

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO: GRACE HAUKOOS, Director
 Elections Division
 Minnesota Secretary of State

FROM: PETER ACKERBERG
 Special Assistant
 Attorney General

STATE OF MINNESOTA
 DEPARTMENT OF STATE
 FILED
 MAY 22 1984
John Anderson Howe
 Secretary of State

DATE: 5/17/84
 PHONE: 6-8954

SUBJECT: Statement of Purpose and Effect of Proposed Amendments.

Following is a Statement of Purpose and Effect of Amendments furnished pursuant to Minn. Stat. § 3.21 (1982):

The purpose and effect of the amendment proposed in Minnesota Laws 1984, chapter 482 is:

1. The amendment would remove constitutional restrictions on investments of the permanent school fund.
2. The amendment would permit restrictions on investments of the permanent school fund and manner of distribution of its investment returns to school districts to be determined by statute rather than by constitutional provision.
3. The amendment would replace a gender reference in the Minnesota Constitution to municipal security issuers with a gender neutral term.

In Chapter 482, the Legislature also adopted statutory provisions which will be effective only if the people ratify the proposed amendment. The statutory provisions would provide for investment of the permanent school fund subject to the provisions of Minn. Stat. § 11A.24.

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Article XI, Section 8 of the Minnesota Constitution now
reads in part:

The permanent school fund of the state consists of (a) the proceeds of lands granted by the United States for the use of schools within each township, (b) the proceeds derived from swamp lands granted to the state, (c) all cash and investments credited to the permanent school fund and to the swamp land fund, and (d) all cash and investments credited to the internal improvement land fund and the lands therein. No portion of these lands shall be sold otherwise than at public sale, and in the manner provided by law. All funds arising from the sale or other disposition of the lands, or income accruing in any way before the sale or disposition thereof, shall be credited to the permanent school fund.

Within limitations prescribed by law, to secure the maximum return thereon consistent with the maintenance of the perpetuity of the fund, and with the approval of the board of investment, the fund may be invested in: (1) interest bearing fixed income securities of the United States and of its agencies, fixed income securities guaranteed in full as to payment of principal and interest by the United States, bonds of the state of Minnesota or its political subdivisions or agencies, or of other states, but not more than 50 percent of any issue by a political subdivision shall be purchased, (2) stocks of corporations on which cash dividends have been paid from earnings for five consecutive years or longer immediately prior to purchase, but not more than 20 percent of the fund shall be invested therein at any given time nor more than one percent in stock of any one corporation, nor shall more than five percent of the voting stock of any one corporation be owned, (3) bonds of corporations whose earnings have been at least three times the interest requirements on outstanding bonds for five consecutive years or longer immediately prior to purchase, but not more than 40 percent of the fund shall be vested in corporate bonds at any given time. The

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percentages referred to above shall be computed using the cost price of the stocks or bonds. The principal of the permanent school fund shall be perpetual and inviolate forever. This does not prevent the sale of any public or private stocks or bonds at less than the cost to the fund; however, all losses not offset by gains shall be repaid to the fund from the interest and dividends earned thereafter. The net interest and dividends arising from the fund shall be distributed to the different school districts of the state in proportion to the number of students in each district between the ages of 5 and 21 years.

A board of investment consisting of the governor, the state auditor, the state treasurer, the secretary of state, and the attorney general is hereby constituted for the purpose of administering and directing the investment of all state funds. The board shall not permit state funds to be used for the underwriting or direct purchase of municipal securities from the issuer or his agent.

If the amendment is adopted, Article XI, Section 8 will read in part (deletions indicated by ~~strikeouts~~ and additions by italics):

The permanent school fund of the state consists of (a) the proceeds of lands granted by the United States for the use of schools within each township, (b) the proceeds derived from swamp lands granted to the state, (c) all cash and investments credited to the permanent school fund and to the swamp land fund, and (d) all cash and investments credited to the internal improvement land fund and the lands therein. No portion of these lands shall be sold otherwise than at public sale, and in the manner provided by law. All funds arising from the sale or other disposition of the lands, or income accruing in any way before the sale or disposition thereof, shall be credited to the permanent school fund.

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Within limitations prescribed by law, the fund shall be invested to secure the maximum return thereon consistent with the maintenance of the perpetuity of the fund, and with the approval of the board of investment, the fund may be invested in:--(1) interest-bearing fixed income securities of the United States and of its agencies, fixed income securities guaranteed in full as to payment of principal and interest by the United States, bonds of the state of Minnesota or its political subdivisions or agencies, or of other states, but not more than 50 percent of any issue by a political subdivision shall be purchased,--(2) stocks of corporations on which cash dividends have been paid from earnings for five consecutive years or longer immediately prior to purchase, but not more than 20 percent of the fund shall be invested therein at any given time nor more than one percent in stock of any one corporation, nor shall more than five percent of the voting stock of any one corporation be owned,--(3) bonds of corporations whose earnings have been at least three times the interest requirements on outstanding bonds for five consecutive years or longer immediately prior to purchase, but not more than 40 percent of the fund shall be invested in corporate bonds at any given time. The percentages referred to above shall be computed using the cost price of the stocks or bonds. The principal of the permanent school fund shall be perpetual and inviolate forever. This does not prevent the sale of any public or private stocks or bonds investments at less than the cost to the fund; however, all losses not offset by gains shall be repaid to the fund from the interest and dividends earned thereafter. The net interest and dividends arising from the fund shall be distributed to the different school districts of the state in proportion to the number of students in each district between the ages of 5 and 21 years in a manner prescribed by law.

A board of investment consisting of the governor, the state auditor, the state treasurer, the secretary of state, and the attorney general is hereby constituted for the purpose of administering and directing the

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investment of all state funds. The board shall not permit state funds to be used for the underwriting or direct purchase of municipal securities from the issuer or ~~his~~ the issuer's agent.

The purpose and effect of the amendment proposed in Minnesota Laws 1984, chapter 643 is:

1. The amendment would permit the legislature to provide for the exchange of state public lands for any other publicly held lands. Such exchanges are now limited by Article XI, Section 10 of the Minnesota Constitution to exchanges for lands of the United States. The current provision permitting the exchange of state public lands for any privately held lands would not be changed.

2. In Chapter 643, the Legislature also adopted statutory provisions which will be effective only if the people ratify the proposed amendment. The Act would permit the Minnesota Land Exchange Board to approve the exchange of certain lands for any other publicly held land. It would also delete statutory requirements for (1) condemnation prior to title transfer of land subject to the public sale requirement of Article XI, Section 8 of the Minnesota Constitution and (2) payment of the condemnation award and expiration of the time to appeal from the award before title is transferred.

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Article XI, Section 10 of the Minnesota Constitution now
reads:

As the legislature may provide, any of the public lands of the state, including lands held in trust for any purpose, may be exchanged for lands of the United States or privately held lands with the unanimous approval of the governor, the attorney general and the state auditor. Lands so acquired shall be subject to the trust, if any, to which the lands exchanged therefor were subject. The state shall reserve all mineral and water power rights in lands transferred by the state.

If the amendment is adopted, Article XI, Section 10 will
read (deletions indicated by ~~strikeouts~~ and additions by italics):

As the legislature may provide, any of the public lands of the state, including lands held in trust for any purpose, may be exchanged for ~~lands-of-the-United-States~~ any publicly or privately held lands with the unanimous approval of the governor, the attorney general and the state auditor. Lands so acquired shall be subject to the trust, if any, to which the lands exchanged therefor were subject. The state shall reserve all mineral and water power rights in lands transferred by the state.

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