

**MEMORANDUM OF AGREEMENT BETWEEN
THE VERMONT STATE TREASURER AND
THE VERMONT PENSION INVESTMENT COMMISSION
REGARDING INVESTMENT OF
STATE EMPLOYEES' POSTEMPLOYMENT BENEFITS TRUST FUNDS**

I. Parties:

The Parties to this Memorandum of Agreement (hereinafter "Agreement") are the Vermont State Treasurer and the Vermont Pension Investment Commission (hereinafter "VPIC").

II. Background:

A. Pursuant to 3 V.S.A. § 479a, retired members and specified beneficiaries of the Vermont State Retirement System (hereinafter "VSERS") are eligible to receive certain post-employment health and medical benefits (hereinafter "OPEB").

B. Funds for the payment of OPEB are held in the State Employees' Postemployment Benefits Trust Fund (hereinafter "Benefits Fund") established in 3 V.S.A. § 479a. The Benefits Fund is a tax exempt governmental trust established under section 115 of the Internal Revenue Code of 1986, as amended. Pursuant to 3 V.S.A. § 479a(c), the Benefits Fund is administered by the Treasurer.

C. Pursuant to 3 V.S.A. § 479a(d), contributions to the Benefits Fund are irrevocable. Neither the corpus nor income of the Benefits Fund may be used for or diverted to purposes other than the payment of OPEB for members and their beneficiaries and reasonable expenses of administering the Benefits Fund and related benefit plans. Pursuant to 3 V.S.A. § 479a(c), interest earned must remain in the Benefits Fund, and all balances remaining at the end of a fiscal year must be carried over to the following year.

D. Pursuant to 3 V.S.A. § 479(c), the Treasurer is authorized to enter into an agreement with VPIC to invest monies in the Benefits Fund in accordance with the standards of care established by the prudent investor rule under 14A V.S.A. § 902, in a manner similar to VPIC's investment of retirement system monies.

E. Pursuant to 3 V.S.A. § 523(a), VPIC is responsible for the investment of the assets of the State's three public retirement systems. VPIC invests such assets with the goals of maximizing total return on investment, within acceptable levels of risk for public retirement systems, in accordance with the standards of care established by the prudent investor rule under 14A V.S.A. § 902.

F. In carrying out its investments, VPIC investigates different investment vehicles and monitors the performance of those in which it invests.

G. Also pursuant to 3 V.S.A. § 523(a), VPIC is permitted to enter into an agreement with the Treasurer to invest the Benefits Fund established in 3 V.S.A. § 479a.

H. The Benefits Fund is funded on a pay-go basis. With the enactment of Act 114, there will be a transition to pre-funding of the Benefits Fund.

I. The parties intend for the Benefits Fund to be invested separately from the retirement plan assets in specific funds identified by Treasurer.

III. Purpose:

This Agreement sets forth the terms by which the Treasurer and VPIC will work together to invest the Benefits Fund in a manner that maximizes total return on investment, within acceptable levels of risk for a public retirement benefits fund, in accordance with the standards of care established by the prudent investor rule under 14A V.S.A. § 902, pursuant to the authorities granted by 3 V.S.A. § 479a(c) and 3 V.S.A. § 523(a).

IV. Responsibilities:

A. The Treasurer and VPIC hereby agree that they will work together to invest the Benefits Fund consistent with the above-stated purpose.

B. In furtherance of this agreement, the Treasurer shall:

1. Identify assets in the Benefits Fund and provide VPIC with an explanation as to how the Treasurer desires the Benefits Fund to be invested.
2. Assist VPIC and provide any documents that VPIC may reasonably require in order for VPIC to identify and facilitate investment of the Benefits Fund in existing investment vehicles that are appropriate for investment of the Benefits Fund and consistent with the objectives set forth by the Treasurer.
3. Work together with VPIC in investigating new investment vehicles that may permit investment of assets of the Benefits Fund alongside the investment of assets of the retirement systems.
4. Select and make investments of assets of the Benefits Fund.

C. In furtherance of this agreement, VPIC shall:

1. Identify, by vote of the Commission, existing investment vehicles that can be made available for investment of the Benefits Fund, consistent with the objectives set forth by the Treasurer.
2. Facilitate discussions and negotiations with investment managers and trustees of collective investment trusts of those investment vehicles selected by the Treasurer, and where reasonable and prudent in the interest of the funds directly invested by VPIC, leverage additional State investment for fee and term concessions beneficial to both parties.
3. Work together with the Treasurer in investigating new investment vehicles that may permit investment of the Benefits Fund alongside the investment of assets of the retirement systems.

D. It is not anticipated that the assets of the Benefits Fund will be commingled with the assets of the three public retirement systems. In the event the Parties determine that there is a desire to commingle the assets of the Benefits Fund with the assets of the three public retirement systems, they agree to work together to amend this Agreement and ensure that all applicable state and federal laws and regulations, and applicable trust rules are adhered to in order to ensure that the respective funds' tax preferred status is maintained.

E. Where additional fees or costs may be incurred pursuant to the work performed under this Agreement, the Parties agree to fairly and equitably apportion the same among each party. Neither party shall be presumed responsible for costs or fees incurred by the other party except and to the extent agreed by the Treasurer or authorized designee, in writing, and by the Chairperson or other designee of the Commission other than the Treasurer, in writing, when authorized by the Commission.

VI. Other Provisions:

A. This Agreement is intended to be construed and applied in a manner consistent with current laws and regulations and with the tax-preferred status of the assets of the Benefits Fund and the assets of the three public retirement systems. If a term of this Agreement is inconsistent with such authority or has an impact on the tax-preferred status of either the Assets subject to this Agreement or the assets of the three public retirement systems, then that term shall be invalid, but the remaining terms and conditions of this Agreement shall remain in full force and effect.

B. Nothing in this Agreement is intended to restrict the authority of either party to act as provided by statute or regulation.

C. This Agreement is between the Treasurer and VPIC and does not confer or create any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity, by any third person or party (public or private) against the State of Vermont, its agencies, its officers, employees, or any person.

E. This Agreement, upon execution, contains the entire agreement of the parties and no prior written or oral agreement, express or implied, shall be admissible to contradict the provisions of this Agreement.

VII. Effective Date and Term:

The terms of this Agreement will become effective upon the signature of both parties, and shall be for a one-year term, with any extensions being for additional one-year terms.

VIII. Modification:

This Agreement may be modified upon the mutual, written consent of the parties.

IX. Termination:

This Agreement, as modified with the consent of both parties, may be terminated by either or both parties with 60 days' notice.

Approved By:

VERMONT PENSION INVESTMENT COMMISSION

Tom Golonka

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Thomas Golonka, Chair

9/30/2022

Date

TREASURER
[Signature]

Elizabeth Pearce

9/29/22

Date