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# STATE OF MINNESOTA

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### Statement of Position

#### Volunteer Fire Relief Association Funds: Special and General Funds, and Charitable Gambling Funds

Volunteer fire relief association trustees are responsible for the association's finances. To help manage those finances, the Minnesota Legislature has given relief associations authority to maintain two types of funds: a special fund and a general fund. If it has a permit to conduct charitable gambling, a relief association may also maintain a charitable gambling fund.

#### Special Fund

Every relief association must establish and maintain a special fund.<sup>1</sup> The special fund of a relief association functions as a trust fund to be used primarily to pay benefits. All money the relief association receives from the city, town, or state (fire state aid, municipal contributions, and any other public money) must be deposited into the relief association's special fund. The special fund also receives donations of money and property that have been designated for the special fund. Investment income derived from special fund assets should be deposited into the special fund.<sup>2</sup>

Special fund assets may be disbursed only for purposes expressly authorized under Minnesota law. The special fund may be used to pay benefits, such as service pensions, disability benefits and survivor benefits, and certain fees and other expenses specifically authorized by law.<sup>3</sup> All benefit payments must be paid in accordance with Minnesota Statutes and requirements contained in the relief association's articles of incorporation and bylaws.

Administrative expenses, that is, necessary, reasonable and direct expenses of maintaining, protecting and administering the special fund, may be paid out of the special fund as long as such payments are permitted by law, provided for in the bylaws and

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<sup>1</sup> Minn. Stat. § 424A.05, subd. 1. If a relief association has only one fund, that fund is the special fund of the relief association. Minn. Stat. § 69.80. A relief association that has joined the Statewide Plan administered by the Public Employees Retirement Association is no longer a public pension plan and will not have a special fund.

<sup>2</sup> Minn. Stat. § 424A.05, subd. 2.

<sup>3</sup> See Minn. Stat. §§ 424A.05, 69.80.

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This Statement of Position is not legal advice and is subject to revision.

approved by the board of trustees.<sup>4</sup> Authorized administrative expenses payable from the special fund include:

- Office expenses (for example, rent, utilities, equipment, supplies, postage, periodical subscriptions, furniture, fixtures, and salaries of administrative personnel).
- Salaries of the officers of the relief association and their itemized expenses incurred as a result of fulfilling their responsibilities as administrators of the special fund; salaries of the board members, if the salary amounts are approved by the governing body of the entity that is responsible for paying any required contributions;<sup>5</sup> and expenses incurred by officers and members as a result of attending training classes or educational seminars relating to the administration of the relief association.
- Reimbursement to officers and members of the board of trustees for reasonable and necessary expenses actually paid and incurred in the performance of their duties as trustees; and premiums on fiduciary liability insurance and official bonds for the officers, trustees, and employees of the relief association.
- Professional fees limited to payment of authorized audit, actuarial, medical, legal, and investment and performance evaluation expenses. Authorized legal fees are fees paid to an attorney or a law firm. Relief associations may also pay filing and application fees from the special fund to federal or other governmental entities.<sup>6</sup>

Benefits payable from the special fund are not subject to garnishment, judgment, execution or other legal process, except for divisions of marital property during a divorce proceeding, or court orders for child support and maintenance.<sup>7</sup> Fines, such as those imposed by the Gambling Control Board or the Internal Revenue Service, may not be paid out of the special fund.

### Special Fund Loans

Relief association trustees occasionally consider taking out a loan from a third party to cover pension and benefit payments. Such loans cannot be repaid from the special fund because loan repayments are not authorized expenses. Relief association trustees should make sure that adequate liquid investments are maintained to pay benefits as they come due. State law specifically requires the relief association's chief administrative officer to determine the minimum liquidity requirement of the association and to retain appropriate

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<sup>4</sup> Minn. Stat. § 69.80.

<sup>5</sup> Minn. Stat. § 69.80(a) (2).

<sup>6</sup> Minn. Stat. § 69.80(a) (5).

<sup>7</sup> Minn. Stat. § 424A.015, subd. 2.

documentation of that determination for three years from the date of the determination.<sup>8</sup>

### Records

In addition to the record retention requirement for the documentation of the liquidity determination described above, the treasurer of the relief association is required to maintain documents showing each transaction involving the assets or revenues of the special fund. The legislature has determined that all records documenting special fund transactions are public records and they must be accessible to the public.<sup>9</sup> If the fund assets are invested with the State Board of Investment (SBI), it is the relief association's responsibility to maintain adequate records to account for funds certified to the SBI's Supplemental Investment Fund.<sup>10</sup>

### **General Fund**

Any relief association may establish and maintain a general fund.<sup>11</sup> A general fund is not required, but can be helpful in managing non-pension money.

The general fund may be funded from member dues and revenues raised by the community. Donations to the relief association not specifically designated for the special fund should be deposited into the general fund.<sup>12</sup>

Disbursements from the general fund can be made for any purpose authorized by the relief association's articles of incorporation or bylaws.<sup>13</sup> The relief association's general fund is to be used to pay other relief association expenses, such as fund-raising expenses, meeting snacks, and jackets, shirts or hats. Funds from the general fund may also be donated to the city or town for fire department use, such as for the purchase of new equipment. For more information on how donations should be handled, see the Office of the State Auditor (OSA)'s Statement of Position titled "[Fire Department and Volunteer Fire Relief Association Fundraisers and Donations.](#)"

### Records

It is the responsibility of the treasurer of the relief association to maintain adequate records to document any transaction involving the general fund. These records are not open to the public but must be "open for inspection by any member of the relief

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<sup>8</sup> Minn. Stat. § 356A.06, subd. 8.

<sup>9</sup> These records "are public and must be open for inspection by any member of the relief association, any officer or employee of the state or the municipality, or any member of the public, at reasonable times and places." Minn. Stat. § 424A.05, subd. 2. See also the OSA's Statement of Position titled "[Management of Records for Volunteer Fire Relief Associations.](#)"

<sup>10</sup> Minn. Stat. § 11A.17, subd. 5.

<sup>11</sup> Minn. Stat. § 424A.06, subd. 1.

<sup>12</sup> Minn. Stat. § 424A.06, subd. 2.

<sup>13</sup> See Minn. Stat. § 424A.06, subd. 3.

association at reasonable times and places.”<sup>14</sup> In addition, audits, financial statements, and reports containing information obtained from the records of the general fund and submitted to the OSA are public, even though the records themselves are not public.<sup>15</sup>

### **Charitable Gambling Fund**

The Minnesota Gambling Control Board, and not the OSA, regulates lawful gambling in Minnesota.<sup>16</sup> The Minnesota Gambling Control Board website can be found at: <http://www.gcb.state.mn.us/index.html>.

A relief association with a permit to conduct charitable gambling in Minnesota may maintain a charitable gambling fund. How gambling funds may be spent, however, is strictly controlled by state law. It is illegal, for example, for a governmental unit to use any gambling funds it receives for pension funds.<sup>17</sup>

Records requirements related to maintaining a charitable gambling fund can be found in the Lawful Gambling and Gambling Devices Act.<sup>18</sup> Relief associations should consult with legal counsel or the Minnesota Gambling Control Board concerning charitable gambling and charitable gambling records management.

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<sup>14</sup> Minn. Stat. § 424A.06, subd. 2 and Minn. Dept. of Admin., Advisory Ops. 97-037.

<sup>15</sup> See Minn. Stat. § 69.051, subds. 1(c), 1a(d).

<sup>16</sup> Minn. Stat. § 349.151, subd. 4.

<sup>17</sup> Minn. Stat. § 349.12, subd 25(c) 3 (2010); Minn. Stat. § 471.6151.

<sup>18</sup> Minn. Stat., ch. 349.