERATING RECEIPTS INVESTMENT ACCOUNT.**

**Subdivision 1. Establishment.** There is hereby established a zoological garden operating receipts investment account for the purpose of investing funds not required for immediate use.

Subd. 2. **Certification of receipts.** The state zoological garden board shall, from time to time, certify to the state board the amount of funds available for investment.

Subd. 3. **Investment.** Amounts certified to the state zoological garden operating receipts investment account shall be invested by the state board subject to the provisions of section 11A.25.

Subd. 4. **Crediting of investment income.** Notwithstanding provisions of section 11A.12, all investment income and all investment losses attributable to the investment of the account shall be credited to or borne by the state zoological garden general account.

Subd. 5. **Withdrawal of funds.** Upon certification by the state zoological garden board that moneys in the state zoological garden operating receipts investment account are needed for current purposes, the state board shall sell sufficient securities to equal the amount of moneys certified as needed and shall order the transfer of the moneys to the state zoological garden general account.

**History:** 1980 c 607 art 14 s 20

#### 11A.23 INVESTMENT OF RETIREMENT FUNDS AND PLANS.

Subdivision 1. **Certification of assets not needed for immediate use.** Each executive director administering a retirement fund or plan enumerated in subdivision 4 shall, from time to time, certify to the state board for investment those portions of the assets of the retirement fund or plan which in the judgment of the executive director are not required for immediate use. Assets of the fund or plan required for participation in the Minnesota post-retirement adjustment fund, the combined investment fund, the supplemental investment fund or the variable annuity investment fund shall be transferred to those funds as provided by sections 11A.01 to 11A.25.

Subd. 2. **Investment.** Retirement fund assets certified to the state board pursuant to subdivision 1 shall be invested by the state board subject to the provisions of section 11A.24. Retirement fund assets transferred to the Minnesota post-retirement investment fund, the combined investment fund, the supplemental investment fund or the variable annuity investment fund shall be invested by the state board as part of those funds.

Subd. 3. **Withdrawal of assets.** When an executive director administering a retirement fund or plan enumerated in subdivision 4, certifies to the state board that invested assets of the fund or plan are required for immediate use, the state board shall sell securities to equal the amount of assets certified as required and shall order the transfer of the assets to the appropriate executive director.

Subd. 4. **Covered retirement funds and plans.** The provisions of this section shall apply to the following retirement funds and plans:

- (1) State university and state community college supplemental retirement plan established pursuant to sections 136.80 to 136.87;
- (2) State employees retirement fund established pursuant to chapter 352;
- (3) Correctional employees retirement plan established pursuant to chapter 352;
- (4) State patrol retirement fund established pursuant to chapter 352B;
- (5) Unclassified employees retirement plan established pursuant to chapter 352D;
- (6) Public employees retirement fund established pursuant to chapter 353;
- (7) Public employees police and fire fund established pursuant to chapter 353;
- (8) Teachers' retirement fund established pursuant to chapter 354;



- (9) Judges' retirement fund established pursuant to chapter 490; and
- (10) Any other funds required by law to be invested by the board.

**History:** 1980 c 607 art 14 s 21; 1981 c 37 s 2; 1981 c 208 s 10; 1981 c 224 s 15

#### 11A.24 AUTHORIZED INVESTMENTS.

Subdivision 1. **Securities generally.** The state board shall have the authority to purchase, sell, lend or exchange the following securities for funds or accounts specifically made subject to this section including puts and call options and future contracts traded on a contract market designated and regulated by a federal agency.

Subd. 2. **Government obligations.** The state board may invest funds in governmental bonds, notes, bills, mortgages and other fixed obligations, including guaranteed or insured issues of (a) the United States, its agencies or its instrumentalities; (b) Canada and its provinces, provided the principal and interest is payable in United States dollars; (c) the states and their municipalities, political subdivisions, agencies or instrumentalities, where backed by the state's full faith and credit or if the issuer has not been in default in payments of principal or interest within the past ten years or in the case of revenue bonds the obligor has been completely self-supporting for the five prior years; (d) the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, or any other United States Government sponsored organization of which the United States is a member, provided the principal and interest is payable in United States dollars and the issues are rated in the highest quality category by a nationally recognized rating agency.

Subd. 3. **Corporate obligations.** The state board may invest funds in bonds, notes, debentures, transportation equipment obligations, or any other longer term evidences of indebtedness issued or guaranteed by a corporation organized under the laws of the United States or any state thereof, or the Dominion of Canada or any province thereof if they conform to the following provisions:

(a) The principal and interest of obligations of corporations incorporated or organized under the laws of the Dominion of Canada or any province thereof shall be payable in United States dollars;

(b) The consolidated net pretax earnings of corporations other than finance corporations shall have been on average for the preceding five years at least 1.5 times the annual interest charges on total funded debt applicable to that period;

(c) The consolidated net pretax earnings of banks and finance corporations shall have been on average for the preceding five years at least 1.2 times the annual interest charges on total funded debt applicable to that period;

(d) Obligations shall be rated among the top four quality categories by a nationally recognized rating agency or if unrated, then the corporation shall have other comparably secured issues similarly rated or the consolidated net pretax earnings of the corporation shall have been on average for the preceding five fiscal years at least twice the ratios required in clauses (b) and (c).

Subd. 4. **Other obligations.** The state board may invest funds in bankers acceptances, certificates of deposit, commercial paper, mortgage participation certificates and pools, repurchase agreements and reverse repurchase agreements and savings accounts if they conform to the following provisions:

(a) Bankers acceptances of United States banks shall be limited to those eligible for purchase by the Federal Reserve System;

(b) Certificates of deposit shall be limited to those issued by banks and savings institutions that meet the collateral requirements established in section 9.031, unless

sufficient volume is unavailable at competitive interest rates. In that event, noncollateralized certificates of deposit may be purchased from United States banks and savings institutions that are rated in the highest quality category by a nationally recognized rating agency;

(c) Commercial paper shall be limited to those issued by United States corporations or their Canadian subsidiaries, shall be of the highest quality and mature in 270 days or less;

(d) 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. In addition the state board may purchase from the Minnesota housing finance agency all or any part of any pool of residential mortgages, not in default, which 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 twelve years from the date of the issue, the amount of mortgage loans then outstanding and not in default, which 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 such that the yield thereon to the state board will, in its judgment, be comparable to that 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 for such period, with such withdrawal privileges, and at such guaranteed rate of return, if any, as may be agreed between the state board and the agency.

(e) Repurchase agreements and reverse repurchase agreements shall be limited to the securities described in subdivision 2, clause (a);

(f) Savings accounts shall be limited to those fully insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

**Subd. 5. Corporate stocks.** The state board may invest funds in stocks or convertible issues of any corporation organized under the laws of the United States or the states thereof, the Dominion of Canada or its provinces, or any corporation listed on the New York Stock Exchange or the American Stock Exchange, if they conform to the following provisions:

(a) The aggregate value of corporate stock investments, as adjusted for realized profits and losses, shall not exceed 75 percent of the market or book value, whichever is less, of a fund, less the aggregate value of investments according to subdivision 6;

(b) Investments shall not exceed five percent of the total outstanding shares of any one corporation.

**Subd. 6. Other investments.** (a) In addition to the investments authorized in subdivisions 1 to 5, and subject to the provisions in clause (b), the state board may invest funds in:

(1) Venture capital investment businesses through participation in limited partnerships and corporations;

(2) Real estate ownership interests or loans secured by mortgages or deeds of trust through investment in limited partnerships, bank sponsored collective funds, trusts, and insurance company commingled accounts, including separate accounts;

(3) Regional and mutual funds through bank sponsored collective funds and open-end investment companies registered under the Federal Investment Company Act of 1940; and

(4) Resource investments through limited partnerships, private placements and corporations.

(b) The investments authorized in clause (a) may only be made if they conform to the following provisions:

(1) The aggregate value of all investments made according to clause (a) shall not exceed 20 percent of the market value of the fund for which the state board is investing;

(2) There shall be at least four unrelated owners of the investment other than the state board;

(3) State board participation in an investment vehicle shall be limited to 20 percent thereof; and

(4) State board participation in a limited partnership does not include a general partnership interest or other interest involving general liability. The state board shall not engage in any activity as a limited partner which creates general liability.

**Subd. 7. Appropriation.** There is annually appropriated to the state board, from the assets of the funds for which the state board invests pursuant to subdivision 6, clause (a), sums sufficient to pay the costs for the management of these funds by private management firms.

**History:** 1980 c 607 art 14 s 22; 1981 c 208 s 3-6,9; 1982 c 587 s 2; 1983 c 216 art 1 s 5; 1983 c 324 s 7-9; 1984 c 382 s 1; 1984 c 383 s 2,3

## 11A.25 ADDITIONAL INVESTMENT PROVISIONS.

When investing assets of any funds or accounts specifically made subject to this section or not otherwise referred to in sections 11A.01 to 11A.25, all securities shall be debt obligations maturing within three years of the date of purchase and shall conform to the applicable provisions of section 11A.24.

**History:** 1980 c 607 art 14 s 23