

CHAPTER 11A

INVESTMENT OF STATE AND PENSION ASSETS

11A.01	Statement of purpose.	11A.18	Minnesota postretirement investment fund.
11A.04	Duties and powers.	11A.19	Variable annuity investment fund.
11A.07	Executive director.	11A.22	Repealed.
11A.09	Standard of care.		
11A.13	Assets and documentation.		

11A.01 STATEMENT OF PURPOSE.

The purpose of this chapter is to establish standards, in addition to the applicable standards of chapter 356A, to ensure 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: 1989 c 319 art 8 s 2

11A.04 DUTIES AND POWERS.

The state board shall:

(1) Act as trustees for each fund for which it invests or manages money in accordance with the standard of care set forth in section 11A.09 if state assets are involved and in accordance with chapter 356A if pension assets are involved.

(2) Formulate policies and procedures deemed necessary and appropriate to carry out its functions. Procedures adopted by the board must allow fund beneficiaries and members of the public to become informed of proposed board actions. Procedures and policies of the board are not 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 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 the issuer's agent.

(9) Direct the state treasurer to sell property other than money that has escheated to the state when the board determines that sale of the property is in the best interest of the state. Escheated property must 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. 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 of employing private firms. 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.

(13) Adopt an investment policy statement that includes investment objectives, asset allocation, and the investment management structure for the retirement fund

assets under its control. The statement may be revised at the discretion of the state board. The state board shall seek the advice of the council regarding its investment policy statement. Adoption of the statement is not subject to chapter 14.

History: 1989 c 319 art 8 s 3

11A.07 EXECUTIVE DIRECTOR.

[For text of subds 1 and 2, see M.S.1988]

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 and the requirements of this chapter and of chapter 356A.

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

(3) Report to the state board on all operations under the director's 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 securities on the basis of competitive offerings or bids. The policy is subject to board approval.

(6) Cause securities acquired to be kept in the custody of the state treasurer or other depositories consistent with chapter 356A, as the state board deems appropriate.

(7) Prepare and file with the director of the legislative reference library, by 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 must 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. The report must 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 its 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 consistent with chapter 356A.

[For text of subd 5, see M.S.1988]

History: 1989 c 319 art 8 s 4

11A.09 STANDARD OF CARE.

In the discharge of their respective duties, the members of the state board, director, board staff, and 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. In addition, for the investment of pension fund assets,

the members and director of the state board and members of the investment advisory council shall act in accordance with chapter 356A.

History: 1989 c 319 art 8 s 5

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 must be in the state of Minnesota, or its nominees. Legal title to pension funds to be invested by the state board must be as specified in section 356A.06.

[For text of subd 2, see M.S.1988]

History: 1989 c 319 art 8 s 6

11A.18 MINNESOTA POSTRETIREMENT INVESTMENT FUND.

[For text of subds 1 to 8, see M.S.1988]

Subd. 9. **Calculation of postretirement adjustment.** Annually, following June 30, the state board shall determine whether a postretirement adjustment is payable and shall determine the amount of any postretirement adjustment that is payable.

(1) The state board shall determine whether a postretirement adjustment is 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 amount of reserves required for the annuity or benefit payable to an annuitant and benefit recipient of the participating public pension plans or funds shall be determined by the commission-retained actuary as of the current June 30. An annuitant or benefit recipient who has been receiving an annuity or benefit for at least 12 full months as of the current June 30 is eligible to receive a full postretirement adjustment. An annuitant or benefit recipient who has been receiving an annuity or benefit for at least one full month, but less than 12 full months as of the current June 30, is eligible to receive a partial postretirement adjustment. Each fund shall report separately the amount of the reserves for those annuitants and benefit recipients who are eligible to receive a full postretirement benefit adjustment. This amount is known as "eligible reserves." Each fund shall also report separately the amount of the reserves for those annuitants and benefit recipients who are not eligible to receive a postretirement adjustment. This amount is known as "noneligible reserves." For an annuitant or benefit recipient who is eligible to receive a partial postretirement adjustment, each fund shall report separately as additional "eligible reserves" an amount that bears the same ratio to the total reserves required for the annuitant or benefit recipient as the number of full months of annuity or benefit receipt as of the current June 30 bears to 12 full months. The remainder of the annuitant's or benefit recipient's reserves shall be separately reported as additional "noneligible reserves." The amount of "eligible" and "noneligible" required reserves shall be certified to the board by the commission-retained actuary 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 total amount 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 postretirement adjustment may be paid.

(2) The state board shall determine the amount of any postretirement 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 total "eligible" 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 a full or partial postretirement adjustment as determined by clause (1)(b) shall be certified to the state board by the commission-retained actuary. The total "eligible" required reserves shall be determined by the commission-retained actuary on the assumption that all annuitants and benefit recipients eligible to receive a full or partial postretirement 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 the total amount 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 state 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 amount of the 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 full postretirement adjustment amount. If the percentage is less than one percent, no postretirement adjustment shall be payable in that year and the amount otherwise available for distribution 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 postretirement adjustment in the subsequent year. The amount of any full postretirement adjustment certified by the state board as payable to the participating public pension plans or funds shall be carried to five decimal places and stated as a percentage.

(e) A retirement annuity payable in the event of retirement before becoming eligible for social security benefits as provided in section 352.116, subdivision 3; 353.29, subdivision 6; or 354.35 must be treated as the sum of a period certain retirement annuity and a life retirement annuity for the purposes of any postretirement adjustment. The period certain retirement annuity plus the life retirement annuity shall be the annuity amount payable until age 62 or 65, whichever applies. A postretirement adjustment granted on the period certain retirement annuity must terminate when the period certain retirement annuity terminates.

Subd. 10. Payment of postretirement adjustment. Upon receiving the certification of the amount of the full postretirement adjustment from the state board, each participating public pension fund or plan shall determine the amount of the postretirement adjustment payable to each eligible annuitant and benefit recipient. The dollar amount of the postretirement adjustment shall be calculated by applying the certified postretirement adjustment percentage to the amount of the monthly annuity or benefit payable to each eligible annuitant or benefit recipient eligible for a full adjustment.

The dollar amount of the partial postretirement adjustment payable to each annuitant or benefit recipient eligible for a partial adjustment shall be calculated by first determining a partial percentage amount that bears the same ratio to the certified full adjustment percentage amount as the number of full months of annuity or benefit receipt as of the current June 30 bears to 12 full months. The partial percentage amount determined shall then be applied to the amount of the monthly annuity or benefit payable to each annuitant or benefit recipient eligible to receive a partial postretirement adjustment. The postretirement adjustments 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 adjustments 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.

[For text of subs 11 and 12, see M.S.1988]

History: 1989 c 319 art 14 s 1,2

11A.19 VARIABLE ANNUITY INVESTMENT FUND.

[For text of subs 1 to 8, see M.S.1988]

Subd. 9. Effective June 30, 1989, all assets of the variable annuity investment fund must be transferred to the Minnesota combined investment funds to the credit of the teachers retirement fund established under chapter 354.

History: 1989 c 319 art 9 s 1

11A.22 [Repealed, 1989 c 335 art 4 s 109]