

CHAPTER 11A

INVESTMENT OF STATE AND PENSION ASSETS

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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: 1980 c 607 art 14 s 1; 1989 c 319 art 8 s 2

11A.02 DEFINITIONS.

Subdivision 1. **Applicability.** 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.** "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.** "Council" means the Investment Advisory Council created by section 11A.08.

Subd. 4. **Fund.** "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.** "Director" means the executive director of the state board.

Subd. 6. **Management.** "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, secretary of state, and attorney general. The governor shall serve as ex officio chair of the state board.

History: 1980 c 607 art 14 s 3; 1986 c 444; 1998 c 387 art 2 s 3

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 commissioner of finance 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.

(14) Adopt a compensation plan setting the terms and conditions of employment for unclassified board employees who are not covered by a collective bargaining agreement.

There is annually appropriated to the state board, from the assets of the funds for which the state board provides investment services, sums sufficient to pay the costs of all necessary expenses for the administration of the board. These sums will be deposited in the State Board of Investment operating account, which must be established by the commissioner of finance.

History: 1980 c 607 art 14 s 4; 1982 c 587 s 1; 1986 c 444; 1987 c 372 art 8 s 1; 1989 c 319 art 8 s 3; 1993 c 244 art 2 s 1; 1998 c 254 art 1 s 2; 2003 c 112 art 2 s 50; 2005 c 55 s 1; 2006 c 277 art 4 s 2

11A.041 REPORT ON POSTRETIREMENT INVESTMENT FUND INVESTMENT PERFORMANCE AND ADJUSTMENT CALCULATION.

The State Board of Investment shall annually report to the Legislative Commission on Pensions and Retirement, the house of representatives Governmental Operations and Gaming Committee, and the senate Governmental Operations and Reform Committee on the investment performance investment activities, and postretirement adjustment calculations of the Minnesota postretirement investment fund established under section 11A.18. The annual report must be filed before January 1. The contents of the report must include the reporting requirements specified by the Legislative Commission on Pensions and Retirement as part of the standards adopted by the commission under section 3.85, subdivision 10. The report also may include any additional information that the State Board of Investment determines is appropriate.

History: 1992 c 530 s 3; 1993 c 4 s 7

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

(2) prepare and submit biennial and annual budgets to the board and with the approval of the board submit the budgets to the Department of Finance;

(3) employ professional and clerical staff as necessary. 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. Unclassified employees who are not covered by a collective bargaining agreement are employed under the terms and conditions of the compensation plan approved under section 43A.18, subdivision 3b;

(4) report to the state board on all operations under the director's control and supervision;

(5) maintain accurate and complete records of securities transactions and official activities;

(6) 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;

(7) cause securities acquired to be kept in the custody of the commissioner of finance or other depositories consistent with chapter 356A, as the state board deems appropriate;

(8) 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;

(9) 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;

(10) receive and expend legislative appropriations; and

(11) undertake any other activities necessary to implement the duties and powers set forth in this subdivision consistent with chapter 356A.

Subd. 5. **Apportionment of expenses.** The annual expenses incurred by the State Board of Investment will be apportioned among the state general fund, the retirement funds administered by the Minnesota State Retirement System, Public Employees Retirement Association, and Teachers Retirement Association, and all other funds as follows:

(1) on a biennial basis, the State Board of Investment, in accordance with biennial budget procedures established by the commissioner of finance, may request a direct appropriation that represents the portion of the State Board of Investment expenses necessary to provide investment services to the state general fund. This appropriation must be deposited in the State Board of Investment operating account;

(2) the executive director shall apportion the actual expenses incurred by the State Board of Investment, less the charge to the state general fund, among the funds whose assets are invested by the State Board of Investment, with the exception of the state general fund, based on the weighted average assets under management during the fiscal year. The amounts necessary to pay these charges are apportioned from the investment earnings of each fund. Receipts must be credited to the State Board of Investment operating account;

(3) the actual expenses apportioned and charged to the funds, with the exception of the state general fund and the retirement funds administered by the Minnesota State Retirement System, Public Employees Retirement Association, and Teachers Retirement Association, must be calculated, billed, and paid on a quarterly basis in accordance with procedures for interdepartmental payments established by the commissioner of finance; and

(4) the annual estimated expenses to be incurred by the State Board of Investment that will be payable by the retirement funds administered by the Minnesota State Retirement System, Public Employees Retirement Association, and Teachers Retirement Association must be deposited in the State Board of Investment operating account on the first business day of each fiscal year. A reconciliation of the actual expenses compared to the estimated costs must occur at the end of each fiscal year with any surplus or deficit being credited or debited to each of the respective funds. The State Board of Investment must present a statement of accrued actual expenses to each fund at the end of each quarter during each fiscal year.

History: 1980 c 607 art 14 s 5; 1982 c 560 s 3; 1983 c 324 s 1; 1Sp1985 c 13 s 76; 1986 c 444; 1989 c 319 art 8 s 4; 1990 c 594 art 1 s 40; 2003 c 112 art 2 s 50; 2005 c 55 s 2; 2006 c 277 art 4 s 3,4

11A.075 DISCLOSURE OF EXPENSE REIMBURSEMENT.

(a) A member or employee of the state board must annually disclose expenses paid for or reimbursed by: (1) each investment advisor, consultant, or outside money manager under contract to the state board; (2) each investment advisor, consultant, or outside money manager that has bid on a contract offered by the state board during that year; and (3) each business, including officers or employees of the business, in which the state board has invested money under the board's control during the annual reporting period. The disclosure requirement of this paragraph does not apply to expenses or reimbursements from an investment advisor, consultant, money manager or business if the board member or employee received less than \$50 during the annual reporting period from that person or entity.

(b) For purposes of this section, expenses include payments or reimbursements for meals, entertainment, transportation, lodging, and seminars.

(c) The disclosure required by this section must be filed with the Campaign Finance and Public Disclosure Board by April 15 each year. Each disclosure report must cover the previous calendar year. The statement must be on a form provided by the Campaign Finance and Public Disclosure Board. An individual who fails to file the form required by this section or who files false information, is subject to penalties specified in sections 10A.09 and 10A.025, subdivision 2.

History: 1993 c 192 s 37; 1997 c 202 art 2 s 63; 1999 c 220 s 50

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 postretirement 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 chair and vice-chair from among its members, and may elect other officers as necessary. The council shall meet upon the call of the chair of the council or the chair of the state board.

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

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 that member's employer. Members of the council shall file with the Campaign Finance and Public Disclosure Board 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; 1986 c 444; 1993 c 300 s 1

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: 1980 c 607 art 14 s 7; 1989 c 319 art 8 s 5

11A.10 DUTIES OF OTHER OFFICIALS.

Subdivision 1. **Custody of securities.** The commissioner of finance 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 money 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 commissioner of finance.

History: 1980 c 607 art 14 s 8; 2003 c 112 art 2 s 50

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 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.

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; 1989 c 319 art 8 s 6

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 public retirement plans and nonretirement funds. The assets of participating nonretirement funds may not be commingled with the assets of participating public retirement plans. 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 money certified to and received by the state board from participating retirement plans and nonretirement funds which shall be used to purchase investment shares in the appropriate investment accounts. Each participating plan or 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 plan or fund on the assets in each account shall be equal to the ratio of units owned by a plan or 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 or managed in a separate account by the state board at its discretion.

Subd. 5. **Participation in Minnesota combined investment funds.** Any public retirement

plan or nonretirement fund authorized by law to have its assets managed by the state board may participate in the Minnesota combined investment funds.

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 or 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; 1985 c 224 s 1; 1990 c 426 art 1 s 3; 1992 c 539 s 1; 1993 c 300 s 2-5

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 commissioner of finance who shall, from time to time, certify to the state board those portions of the state bond fund which in the judgment of the commissioner of finance 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 commissioner of finance 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 commissioner of finance and the certified amount of money shall be transferred to the commissioner of finance.

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; 2003 c 112 art 2 s 50

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 subject to the provisions of section 11A.24.

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.

(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 the following ten fiscal years.

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 127A.32.

History: 1980 c 607 art 14 s 14; 1984 c 482 s 3; 1992 c 539 s 2; 1999 c 86 art 1 s 3

11A.17 MINNESOTA SUPPLEMENTAL INVESTMENT FUND.

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 seven investment accounts: an income share account, a growth share account, an international share account, a money market account, a 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.

Subd. 2. **Assets.** The assets of the supplemental investment fund shall consist of the money certified and transmitted to the state board from the participating public retirement plans and funds or from the board of the Minnesota State Colleges and Universities under section 136F.45. The assets must be used to purchase investment shares in the investment accounts specified by the plan or fund. These accounts must be valued at least on a monthly basis but may be valued more frequently as determined by the State Board of Investment.

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

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;

(3) the international share account may be invested entirely in international stocks; and

(4) the fixed interest account may be invested in guaranteed investment contracts and debt obligations.

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 money certified to the supplemental investment fund.

Subd. 6. **Participation in fund.** Each public retirement plan or fund which has certified money 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 money 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. Money 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 account, the growth share account, the international 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 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.

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

Subd. 10a. [Repealed, 1998 c 390 art 2 s 21 para (a)]

Subd. 11. **Prospectus.** Annually, by July 2, 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 must include its investment objectives, asset allocation, and past investment performance. Upon request, the board shall provide a list of each security in the fund and show 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 state board shall transmit sufficient copies of the prospectus 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 must be filed with the director of the legislative reference library.

Subd. 12. [Repealed, 1988 c 453 s 12]

Subd. 13. [Repealed, 1988 c 453 s 12]

Subd. 14. [Repealed, 1998 c 390 art 2 s 21 para (a)]

History: 1980 c 607 art 14 s 15; 1981 c 208 s 1; 1981 c 224 s 14; 1983 c 324 s 3; 1985 c 224 s 2; 1986 c 356 s 1-5; 1988 c 453 s 1-5; 1992 c 539 s 3-7; 1994 c 604 art 1 s 1-5; 1998 c 390 art 2 s 2; 1Sp2003 c 12 art 2 s 1

11A.18 MINNESOTA POSTRETIREMENT INVESTMENT FUND.

Subdivision 1. **Establishment.** There is hereby established a postretirement 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 postretirement 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 postretirement investment fund shall consist of the money 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. 2a. **Composite funded ratio.** (a) Annually, following June 30, the executive director of the State Board of Investment shall determine the composite funded ratio of the postretirement investment fund. The composite funded ratio must be stated as a percentage and must be calculated using:

- (1) the total fair market value of the postretirement investment fund as of June 30, calculated in accordance with generally accepted accounting principles; divided by
- (2) the total reserves required as of June 30 for the annuities or benefits payable from the postretirement investment fund on that June 30 to all recipients of participating public pension

plans or funds, as determined by the actuary retained under section 356.214 using the applicable assumptions in section 356.215.

(b) The executive director of the State Board of Investment shall certify the composite funded ratio to the executive directors of the plans participating in the Minnesota postretirement investment fund and to the executive director of the Legislative Commission on Pensions and Retirement by November 30 annually.

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

Subd. 4. **Investment.** The assets of the postretirement 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 postretirement adjustments made according to subdivision 9.

Subd. 6. **Participating public retirement funds or plans; transfer of required reserves.**
(a) Any public retirement fund or plan authorized by law to participate in the postretirement investment fund shall no later than the last business day of the month in which the benefit payment from the postretirement investment fund begins to accrue, certify and transfer to the state board money equal to the 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 as determined by or determined under a procedure specified by the actuary retained under section 356.214.

(b) If the exact amount of the actuarially determined required reserves is not readily calculable on the required transfer date, the initial transfer must be based on the best estimate for the teachers retirement fund and the public employees retirement fund and may be based on the best estimate for the other participating funds. Any necessary adjustments based on specific

calculations of actuarially determined required reserves must be made in later transfers. If a transfer is insufficient, the later transfer from the retirement fund must include interest on the amount of the required reserve insufficiency at the preretirement interest assumption for the retirement fund as specified in section 356.215, subdivision 8, stated as a monthly rate.

Interest on the amount of a required reserve insufficiency payable by a retirement fund shall be compounded on a monthly basis. No interest shall be payable from the postretirement investment fund in the event of a required reserve oversufficiency.

(c) The state board shall confirm in writing each certification and transfer of money made by a participating public retirement fund or plan. Each participating public retirement fund or plan shall maintain adequate records to account for money transferred to or from the postretirement investment fund.

Subd. 7. Participation and financial reporting in fund. (a) Each participating public retirement fund or plan which has transferred money to the state board for investment in the postretirement investment fund shall have an undivided participation in the fund. The participation on any valuation date must be determined by adding to the participation on the prior valuation date:

- (1) funds transferred in accordance with subdivision 6;
- (2) the amount of required investment income on its participation as defined in subdivision 9, paragraph (c), clause (1); and
- (3) the reserves for any benefit adjustment made as of the current valuation date with the result adjusted for any mortality gains or losses determined under subdivision 11.

(b) The total fair market value of the postretirement fund as of June 30 must be calculated in accordance with generally accepted accounting principles. The fair market value share of each fund participating in the postretirement investment fund must be allocated by adding to the fair market value at the beginning of the fiscal year:

- (1) 100 percent of the funds transferred in accordance with subdivision 6; and
- (2) a pro rata distribution of unrealized gains or losses, based on a weighted percentage of participation at the end of each month of the fiscal year.

Subd. 8. Withdrawal of money. Upon certification by the applicable executive director that a portion of the certified money 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 postretirement adjustment. (a) Annually, following June 30,

the state board shall use the procedures in paragraphs (b), (c), and (d) to determine whether a postretirement adjustment under this subdivision is payable and to determine the amount of any postretirement adjustment under this subdivision.

(b) (1) If the Consumer Price Index for urban wage earners and clerical workers all items index published by the Bureau of Labor Statistics of the United States Department of Labor increases from June 30 of the preceding year to June 30 of the current year, the state board shall certify the percentage increase.

(2) The amount certified must not exceed 2.5 percent.

(c) If the amount calculated under paragraph (b), clause (1), is greater than the maximum amount allowable under paragraph (b), clause (2), in addition to any percentage increase certified under paragraph (b), the board shall use the following procedures to determine if a postretirement adjustment is payable under this paragraph:

(1) the state board shall determine the total fair market value of the fund on June 30 of that year;

(2) the amount of reserves required as of the current June 30 for the annuity or benefit payable to an annuitant and benefit recipient of the participating public pension plans or funds must be determined by the actuary retained under section 356.214. 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 must be separately reported as additional "noneligible reserves." The amount of "eligible" and "noneligible" required reserves must be certified to the board by the actuary retained under section 356.214 as soon as is practical following the current June 30;

(3) the state board shall determine the percentage increase certified under paragraph (b) multiplied by the eligible required reserves, as adjusted for mortality gains and losses under subdivision 11, determined under clause (2);

(4) the state board shall add the amount of reserves required for the annuities or benefits payable to annuitants and benefit recipients of the participating public pension plans or funds as of the current June 30 to the amount determined under clause (3);

(5) the state board shall subtract the amount determined under clause (4) from the total fair market value of the fund determined under clause (1);

(6) the state board shall adjust the amount determined under clause (5) by the cumulative current balance determined under clause (8) and any negative balance carried forward under clause (9);

(7) a positive amount resulting from the calculations in clauses (1) to (6) is the excess market value. A negative amount is the negative balance;

(8) the state board shall allocate one-fifth of the excess market value or one-fifth of the negative balance to each of five consecutive years, beginning with the fiscal year ending the current June 30; and

(9) to calculate the postretirement adjustment under this paragraph, the state board shall add together all excess market value allocated to that year and subtract from the sum all negative balances allocated to that year. If this calculation results in a negative number, the entire negative balance must be carried forward and allocated to the next year. If the resulting amount is positive, a postretirement adjustment is payable under this paragraph. The board shall express a positive amount as a percentage of the total eligible required reserves certified to the board under clause (2). The percentage determined under this paragraph is not payable unless the amount calculated under paragraph (b), clause (1), is greater than 2.5 percent and must not exceed the difference by which the amount calculated under paragraph (b), clause (1), exceeds 2.5 percent.

(d) The state board shall determine the amount of any postretirement adjustment which is payable using the following procedure:

(1) 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 (2) must be certified to the state board by the actuary retained under section 356.214. The total "eligible" required reserves must be determined by the actuary retained under section 356.214 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; and

(2) The state board shall add the percentage certified under paragraph (b) to any positive percentage calculated under paragraph (c). The board shall not subtract from the percentage certified under paragraph (b) any negative amount calculated under paragraph (c). The sum of these percentages must be certified to each participating public pension fund or plan as the full

postretirement adjustment percentage. The full postretirement adjustment percentage certified to each participating public pension plan or fund must not exceed five percent.

(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 must 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. 9a. **Lost purchasing power increase.** (a) This subdivision applies for fiscal years ending June 30 in which all of the following conditions exist:

(1) the composite funded ratio for the postretirement investment fund as of June 30 as certified by the executive director of the State Board of Investment under subdivision 2a is more than 90 percent;

(2) the State Board of Investment determines that the time-weighted total rate of return on investment of assets in the postretirement investment fund for the fiscal year ending June 30 exceeds 8.5 percent; and

(3) the postretirement adjustment percentage certified under subdivision 9, paragraph (b), is less than 2.5 percent.

(b) The lost purchasing power postretirement increase is payable the following January 1.

(c) Each participating public pension plan must annually calculate:

(1) the cumulative postretirement adjustment percentage applied to the annuity or benefit paid to each eligible annuitant and benefit recipient since the person first received a postretirement adjustment; and

(2) the increase in the Consumer Price Index for urban wage earners and clerical workers all items index published by the Bureau of Labor Statistics of the United States Department of Labor from June 30 of the year before the person first received a postretirement adjustment to June 30 of the current year. If a person received a prorated increase under subdivision 9, paragraph (c), clause (2), the same ratio of the number of months receiving a monthly benefit to 12 months must be applied to the inflation calculation for the fiscal year used to calculate the prorated amount of lost purchasing power for that period.

(d) If the percentage in paragraph (c), clause (2), is greater than the percentage in paragraph (c), clause (1), with respect to an eligible annuitant or benefit recipient, and the conditions in paragraph (a) exist, that person is eligible to receive an increase under this subdivision.

(e) The percentage increase payable to an eligible annuitant or benefit recipient under this subdivision may not exceed the difference between 2.5 percent and the amount certified under subdivision 9 or the amount calculated under paragraph (c), whichever is lower. The percentage increase otherwise payable under this subdivision must be reduced as provided in paragraph (f).

(f) The actuary retained under section 356.214 must determine:

(1) the reserves that would be required to pay in full the adjustments determined under paragraph (c); and

(2) the excess market value necessary to maintain the accrued liability composite funding ratio determined under subdivision 2a is at least 90 percent. If the calculated result under clause (1) is greater than the calculated result under this clause, the increase payable to each eligible annuitant or benefit recipient under this subdivision must be reduced to that portion of the full potential increase amount that equals the ratio that the calculated result under this clause bears to the calculated result under clause (1).

(g) A percentage increase certified under this subdivision must be added to the percentage certified under subdivision 9 and the total resulting percentage must be certified to each participating public pension plan as the full postretirement adjustment percentage.

Subd. 9b. Excess assets trigger. If the composite funded ratio of the postretirement investment fund determined under subdivision 2a is 115 percent or greater as of June 30 of any year, the governing bodies of the retirement plans participating in the postretirement investment fund must jointly report to the Legislative Commission on Pensions and Retirement by the next January 15. The report must evaluate and make recommendations with respect to the overall benefits and funding of the retirement funds for both active employees and benefit recipients.

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. 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.

Subd. 11. **Adjustment for mortality gains and losses.** As of June 30 annually, the actuary retained under section 356.214 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 preretirement interest assumption for the participating plan or fund as specified in section 356.215, subdivision 8, 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.

Subd. 12. **Appropriation of required amounts.** All money necessary to meet the requirements of the certification of withdrawals and all money necessary to pay postretirement adjustments pursuant to this section are hereby and from time to time appropriated from the postretirement 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; 1987 c 259 s 3-5; 1989 c 319 art 14 s 1,2; 1990 c 570 art 9 s 1; 1992 c 530 s 1; 1992 c 539 s 8; 1994 c 604 art 1 s 6; 1995 c 186 s 6; 1997 c 233 art 1 s 5; 1Sp2001 c 10 art 3 s 2; 2002 c 392 art 11 s 52; 2006 c 271 art 3 s 47; 2006 c 277 art 1 s 1; 2008 c 349 art 1 s 1-4

NOTE: The amendment to subdivision 9 by Laws 2006, chapter 277, article 1, section 1, is effective July 1, 2010. Laws 2006, chapter 277, article 1, section 3.

11A.181 DISSOLUTION OF MINNESOTA POSTRETIREMENT INVESTMENT FUND.

Subdivision 1. **Conditions for dissolution.** The postretirement investment fund established in section 11A.18 must be dissolved according to the schedule in subdivision 2 if the composite funded ratio calculated as of June 30 of that year under section 11A.18, subdivision 2a, is:

- (1) less than 85 percent and was less than 85 percent as of June 30 of the immediately preceding year; or
- (2) less than 80 percent.

Subd. 2. **Transition.** If conditions for dissolution of the postretirement investment fund under subdivision 1 apply:

- (1) the retirement plans shall not transfer reserves as required under sections 11A.18, subdivision 6; 352.119, subdivision 2; 352B.26, subdivision 3; 353.271, subdivision 2; 354.63, subdivision 2; and 490.123, subdivision 1e, to the postretirement investment fund after December 31 of the calendar year in which conditions for dissolution under subdivision 1 occur;
- (2) the retirement plans shall not transfer additional funds to the Minnesota postretirement investment fund as a result of the calculation by the actuary retained under section 356.214 of net mortality losses under section 11A.18, subdivision 11;
- (3) the assets of the postretirement investment fund must be transferred back to each participating public retirement plan on June 30 of the year following the year in which conditions for dissolution under subdivision 1 occur. The assets to be transferred to each public retirement plan must be based on each plan's participation in the postretirement fund as determined under section 11A.18, subdivision 7, on the June 30 when the transfer back to the plan occurs; and
- (4) the postretirement investment fund ceases to exist upon the transfer of all assets as required in clause (3).

Subd. 3. **Postretirement adjustments.** (a) Notwithstanding section 11A.18 or any other law to the contrary, if the postretirement investment fund is dissolved, postretirement adjustments are payable only as follows:

- (1) a postretirement increase of 2.5 percent must be applied each year, effective January 1, to the monthly annuity or benefit of each annuitant and benefit recipient who has been receiving an annuity or a benefit for at least 12 full months as of the prior January 1; and
- (2) for each annuitant or benefit recipient who has been receiving an annuity or a benefit for at least one full month, an annual postretirement increase of 1/12 of 2.5 percent for each month the person has been receiving an annuity or benefit must be applied, effective January 1 of the year in which the person has been retired for less than 12 months.

(b) The increases provided by this subdivision commence on the first January 1 occurring after the postretirement fund is dissolved under subdivision 2.

History: 2008 c 349 art 2 s 1

11A.19 Subdivision 1. [Repealed, 1990 c 426 art 1 s 1; 1990 c 570 art 12 s 64]

Subd. 2. [Repealed, 1990 c 426 art 1 s 1; 1990 c 570 art 12 s 64]

Subd. 3. [Repealed, 1990 c 426 art 1 s 1; 1990 c 570 art 12 s 64]

Subd. 4. [Repealed, 1990 c 426 art 1 s 1; 1990 c 570 art 12 s 64]

Subd. 5. [Repealed, 1990 c 426 art 1 s 1; 1990 c 570 art 12 s 64]

Subd. 6. [Repealed, 1990 c 426 art 1 s 1; 1990 c 570 art 12 s 64]

Subd. 7. [Repealed, 1990 c 426 art 1 s 1; 1990 c 570 art 12 s 64]

Subd. 8. [Repealed, 1990 c 426 art 1 s 1; 1990 c 570 art 12 s 64]

Subd. 9. [Repealed, 1990 c 426 art 1 s 2; 1990 c 570 art 12 s 64]

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

Subdivision 1. **Certification of state treasury funds not currently needed.** When there are funds in the state treasury over and above the amount that the commissioner of finance has determined are currently needed, the commissioner 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; 1Sp1985 c 13 s 77

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 highway user tax distribution fund established pursuant to article XIV, section 5 of the Constitution of the state of Minnesota; 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; 1993 c 266 s 14

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

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 postretirement adjustment fund, the combined investment fund, or the supplemental 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 postretirement investment fund, the combined investment fund or the supplemental 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) Board of Trustees of the Minnesota State Colleges and Universities supplemental retirement plan established under chapter 354C;
- (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; 1992 c 464 art 1 s 2; art 2 s 1; 1993 c 13 art 1 s 8; 1995 c 141 art 4 s 1; 1995 c 212 art 4 s 64

11A.235 ACCOUNT FOR INVESTMENT OF CERTAIN DULUTH FUNDS OR ASSETS.

Subdivision 1. **Establishment.** The State Board of Investment, when requested by the city of Duluth, may invest the funds or assets of the city's community investment trust fund in a special account for that purpose in the combined investment funds established in section 11A.14, subject to the policies and procedures established by the State Board of Investment. Use of the funds in the account is restricted to debt service payments for the city's street improvement program or to any other use approved in accordance with Section 54(E) of the home rule charter of the city of Duluth.

Subd. 2. **Account maintenance and investment.** The city may deposit money in the account and may withdraw money from the account for purposes approved by the Duluth City Council in accordance with Section 54(E) of the home rule charter of the city of Duluth. Such transactions must be at a time and in a manner required by the executive director of the State Board of Investment. Investment earnings must be credited to the account of the city. The account may be terminated by the city at any time.

History: 2007 c 14 s 1

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 regulated by a governmental agency or by a financial institution regulated by a governmental agency. These securities may be owned as units in commingled trusts that own the securities described in subdivisions 2 to 6. Any agreement to lend securities must be concurrently collateralized with cash or securities with a market value of not less than 100 percent of the market value of the loaned securities at the time of the agreement. Any agreement for put and call options and futures contracts may only be entered into with a fully offsetting amount of cash or securities. Only securities authorized by this section, excluding those under subdivision 6, paragraph (a), clauses (1) to (4), may be accepted as collateral or offsetting securities.

Subd. 2. **Government obligations.** The state board may invest funds in governmental bonds, notes, bills, mortgages, and other evidences of indebtedness provided the issue is backed

by the full faith and credit of the issuer or the issue is rated among the top four quality rating categories by a nationally recognized rating agency. The obligations in which the board may invest under this subdivision include guaranteed or insured issues of (a) the United States, its agencies, its instrumentalities, or organizations created and regulated by an act of Congress; (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; (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.

Subd. 3. **Corporate obligations.** (a) 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 provided that:

(1) 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; and

(2) obligations shall be rated among the top four quality categories by a nationally recognized rating agency.

(b) The state board may invest in unrated corporate obligations or in corporate obligations that are not rated among the top four quality categories as provided in paragraph (a), clause (2), provided that:

(1) the aggregate value of these obligations may not exceed five percent of the market or book value, whichever is less, of the fund for which the state board is investing;

(2) the state board's participation is limited to 50 percent of a single offering subject to this paragraph; and

(3) the state board's participation is limited to 25 percent of an issuer's obligations subject to this paragraph.

Subd. 4. **Other obligations.** (a) The state board may invest funds in bankers acceptances, certificates of deposit, deposit notes, commercial paper, mortgage securities and asset backed securities, 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 (i) United States banks and savings institutions that are rated in the top four quality categories by a nationally recognized rating agency or whose certificates of deposit are fully insured by federal agencies; or (ii) credit unions in amounts up to the limit of insurance coverage provided by the National Credit Union Administration;

(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 securities shall be rated in the top four quality categories by a nationally recognized rating agency;

(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;

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

(8) asset backed securities shall be rated in the top four quality categories by a nationally recognized rating agency.

(b) Sections 16A.58, 16C.03, subdivision 4, and 16C.05 do not apply to 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.

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 an exchange regulated by an agency of the United States or Canadian national government, 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 85 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, except that the state board may hold up to 20 percent of the shares of a real estate investment trust and up to 20 percent of the shares of a closed-end mutual fund.

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

(1) venture capital investment businesses through participation in limited partnerships, trusts, private placements, limited liability corporations, limited liability companies, limited liability partnerships, and corporations;

(2) real estate ownership interests or loans secured by mortgages or deeds of trust or shares of real estate investment trusts through investment in limited partnerships, bank sponsored collective funds, trusts, mortgage participation agreements, 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 closed-end mutual funds listed on an exchange regulated by a governmental agency;

(4) resource investments through limited partnerships, trusts, private placements, limited liability corporations, limited liability companies, limited liability partnerships, and corporations; and

(5) international securities.

(b) The investments authorized in paragraph (a) must conform to the following provisions:

(1) the aggregate value of all investments made according to paragraph (a), clauses (1) to (4), may not exceed 35 percent of the market value of the fund for which the state board is investing;

(2) there must be at least four unrelated owners of the investment other than the state board for investments made under paragraph (a), clause (1), (2), (3), or (4);

(3) state board participation in an investment vehicle is limited to 20 percent thereof for investments made under paragraph (a), clause (1), (2), (3), or (4); 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 may not engage in any activity as a limited partner which creates general liability.

(c) All financial, business, or proprietary data collected, created, received, or maintained by the state board in connection with investments authorized by paragraph (a), clause (1), (2), or (4), are nonpublic data under section 13.02, subdivision 9. As used in this paragraph, "financial, business, or proprietary data" means data, as determined by the responsible authority for the state board, that is of a financial, business, or proprietary nature, the release of which could cause competitive harm to the state board, the legal entity in which the state board has invested or has considered an investment, the managing entity of an investment, or a portfolio company in which the legal entity holds an interest. As used in this section, "business data" is data described in section 13.591, subdivision 1. Regardless of whether they could be considered financial, business, or proprietary data, the following data received, prepared, used, or retained by the state board in connection with investments authorized by paragraph (a), clause (1), (2), or (4), are public at all times:

(1) the name and industry group classification of the legal entity in which the state board has invested or in which the state board has considered an investment;

(2) the state board commitment amount, if any;

(3) the funded amount of the state board's commitment to date, if any;

(4) the market value of the investment by the state board;

(5) the state board's internal rate of return for the investment, including expenditures and receipts used in the calculation of the investment's internal rate of return; and

(6) the age of the investment in years.

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; 1985 c 224 s 3-5; 1987 c 72 s 1; 1987 c 372 art 8 s 2-6; 1988 c 453 s 7,8; 1991 c 47 s 1; 1991 c 206 s 1; 1992 c 539 s 9; 1992 c 587 art 2 s 2; 1992 c 592 s 2; 1993 c 300 s 6,7; 1994 c 604 art 1 s 7-11; 1995 c 122 s 1; 1998 c 386 art 2 s 8; 2000 c 392 s 1,2; 2005 c 156 art 2 s 7

NOTE: Subdivision 6 was also amended by Laws 2005, chapter 163, section 2, to read as follows:

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

(1) venture capital investment businesses through participation in limited partnerships, trusts, private placements, limited liability corporations, limited liability companies, limited liability partnerships, and corporations;

(2) real estate ownership interests or loans secured by mortgages or deeds of trust or shares of real estate investment trusts through investment in limited partnerships, bank sponsored collective funds, trusts, mortgage participation agreements, 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 closed-end mutual funds listed on an exchange regulated by a governmental agency;

(4) resource investments through limited partnerships, trusts, private placements, limited liability corporations, limited liability companies, limited liability partnerships, and corporations; and

(5) international securities.

(b) The investments authorized in paragraph (a) must conform to the following provisions:

(1) the aggregate value of all investments made according to paragraph (a), clauses (1) to (4), may not exceed 35 percent of the market value of the fund for which the state board is investing;

(2) there must be at least four unrelated owners of the investment other than the state board for investments made under paragraph (a), clause (1), (2), (3), or (4);

(3) state board participation in an investment vehicle is limited to 20 percent thereof for investments made under paragraph (a), clause (1), (2), (3), or (4); 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 may not engage in any activity as a limited partner which creates general liability.

(c) All financial, business, or proprietary data collected, created, received, or maintained by the state board in connection with investments authorized by paragraph (a), clause (1), (2), or (4), are nonpublic data under section 13.02, subdivision 9. As used in this section, "financial, business, or proprietary data" means data, as determined by the responsible authority for the state board: (i) that is of a financial, business, or proprietary nature; and (ii) the release of which could cause competitive harm to the state board, the legal entity in which the state board has invested or has considered an investment, the managing entity of an investment, or a portfolio company in which the legal entity holds an interest. As used in this section, "business data" is

data described in section 13.591, subdivision 1. Regardless of whether they could be considered financial, business, or proprietary data, the following data received, prepared, used, or retained by the state board in connection with investments authorized by paragraph (a), clause (1), (2), or (4), are public at all times:

(1) the name and industry group classification of the legal entity in which the state board has invested or in which the state board has considered an investment;

(2) the state board commitment amount, if any;

(3) the funded amount of the state board's commitment to date, if any;

(4) the market value of the investment by the state board;

(5) the state board's internal rate of return for the investment, including expenditures and receipts used in the calculation of the investment's internal rate of return; and

(6) the age of the investment in years."

11A.241 INVESTMENT IN NORTHERN IRELAND.

Subdivision 1. **List of investments.** (a) By January 1 of each year, the state board shall:

(1) compile a list of corporations that, directly or through a subsidiary, do business in Northern Ireland and in whose stocks or obligations the board has invested under section 11A.24, subdivision 3 or 5; and

(2) determine whether each corporation on the list has, during the preceding year, taken affirmative action to eliminate religious or ethnic discrimination in Northern Ireland.

(b) In making the determination required by paragraph (a), clause (2), the state board shall consider whether a corporation has, during the preceding year, taken substantial action designed to lead toward the achievement of the following goals:

(1) increasing representation of persons from underrepresented religious groups at all levels in its work force;

(2) providing adequate security for employees who are members of minority religious groups, both at the workplace and while traveling to and from work;

(3) creating a climate in the workplace free from religious or political provocation;

(4) publicly advertising all job openings and making special recruiting efforts to attract applicants from underrepresented religious groups;

(5) providing that layoff, recall, and termination procedures do not favor workers who are members of particular religious groups;

(6) abolishing job reservations, apprenticeship restrictions, and differential employment criteria that discriminate on the basis of religious or ethnic origin;

(7) developing new programs and expanding existing programs to prepare current employees who are members of minority religious groups for skilled jobs;

(8) establishing procedures to assess, identify, and recruit employees who are members of minority religious groups and who have potential for advancement; and

(9) appointing senior management employees to oversee affirmative action efforts and the setting of timetables for carrying out clauses (1) to (8).

Subd. 2. **Affirmative action policy.** Whenever feasible, the board shall sponsor, cosponsor, or support shareholder resolutions designed to encourage corporations in which the board has invested to pursue a policy of affirmative action in Northern Ireland.

Subd. 3. **Divestment not required.** Nothing in this section may be construed to require the state board to dispose of existing investments or to make future investments that violate sound investment policy for public pensions.

History: 1988 c 687 s 1

11A.243 INVESTMENT IN SUDAN.

Subdivision 1. **Definitions.** (a) For the purposes of this section, the following items have the meanings given them in this subdivision.

(b) "Active business operations" means all business operations that are not inactive business operations.

(c) "Business operations" means engaging in commerce in any form in Sudan, including by acquiring, developing, maintaining, owning, selling, possessing, leasing, or operating equipment, facilities, personnel, products, services, personal property, real property, or any other apparatus of business or commerce.

(d) "Company" means any sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company, or other entity or business association, including all wholly owned subsidiaries, majority-owned subsidiaries, parent companies, or affiliates of such entities or business associations, that exists for profit-making purposes.

(e) "Complicit" means taking actions during any preceding 20-month period that have directly supported or promoted the genocidal campaign in Darfur, including, but not limited to, preventing Darfur's victimized population from communicating with each other, encouraging Sudanese citizens to speak out against an internationally approved security force for Darfur, actively working to deny, cover up, or alter the record on human rights abuses in Darfur, or other similar actions.

(f) "Direct holdings" in a company means all securities of that company held directly by the State Board of Investment or in an account or fund in which the State Board of Investment owns all shares or interests.

(g) "Government of Sudan" means the government in Khartoum, Sudan, which is led by the national congress party (formerly known as the national Islamic front) or any successor government formed on or after October 13, 2006, including the coalition national unity government agreed upon in the comprehensive peace agreement for Sudan, and does not include the regional government of southern Sudan.

(h) "Inactive business operations" means the mere continued holding or renewal of rights to property previously operated for the purpose of generating revenues but not presently deployed for such purpose.

(i) "Indirect holdings" in a company means all securities of that company held in an account or fund, such as a mutual fund, managed by one or more persons not employed by the State Board of Investment, in which the State Board of Investment owns shares or interests together with other investors not subject to the provisions of this section.

(j) "Marginalized populations of Sudan" include, but are not limited to, the portion of the population in the Darfur region that has been genocidally victimized; the portion of the population of southern Sudan victimized by Sudan's north-south civil war; the Beja, Rashidiya, and other similarly underserved groups of eastern Sudan; the Nubian and other similarly underserved groups in Sudan's Abyei, Southern Blue Nile, and Nuba Mountain regions; and the Amri, Hamadab, Manasir, and other similarly underserved groups of northern Sudan.

(k) "Military equipment" means weapons, arms, military supplies, and equipment that readily may be used for military purposes, including, but not limited to, radar systems or military-grade transport vehicles, or supplies or services sold or provided directly or indirectly to any force actively participating in armed conflict in Sudan.

(l) "Mineral extraction activities" include exploring, extracting, processing, transporting, or wholesale selling or trading of elemental minerals or associated metal alloys or oxides (ore), including gold, copper, chromium, chromite, diamonds, iron, iron ore, silver, tungsten, uranium, and zinc, as well as facilitating such activities, including the provision of supplies or services in support of such activities.

(m) "Oil-related activities" include, but are not limited to, owning rights to oil blocks; exporting, extracting, producing, refining, processing, exploring for, transporting, selling, or trading of oil; constructing, maintaining, or operating a pipeline, refinery, or other oil-field infrastructure; and facilitating such activities, including the provision of supplies or services in support of such activities, provided that the mere retail sale of gasoline and related consumer products shall not be considered oil-related activities.

(n) "Power production activities" means any business operation that involves a project commissioned by the National Electricity Corporation (NEC) of Sudan or other similar government of Sudan entity whose purpose is to facilitate power generation and delivery, including, but not limited to, establishing power-generating plants or hydroelectric dams, selling or installing components for the project, providing service contracts related to the installation or maintenance of the project, as well as facilitating such activities, including the provision of supplies or services in support of such activities.

(o) "Scrutinized company" means any company that meets the criteria in clause (1), (2), or (3):

(1) the company has business operations that involve contracts with or provision of supplies or services to:

(i) the government of Sudan;

(ii) companies in which the government of Sudan has any direct or indirect equity share;

(iii) government of Sudan-commissioned consortiums or projects; or

(iv) companies involved in government of Sudan-commissioned consortiums or projects; and

(A) more than ten percent of the company's revenues or assets linked to Sudan involve oil-related activities or mineral extraction activities; less than 75 percent of the company's revenues or assets linked to Sudan involve contracts with or provision of oil-related or mineral extracting products or services to the regional government of southern Sudan or a project or consortium created exclusively by that regional government; and the company has failed to take substantial action; or

(B) more than ten percent of the company's revenues or assets linked to Sudan involve power production activities; less than 75 percent of the company's power production activities include projects whose intent is to provide power or electricity to the marginalized populations of Sudan; and the company has failed to take substantial action;

(2) the company is complicit in the Darfur genocide; or

(3) the company supplies military equipment within Sudan, unless it clearly shows that the military equipment cannot be used to facilitate offensive military actions in Sudan or the company implements rigorous and verifiable safeguards to prevent use of that equipment by forces actively participating in armed conflict, for example, through postsale tracking of such equipment by the company, certification from a reputable and objective third party that such equipment is not being used by a party participating in armed conflict in Sudan, or sale of such equipment solely to the regional government of southern Sudan or any internationally recognized peacekeeping force or humanitarian organization.

Notwithstanding any other provision to the contrary in this section, a social development company that is not complicit in the Darfur genocide shall not be considered a scrutinized company.

(p) "Social development company" means a company whose primary purpose in Sudan is to provide humanitarian goods or services, including medicine or medical equipment, agricultural supplies or infrastructure, educational opportunities, journalism-related activities, information or information materials, spiritual-related activities, services of a purely clerical or reporting nature, food, clothing, or general consumer goods that are unrelated to oil-related activities, mineral extraction activities, or power production activities.

(q) "Substantial action" means adopting, publicizing, and implementing a formal plan to cease scrutinized business operations within one year and to refrain from any such new business operations; undertaking significant humanitarian efforts in conjunction with an international organization, the government of Sudan, the regional government of southern Sudan, or a nonprofit entity that has been evaluated and certified by an independent third party to be in substantial relationship to the company's Sudan business operations and of benefit to one or more marginalized populations of Sudan; or through engagement with the government of Sudan, materially improving conditions for the genocidally victimized population in Darfur.

Subd. 2. Identification of companies. (a) Within 90 days following May 23, 2007, the State Board of Investment shall make its best efforts to identify all scrutinized companies in which the State Board of Investment has direct or indirect holdings or could possibly have such holdings in the future. Such efforts shall include, as appropriate:

(1) reviewing and relying, as appropriate in the State Board of Investment's judgment, on publicly available information regarding companies with business operations in Sudan, including information provided by nonprofit organizations, research firms, international organizations, and government entities;

(2) contacting asset managers contracting with the State Board of Investment who invest in companies with business operations in Sudan; or

(3) contacting other institutional investors that have divested from or engaged with companies that have business operations in Sudan.

(b) At the first meeting of the State Board of Investment after it has completed the requirements of paragraph (a), the State Board of Investment shall assemble a list of scrutinized companies.

(c) The State Board of Investment shall update the scrutinized companies list each quarter based on continuing information, including, but not limited to, information from sources identified in paragraph (a).

Subd. 3. Engagement of scrutinized companies. The State Board of Investment shall use

the following procedure for companies on the scrutinized companies list:

(a) After completing the list required under subdivision 2, paragraph (a), the State Board of Investment shall immediately identify the companies on the list in which the State Board of Investment owns direct or indirect holdings.

(b) For each company identified in paragraph (a) with only inactive business operations, the State Board of Investment shall send a written notice to the company with information about this section and encourage it to continue to refrain from initiating active business operations in Sudan until it is able to avoid scrutinized business operations. The State Board of Investment shall continue such correspondence on a semiannual basis.

(c) For each company newly identified in paragraph (a) with active business operations, the State Board of Investment shall send a written notice informing the company of its scrutinized company status and that it may become subject to divestment by the State Board of Investment. The notice shall offer the company the opportunity to clarify its Sudan-related activities and shall encourage the company, within 90 days, to either cease its scrutinized business operations or convert such operations to inactive business operations in order to avoid qualifying for divestment by the State Board of Investment.

(d) If, within 90 days following the State Board of Investment's first engagement with a company under paragraph (c), that company ceases scrutinized business operations, the company shall be removed from the scrutinized companies list and the provisions of this section shall cease to apply to it unless it resumes scrutinized business operations. If, within 90 days following the State Board of Investment's first engagement, the company converts its scrutinized active business operations to inactive business operations, the company shall be subject to all provisions of this section relating to inactive business operations.

Subd. 4. Divestment. (a) If, after 90 days following the State Board of Investment's first engagement with a company under subdivision 3, paragraph (c), the company continues to have scrutinized active business operations, and only while the company continues to have scrutinized active business operations, the State Board of Investment shall sell, redeem, divest, or withdraw all publicly traded securities of the company, except as provided in subdivisions 5 to 11, according to the following schedule:

(1) at least 50 percent of the assets in the company shall be removed from the State Board of Investment's assets under management by nine months after the company's most recent appearance on the scrutinized companies list; and

(2) 100 percent of the assets in the company shall be removed from the State Board of Investment's assets under management within 15 months after the company's most recent appearance on the scrutinized companies list.

(b) If a company that ceased scrutinized active business operations following engagement under subdivision 3, paragraph (c), resumes such operations, paragraph (a) shall immediately apply to the company and the State Board of Investment shall send a written notice to the company. The company shall also be immediately reintroduced onto the scrutinized companies list.

Subd. 5. **Prohibition on acquisition of certain securities.** At no time shall the State Board of Investment acquire securities of companies on the scrutinized companies list that have active business operations, except as provided in this section.

Subd. 6. **Exemption.** If the federal government affirmatively excludes a company from its present or any future federal sanctions regime relating to Sudan, the company is exempt from the divestment and investment requirements of subdivisions 4 and 5.

Subd. 7. **Excluded securities.** Notwithstanding any other provision in this section to the contrary, subdivisions 4 and 5 do not apply to indirect holdings in actively managed investment funds. The State Board of Investment shall submit letters to the managers of investment funds containing companies with scrutinized active business operations requesting the managers to consider removing such companies from the fund or to create a similar actively managed fund with indirect holdings that do not include the companies. If a manager creates a similar fund, the State Board of Investment shall promptly replace all applicable investments with investments in the similar fund consistent with prudent investing standards. For the purposes of this section, "private equity" funds shall be deemed to be actively managed investment funds.

Subd. 8. **Reporting.** (a) Within 30 days after creating the scrutinized companies list, the State Board of Investment shall submit the list to the chairs of the legislative committees and divisions with jurisdiction over the State Board of Investment.

(b) By January 15, 2008, and on January 15 of each year thereafter, the State Board of Investment shall submit a report to the chairs of the legislative committees and divisions with jurisdiction over the State Board of Investment and send a copy of that report to the United States Presidential Special Envoy to Sudan or the appropriate designee or successor for the envoy. The report must include:

(1) a summary of correspondence with companies engaged by the State Board of Investment under subdivision 3, paragraphs (b) and (c);

(2) a list of all investments sold, redeemed, divested, or withdrawn in compliance with subdivision 4;

(3) a list of all prohibited investments under subdivision 5; and

(4) a description of any progress made under subdivision 7.

Subd. 9. **Expiration.** This section shall expire upon the occurrence of any of the following:

(1) the Congress or president of the United States declares that the Darfur genocide has been halted for at least 12 months;

(2) the United States revokes all sanctions imposed against the government of Sudan;

(3) the Congress or president of the United States declares that the government of Sudan has honored its commitments to cease attacks on civilians, demobilize and demilitarize the Janjaweed and associated militias, grant free and unfettered access for deliveries of humanitarian assistance, and allow for the safe and voluntary return of refugees and internally displaced persons; or

(4) the Congress or president of the United States, through legislation or executive order, declares that mandatory divestment of the type provided for in this section interferes with the conduct of United States foreign policy.

Subd. 10. **Other legal obligations.** The State Board of Investment is exempt from any statutory or common law obligations that conflict with actions taken in compliance with this section, including all good faith determinations regarding companies as required by this section, including any obligations regarding the choice of asset managers, investment funds, or investments for the State Board of Investment's securities portfolios.

Subd. 11. **Reinvestment in certain companies with scrutinized active business operations.** Notwithstanding any provision of this section to the contrary, the State Board of Investment shall be permitted to cease divesting from certain scrutinized companies under subdivision 4 or to reinvest in certain scrutinized companies from which it divested under subdivision 4 if clear and convincing evidence shows that the value for all assets under management by the State Board of Investment is equal to or less than 99.5 percent (50 basis points) of the hypothetical value of all assets under management by the State Board of Investment without any divestment for any company under subdivision 4. Cessation of divestment, reinvestment, or any subsequent ongoing investment authorized by this subdivision shall be strictly limited to the minimum steps necessary to avoid the contingency. For any cessation of divestment, reinvestment, or subsequent ongoing investment authorized by this subdivision, the State Board of Investment shall provide a written report to the chairs of the legislative committees and divisions with jurisdiction over the State Board of Investment in advance of initial reinvestment, updated semiannually thereafter as applicable, setting forth the reasons and justification, supported by clear and convincing evidence, for its decisions to cease divestment, reinvest, or remain invested in companies with scrutinized active business operations. This subdivision does not apply to reinvestment in companies because they have ceased scrutinized active business operations.

History: 2007 c 117 s 1

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 and shall conform to the applicable provisions of section 11A.24.

History: 1980 c 607 art 14 s 23; 1987 c 372 art 8 s 7

11A.27 REPORT ON INVESTMENT CONSULTANT ACTIVITIES AND DELIVERABLES.

(a) Annually, on or before November 1, the State Board of Investment shall file a report with the Legislative Reference Library on the activities and work product during that year of any investment consultants retained by the board.

(b) The report must include the following items:

- (1) the total contract fee paid to each investment consultant;
- (2) a listing of the projects in which the investment consultant was involved; and
- (3) examples of the written work product provided by the investment consultant on those projects during the report coverage period.

History: 2007 c 148 art 2 s 7