



**STATE OF MINNESOTA
OFFICE OF THE STATE AUDITOR**

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**Statement of Position
Legal Restrictions on Public Investing**

Date Reviewed: June 2025
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This Statement of Position is not legal advice and is subject to revision.

Local government entities in Minnesota are allowed to invest in certain securities. Although all investments represent some risk of loss, State law permits investment in those securities that are generally considered to be among the safest available. State law permits investment in the following types of securities:

- Federal securities, which include treasury bills, notes and bonds, as well as bonds and notes issued by U.S. Government agencies such as the Small Business Administration or GNMA (Ginnie Mae), or by U.S. Government instrumentalities such as FNMA (Fannie Mae), the Federal Home Loan Bank, the Federal Farm Credit Bank, or FHLMC (Freddie Mac);
- State and local securities, which include bonds and other debt instruments issued by cities, counties, states, or other governmental units, subject to rating requirements;
- Commercial paper, which includes rated short-term debt issued by U.S. corporations or their Canadian subsidiaries;
- Guaranteed Investment Contracts;
- Transferable Certificates of Deposit issued by U.S. banks fully insured by the FDIC (Federal Deposit Insurance Corporation). Note: Certificates of Deposit or other time deposits issued by local banks or credit unions directly to governmental entities are authorized under State law as deposits;¹
- Bankers' Acceptances issued by U.S. banks;
- Money Market Mutual Funds, subject to rating requirements; and
- Government Investment Pools, including the 4M Fund, the Liquid Asset Fund, MAGIC Fund, and MN Trust.

¹ See Minn. Stat. §§ 118A.01, subd. 3; 118A.02, subd. 1; and 118A.03. See also the following document, attached to this Statement of Position: Op. Atty Gen'l 159a-13, May 25, 1960 (discussing, among other things, the difference between deposits and investments).

There are additional statutory restrictions for each type of investment. To ensure legal compliance, government investors should read and make sure they understand the restrictions contained in sections 118A.04 and 118A.05 of Minnesota Statutes as they apply it to any investment under consideration. To fulfill the public entity's duty to taxpayers, the official document that provides information on the investment to potential investors must be reviewed for compliance with these restrictions. For example, debt obligations usually have "Offering Statements," which describe in detail the nature of the obligation, the source of repayment and other information. A mutual fund's purpose and operation is described in a document called a "Prospectus," which sets forth the goals of the mutual fund, and the restrictions management has placed on the mutual fund's investments.

In addition to the statutory restrictions discussed above, the Office of the State Auditor (OSA) recommends that all public entities provide additional guidance to their public investor through the adoption of an investment policy. Such a policy can improve the investment process by:

- Identifying and prioritizing investment objectives and setting risk levels, including levels for credit risk, concentration risk, and custodial credit risk;
- Addressing ethics and conflict of interest issues not covered by the general conflict of interest statutes;
- Establishing internal controls for the investment function, as well as providing for interim and annual reporting;
- Establishing written investment procedures, directly or through the establishment of an investment committee, that address evaluation of economic outlook, diversification and maturity structure; and
- Establishing portfolio performance benchmarks and, where appropriate, establishing a process of outside review.

Minnesota law also mandates how public investments are to be handled. Before entering into an investment transaction with a broker, Minnesota law requires that public entities obtain the broker's signature on a "Broker Certification Form."² Once a relationship with a broker has been established, the public entity will need to obtain a signed Broker Certification Form from that broker every year.

If a public entity does not take possession of an investment, it may be held in safekeeping only with a "qualified safekeeper."³ A broker can be a safekeeper if the broker meets the statutory requirements. For a broker-dealer to be qualified as a safekeeper, the statute requires the broker to maintain sufficient SIPC (Securities Investor Protection Corporation) protection and excess SIPC coverage to protect investments being held. SIPC protects investors up to the value of \$500,000 for the loss of securities should the broker fail. Excess SIPC coverage can be purchased by brokers to protect their clients beyond the \$500,000 limit of basic SIPC coverage.

The public entity's ownership of investments must be evidenced by written acknowledgements identifying the securities by the names of the issuers, maturity dates, interest rates, CUSIP numbers, and other distinguishing marks.

If you have specific questions on the permissibility of particular investments, please feel free to contact the Legal Department at the Office of the State Auditor. Information is also available at the League of Minnesota Cities' [website](#). For information on securities generally appropriate for public investments, see the Government Finance Officers Association's (GFOA) [website](#).

² This form is available on the State Auditor's [website](#). Download the Broker Certification Form, fill out the relevant portion and send it to the broker to sign.

³ See Minn. Stat. § 118A.06. See also the OSA's Statement of Position on Qualified Safekeepers.