

A bill for an act

relating to retirement; retirement plans covered by the combined service annuity provision; updating and making more consistent the definitions of "salary" and "average salary"; amending Minnesota Statutes 2006, sections 352.01, subdivisions 13, 14a, by adding a subdivision; 352B.01, subdivision 11, by adding subdivisions; 353.01, subdivisions 10, 17a, by adding a subdivision; 354.05, subdivisions 13a, 35, 35a; 354A.011, subdivisions 7a, 24, by adding a subdivision; 422A.01, subdivisions 4a, 13a, by adding a subdivision; 422A.15, subdivision 1; 490.121, subdivision 21, by adding subdivisions.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2006, section 352.01, subdivision 13, is amended to read:

Subd. 13. **Salary.** (a) Subject to the limitations of section 356.611, "salary" means ~~wages, or other~~ the periodic compensation; upon which employee contributions are required and made and that is paid to an employee before deductions are made for deferred compensation, supplemental retirement plans, or other voluntary salary reduction programs.

(b) "Salary" does not ~~include~~ mean:

(1) ~~lump-sum~~ lump-sum sick leave payments;

(2) severance payments, including payments referenced in section 356.24, subdivision 1, clause (4);

(3) ~~lump-sum~~ lump-sum annual leave payments ~~and~~;

(4) overtime payments made at the time of separation from ~~state~~ active service;

~~(4)~~ (5) lump-sum wellness payments;

(6) employer-paid amounts used by an employee towards the cost of insurance coverage, employer-paid fringe benefits, flexible spending accounts, cafeteria plans, health care expense accounts, or day care expenses;

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(7) payments made in lieu of any employer-paid group insurance coverage, including the difference between single and family rates that may be paid to an employee with single coverage and certain amounts determined by the executive director to be ineligible;

~~(5)~~ (8) payments made as an employer-paid fringe benefit;

~~(6)~~ (9) workers' compensation payments;

~~(7)~~ (10) expense reimbursements;

(11) disability insurance payments, including self-insured disability payments;

(12) lump-sum settlements that are not directly associated with a specific earnings period;

(13) payments made to a suspended employee or made to an employee who is placed on a health-related leave of absence unless the payments are periodic payments of accumulated amounts under the provisions of a uniform policy of the employing unit applied equally to all similarly situated employees;

(14) employer contributions to a deferred compensation or ~~tax-sheltered~~ tax-sheltered annuity program; and

~~(8)~~ (15) amounts contributed under a benevolent vacation ~~and~~ or sick leave donation program that is authorized by the employing unit or provided in a collectively bargained agreement.

(c) Salary includes amounts provided to an employee by the employer through a grievance proceeding or a legal settlement ~~are salary~~ only if the settlement ~~is~~ terms are reviewed by the executive director and the amounts are determined by the executive director to be consistent with paragraph (a) and with prior determinations.

Sec. 2. Minnesota Statutes 2006, section 352.01, is amended by adding a subdivision to read:

Subd. 13b. **Severance payments.** "Severance payments" include, but are not limited to:

(1) payments to an employee in order to induce the employee to terminate employment or as consideration for an agreement to terminate employment;

(2) payments, or that portion of payments, that are not clearly compensation for the performance of services by the employee to the employer;

(3) payments to an employee or to a former employee for service as an advisor to a successor or as a consultant to the employer under an agreement to terminate employment that occurs within two years or less of the execution of the agreement for compensation that is significantly different than the most recent prior contract salary;

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(4) payments under a procedure that allows the employee to designate the time of payment if the payments are made during the period of service credit used to compute a benefit or annuity under section 352.113; 352.115; 352.116; or 352.12, subdivision 2; and

(5) lump-sum payments during the time period that contains the average salary for additional services that were performed without pay during other years of salary.

Sec. 3. Minnesota Statutes 2006, section 352.01, subdivision 14a, is amended to read:

Subd. 14a. **Average salary.** (a) "Average salary" means the average of the highest five successive years of salary upon which the employee has made contributions to the retirement fund by payroll deductions. Average salary must be based upon all allowable service if this service is less than five years. Average salary may not include any more than the equivalent of 60 monthly salary payments.

(b) "Average salary" does not include the payment of accrued unused annual leave or overtime paid at time of final separation from state service if paid in a lump sum ~~nor~~ and does not include the reduced salary, if any, paid during the period that the employee is entitled to workers' compensation benefit payments for a temporary disability.

(c) For an employee covered by the correctional state employees retirement plan, "average salary" means the average of the monthly salary during the employee's highest five successive years of salary as an employee covered by the general state employees retirement plan, or the correctional state employees retirement plan, or by a combination of the two. If the total of the covered service is less than five years, the determination of average salary must be based on all allowable service.

Sec. 4. Minnesota Statutes 2006, section 352B.01, is amended by adding a subdivision to read:

Subd. 10a. **Salary.** (a) Subject to the limitations of section 356.611, "salary" means the periodic compensation upon which employee contributions are required and made and that is paid to a member before deductions are made for deferred compensation, supplemental retirement plans, or other voluntary salary reduction programs.

(b) Salary does not mean:

(1) lump-sum sick leave payments;

(2) severance payments including payments referenced in section 356.24, subdivision 1, clause (4);

(3) lump-sum annual leave payments;

(4) overtime payments made at the time of separation from active service;

(5) lump-sum wellness payments;

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(6) employer-paid amounts used by a member towards the cost of insurance coverage, employer-paid fringe benefits, flexible spending accounts, cafeteria plans, health care expense accounts, or day care expenses;

(7) payments made in lieu of any employer-paid group insurance coverage, including the difference between single and family rates that may be paid to a member with single coverage and certain amounts determined by the executive director to be ineligible;

(8) payments made as an employer-paid fringe benefit;

(9) workers' compensation payments;

(10) expense reimbursements;

(11) disability insurance payments, including self-insured disability payments;

(12) lump-sum settlements that are not directly associated with a specific earnings period;

(13) payments made to a suspended member or made to a member who is placed on a health-related leave of absence unless the payments are periodic payments of accumulated amounts under the provisions of a uniform policy of the employing unit applied equally to all similarly situated employees;

(14) employer contributions to a deferred compensation or tax-sheltered annuity program; and

(15) amounts contributed under a benevolent vacation or sick leave donation program that is authorized by the employing unit or provided in a collectively bargained agreement.

(c) Salary includes amounts provided to an employee by the employer through a grievance proceeding or a legal settlement only if the settlement terms are reviewed by the executive director and the amounts are determined by the executive director to be consistent with paragraph (a) and with prior determinations.

Sec. 5. Minnesota Statutes 2006, section 352B.01, is amended by adding a subdivision to read:

Subd. 10b. **Severance payments.** "Severance payments" include, but are not limited to:

(1) payments to a member in order to induce the member to terminate employment or as consideration for an agreement to terminate employment;

(2) payments, or that portion of payments, that are not clearly compensation for the performance of services by the member to the employer;

(3) payments to an employee or to a former employee for service as an advisor to a successor or as a consultant to the employer under an agreement to terminate employment

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that occurs within two years or less of the execution of the agreement for compensation that is significantly different than the most recent prior contract salary;

(4) payments under a procedure that allows the member to designate the time of payment if the payments are made during the period of service credit used to compute a benefit or annuity under section 352B.08; 352B.10; or 352B.11, subdivisions 2, 2b, and 2c; and

(5) lump-sum payments during the time period that contains the average salary for additional services that were performed without pay during other years of salary.

Sec. 6. Minnesota Statutes 2006, section 352B.01, subdivision 11, is amended to read:

Subd. 11. **Average monthly salary.** (a) Subject to the limitations of section 356.611, "average monthly salary" means the average of the highest monthly salaries for five successive years of service as a member upon which contributions were deducted from pay under section 352B.02, or upon which appropriate contributions or payments were made to the fund to receive allowable service and salary credit as specified under the applicable law. Average monthly salary must be based upon all allowable service if this service is less than five years. "Average salary" may not include more than the equivalent of 60 monthly salary payments.

~~(b) "Average monthly salary" means the salary of the member as defined in section 352.01, subdivision 13. "Average monthly salary" does not include any lump-sum annual leave payments and overtime payments made at the time of separation from state service, any amounts of severance pay, or any reduced salary paid during the period that the person is entitled to workers' compensation benefit payments for a temporary disability.~~

~~(c) A member on leave of absence receiving temporary workers' compensation payments and a reduced salary or no salary from the employer who is entitled to allowable service credit for the period of absence may make payment to the fund for the difference between salary received, if any, and the salary the member would normally receive if not on leave of absence during the period. The member shall pay an amount equal to the member and employer contribution rate under section 352B.02, subdivisions 1b and 1c, on the differential salary amount for the period of the leave of absence. The employing department, at its option, may pay the employer amount on behalf of the member. Payment made under this subdivision must include interest at the rate of 8.5 percent per year, and must be completed within one year of the return from the leave of absence.~~

Sec. 7. Minnesota Statutes 2006, section 352B.01, is amended by adding a subdivision to read:

6.1 Subd. 12. **Service credit for workers' compensation leave of absence.** A member
6.2 on leave of absence receiving temporary workers' compensation payments and a reduced
6.3 salary or no salary from the employer who is entitled to allowable service credit for the
6.4 period of absence may make payment to the fund for the difference between salary
6.5 received, if any, and the salary the member would normally receive if not on leave of
6.6 absence during the period. The member shall pay an amount equal to the member
6.7 and employer contribution rate under section 352B.02, subdivisions 1b and 1c, on
6.8 the differential salary amount for the period of the leave of absence. The employing
6.9 department, at its option, may pay the employer amount on behalf of the member. Payment
6.10 made under this subdivision must include interest at the rate of 8.5 percent per year, and
6.11 must be completed within one year of the return from the leave of absence.

6.12 Sec. 8. Minnesota Statutes 2006, section 353.01, subdivision 10, is amended to read:

6.13 Subd. 10. **Salary.** (a) Subject to the limitations of section 356.611, "salary" means:

6.14 (1) the periodic compensation of a public employee; upon which employee
6.15 contributions are required and that is paid before deductions are made for deferred
6.16 compensation, supplemental retirement plans, or other voluntary salary reduction
6.17 programs, and also means "wages" and includes net income from fees;

6.18 (2) for a public employee who is covered by a supplemental retirement plan under
6.19 section 356.24, subdivision 1, clause (8), (9), or (10), which require all plan contributions
6.20 be made by the employer, the contribution to the applicable supplemental retirement plan
6.21 when the contribution is from mandatory withholdings from employees' wages; and

6.22 (3) for a public employee who has prior service covered by a local police or
6.23 firefighters relief association that has consolidated with the Public Employees Retirement
6.24 Association or to which section 353.665 applies and who has elected coverage either
6.25 under the public employees police and fire fund benefit plan under section 353A.08
6.26 following the consolidation or under section 353.665, subdivision 4, the rate of salary
6.27 upon which member contributions to the special fund of the relief association were made
6.28 prior to the effective date of the consolidation as specified by law and by bylaw provisions
6.29 governing the relief association on the date of the initiation of the consolidation procedure
6.30 and the actual periodic compensation of the public employee after the effective date of
6.31 consolidation.

6.32 (b) Salary does not mean:

6.33 (1) the fees paid to district court reporters;

6.34 (2) unused annual vacation or sick leave payments, in ~~lump-sum~~ a lump sum or in
6.35 periodic payments;

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(3) severance payments, including payments referenced in section 356.24, subdivision 1, clause (4);

(4) reimbursement of expenses;

(5) lump-sum settlements that are not attached to directly associated with a specific earnings period; or

(6) workers' compensation payments;

~~(2)~~ (7) employer-paid amounts used by an employee toward towards the cost of insurance coverage, employer-paid fringe benefits, flexible spending accounts, cafeteria plans, health care expense accounts, or day care expenses, or any;

(8) payments made in lieu of any employer-paid group insurance coverage, including the difference between single and family rates that may be paid to a member with single coverage and certain amounts determined by the executive director to be ineligible;

~~(3)~~ (9) the amount equal to that which the employing governmental subdivision would otherwise pay toward single or family insurance coverage for a covered employee when, through a contract or agreement with some, but not all, employees, the employer:

(i) discontinues, or for new hires does not provide, payment toward the cost of the employee's selected insurance coverages under a group plan offered by the employer;

(ii) makes the employee solely responsible for all contributions toward the cost of the employee's selected insurance coverages under a group plan offered by the employer, including any amount the employer makes toward other employees' selected insurance coverages under a group plan offered by the employer; and or

(iii) provides increased salary rates for employees who do not have any employer-paid group insurance coverages;

~~(4)~~ (10) lump-sum wellness payments;

(11) overtime payments made at the time of separation from active service;

(12) payments made as an employer-paid fringe benefit;

(13) disability insurance payments, including self-insured disability payments;

(14) payments made to a suspended employee or made to an employee who has been placed on a health-related leave of absence unless the payments are periodic payments of accumulated amounts under the provisions of a uniform policy of the employing unit applied equally to all similarly situated employees;

(15) employer contributions to a deferred compensation or tax-sheltered annuity program;

(16) payments to school district administrators for services that are in addition to the normal work year contract if the additional services are performed on an extended day, a nonwork year, a holiday, an annual leave day, a sick leave day, or any other nonduty day;

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(17) amounts contributed under a benevolent vacation or sick leave donation program that is authorized by the employing unit or is provided in a collectively bargained agreement;

(18) except as provided in section 353.86 or 353.87, the compensation of any kind paid to volunteer ambulance service personnel or volunteer firefighters, as defined in subdivision 35 or 36; and

~~(5)~~ (19) the amount of compensation that exceeds the limitation provided in section 356.611.

(c) Salary includes amounts provided to an employee by the employer through a grievance proceeding or a legal settlement ~~are salary~~ only if the settlement is terms are reviewed by the executive director and the amounts are determined by the executive director to be consistent with paragraph (a) and with prior determinations.

Sec. 9. Minnesota Statutes 2006, section 353.01, is amended by adding a subdivision to read:

Subd. 10a. **Severance payments.** "Severance payments" include, but are not limited to:

(1) payments to an employee in order to induce the employee to terminate employment or as consideration for an agreement to terminate employment;

(2) payments, or that portion of payments, that are not clearly compensation for the performance of services by the employee to the employer;

(3) payments to an employee or to a former employee for service as an advisor to a successor or as a consultant to the employer under an agreement to terminate employment that occurs within two years or less of the execution of the agreement for compensation that is significantly different than the most recent prior contract salary;

(4) payments under a procedure that allows the employee to designate the time of payment if the payments are made during the period of service credit used to compute a benefit or annuity under section 353.29; 353.30; 353.31; or 353.32, subdivision 1a; and

(5) lump-sum payments during the time period that contains the average salary for additional services that were performed without pay during other years of salary.

Sec. 10. Minnesota Statutes 2006, section 353.01, subdivision 17a, is amended to read:

Subd. 17a. **Average salary.** (a) "Average salary," for purposes of calculating a retirement annuity under section 353.29, subdivision 3, means an amount equivalent to the average of the highest salary of the member, police officer, or firefighter, whichever applies, upon which employee contributions were paid for any five successive years of

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9.1 allowable service, based on the dates of the applicable salary periods as listed on the
9.2 respective salary deduction reports. Average salary must be based upon all allowable
9.3 service if this service is less than five years. Average salary may not include more than the
9.4 equivalent of 60 monthly salary payments.

9.5 (b) "Average salary" may not include any reduced salary paid during a period
9.6 in which the employee is entitled to benefit payments from the workers' compensation
9.7 program for a temporary disability, unless the average salary is higher; by including this
9.8 period.

9.9 Sec. 11. Minnesota Statutes 2006, section 354.05, subdivision 13a, is amended to read:

9.10 Subd. 13a. **Average salary.** (a) "Average salary," for the purpose of determining
9.11 the member's retirement annuity under section 354.44, subdivision 6, means the average
9.12 salary upon which contributions were made for the highest five successive years of
9.13 formula service credit.

9.14 (b) "Average salary" may not include any more than the equivalent of 60 monthly
9.15 salary payments.

9.16 (c) "Average salary" must be based upon all years of formula service credit if ~~this~~
9.17 the total formula service credit is less than five years.

9.18 Sec. 12. Minnesota Statutes 2006, section 354.05, subdivision 35, is amended to read:

9.19 Subd. 35. **Salary.** (a) Subject to the limitations of section 356.611, "salary" means
9.20 the periodic compensation; upon which member contributions are required and made
9.21 and that is paid to a teacher before deductions are made for deferred compensation,
9.22 supplemental retirement plans, or other voluntary salary reduction programs.

9.23 (b) "Salary" does not mean:

9.24 (1) ~~lump-sum~~ lump-sum annual leave payments;

9.25 (2) ~~lump-sum~~ lump-sum wellness ~~and~~ payments;

9.26 (3) lump-sum sick leave payments;

9.27 ~~(3)~~ (4) employer-paid amounts used by an employee toward the cost of insurance
9.28 coverage, employer-paid fringe benefits, flexible spending accounts, cafeteria plans, health
9.29 care expense accounts, or day care expenses; ~~or any;~~

9.30 (5) payments made in lieu of any employer-paid group insurance coverage, including
9.31 the difference between single and family rates that may be paid to a member with single
9.32 coverage and certain amounts determined by the executive director to be ineligible;

9.33 ~~(4)~~ (6) payments made as an employer-paid fringe benefit;

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10.1 (7) any form of payment made in lieu of any other employer-paid fringe benefit or
10.2 expense;

10.3 ~~(5)~~ (8) any form of severance payments;

10.4 ~~(6)~~ (9) workers' compensation payments;

10.5 ~~(7)~~ (10) disability insurance payments, including self-insured disability payments;

10.6 ~~(8)~~ (11) overtime payments made at the time of separation from active service;

10.7 (12) expense reimbursements;

10.8 (13) lump-sum settlements that are not directly associated with a specific earnings
10.9 period;

10.10 (14) payments to school principals and all other administrators for services that are
10.11 in addition to the normal work year contract if these additional services are performed
10.12 on an extended duty day, Saturday, Sunday, holiday, annual leave day, sick leave day, or
10.13 any other nonduty day;

10.14 ~~(9)~~ (15) employer contributions to a deferred compensation or tax-sheltered annuity
10.15 program;

10.16 (16) amounts contributed under a benevolent vacation or sick leave donation program
10.17 that is authorized by the employing unit or provided in a collectively bargained agreement;

10.18 (17) payments under section 356.24, subdivision 1, clause (4); and

10.19 ~~(10)~~ (18) payments made under section 122A.40, subdivision 12, except for
10.20 payments for sick leave that are accumulated under the provisions of a uniform school
10.21 district policy that applies equally to all similarly situated persons in the district.

10.22 (c) Salary includes amounts provided to an employee by the employer through a
10.23 grievance proceeding or a legal settlement ~~are salary~~ only if the settlement ~~is~~ terms are
10.24 reviewed by the executive director and the amounts are determined by the executive
10.25 director to be consistent with paragraph (a) and with prior determinations.

10.26 Sec. 13. Minnesota Statutes 2006, section 354.05, subdivision 35a, is amended to read:

10.27 Subd. 35a. **Severance payments.** Severance payments include, but are not limited
10.28 to:

10.29 (1) payments to an employee in order to induce the teacher to terminate employment
10.30 or as consideration for an agreement to terminate employment;

10.31 (2) payments, or that portion of payments, that are not clearly compensation for the
10.32 performance of services by the employee to the employer;

10.33 (3) payments to an administrator or to a former administrator ~~serving for service~~ as an
10.34 advisor to a successor or as a consultant to the employer under an agreement to terminate

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11.1 employment that occurs within two years or less of the execution of the agreement for
11.2 compensation that is significantly different than the most recent prior contract salary;

11.3 (4) payments under a procedure that allows the employee to designate the time of
11.4 payment if the payments are made during the period of formula service credit used to
11.5 compute a benefit or annuity under section 354.44, subdivision 6 ~~or 7~~; 354.46, subdivision
11.6 1 or 2; or 354.48, subdivision 3; and

11.7 (5) ~~lump-sum~~ lump-sum payments during the time period that contains the ~~highest~~
11.8 ~~five successive years of~~ average salary for additional services that were performed without
11.9 pay during other years of salary.

11.10 Sec. 14. Minnesota Statutes 2006, section 354A.011, subdivision 7a, is amended to
11.11 read:

11.12 Subd. 7a. **Average salary.** (a) "Average salary," for purposes of computing a normal
11.13 coordinated program retirement annuity under section 354A.31, subdivision 4 or 4a,
11.14 means an amount equal to the average salary upon which contributions were made for the
11.15 highest five successive years of service credit ~~but~~.

11.16 (b) Average salary may not, in any event, include any more than the equivalent of 60
11.17 monthly salary payments. Average salary must be based upon all years of service credit if
11.18 ~~this total~~ service credit is less than five years.

11.19 Sec. 15. Minnesota Statutes 2006, section 354A.011, subdivision 24, is amended to
11.20 read:

11.21 Subd. 24. **Salary; covered salary.** (a) Subject to the limitations of section 356.611,
11.22 "salary" or "covered salary" means the ~~entire~~ periodic compensation; upon which member
11.23 contributions are required and made; that is paid to a teacher before deductions are made
11.24 for deferred compensation, supplemental retirement plans, or other voluntary salary
11.25 reduction programs.

11.26 (b) "Salary" does not mean:

11.27 (1) ~~lump-sum~~ lump-sum annual leave payments;

11.28 (2) ~~lump-sum~~ lump-sum wellness ~~and~~ payments;

11.29 (3) sick leave payments;

11.30 ~~(3)~~ (4) employer-paid amounts used by an employee toward the cost of insurance
11.31 coverage, employer-paid fringe benefits, flexible spending accounts, cafeteria plans, health
11.32 care expense accounts, or day care expenses, ~~or any~~;

11.33 (5) payments in lieu of any employer-paid group insurance coverage, including the
11.34 difference between single and family rates that may be paid to a member with single

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12.1 coverage, and certain amounts determined by the executive secretary or director to be
12.2 ineligible;

12.3 ~~(4)~~ (6) payments made as an employer-paid fringe benefit;

12.4 (7) any form of payment that is made in lieu of any other employer-paid fringe
12.5 benefit or expense;

12.6 ~~(5)~~ (8) any form of severance payments;

12.7 ~~(6)~~ (9) workers' compensation payments;

12.8 ~~(7)~~ (10) disability insurance payments, including self-insured disability payments;

12.9 ~~(8)~~ (11) overtime payments made at the time of separation from active service;

12.10 (12) expense reimbursements;

12.11 (13) lump-sum settlements that are not directly associated with a specific earnings
12.12 period;

12.13 (14) payments to school principals and all other administrators for services that are
12.14 in addition to the normal work year contract if these additional services are performed
12.15 on an extended duty day, Saturday, Sunday, holiday, annual leave day, sick leave day, or
12.16 any other nonduty day;

12.17 ~~(9)~~ (15) employer contributions to a deferred compensation or tax-sheltered annuity
12.18 program;

12.19 (16) amounts contributed under a benevolent vacation or sick leave donation program
12.20 that is authorized by the employing unit or provided in a collectively bargained agreement;

12.21 (17) payments under section 356.24, subdivision 1, clause (4)(ii); and

12.22 ~~(10)~~ (18) payments made under section 122A.40, subdivision 12, except for
12.23 payments for sick leave that are accumulated under the provisions of a uniform school
12.24 district policy that applies equally to all similarly situated persons in the district.

12.25 (c) Salary includes amounts provided to an employee by the employer through a
12.26 grievance proceeding or a legal settlement ~~are salary~~ only if the settlement ~~is~~ terms are
12.27 reviewed by the executive director and the amounts are determined by the executive
12.28 director to be consistent with paragraph (a) and with prior determinations.

12.29 Sec. 16. Minnesota Statutes 2006, section 354A.011, is amended by adding a
12.30 subdivision to read:

12.31 Subd. 25a. **Severance payments.** "Severance payments" include, but are not
12.32 limited to:

12.33 (1) payments to an employee in order to induce the employee to terminate
12.34 employment or as consideration for an agreement to terminate employment;

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13.1 (2) payments, or that portion of payments, that are not clearly compensation for the
13.2 performance of services by the employee to the employer;

13.3 (3) payments to an administrator or to a former administrator for service as an
13.4 advisor to a successor or as a consultant to the employer under an agreement to terminate
13.5 employment that occurs within two years or less of the execution of the agreement for
13.6 compensation that is significantly different than the most recent prior contract salary;

13.7 (4) payments under a procedure that allows the employee to designate the time of
13.8 payment if the payments are made during the period of service credit used to compute a
13.9 benefit or annuity under section 354A.31; 354A.35; or 354A.36; and

13.10 (5) lump-sum payments during the time period that contains the average salary for
13.11 additional services that were performed without pay during other years of salary.

13.12 Sec. 17. Minnesota Statutes 2006, section 422A.01, subdivision 4a, is amended to read:

13.13 Subd. 4a. **Average salary.** (a) "Average salary" for purposes of calculating a service
13.14 allowance under section 422A.15, subdivision 1, means the arithmetic average annual
13.15 salary, wages, or compensation of the member from the city for any five calendar years out
13.16 of the last ten calendar years of service, except as provided for in section 422A.16, which
13.17 may include the year in which the employee retires, as selected by the employee.

13.18 (b) A member with more than five calendar years of service, but less than ten
13.19 calendar years, may select any five calendar years of service to determine the average
13.20 salary. A member with less than five years of service with the city shall use all earnings
13.21 to determine the average salary.

13.22 (c) Average salary may not include more than the equivalent of 60 monthly salary
13.23 payments.

13.24 Sec. 18. Minnesota Statutes 2006, section 422A.01, subdivision 13a, is amended to
13.25 read:

13.26 Subd. 13a. **Covered salary.** ~~"Salary" is~~ (a) Subject to the limitations of section
13.27 356.611, "salary" means the periodic compensation upon which member contributions
13.28 are required and made and that is paid to a judge before deductions are made for deferred
13.29 compensation, supplemental retirement plans, or other voluntary salary reduction
13.30 programs.

13.31 (b) Salary does not mean:

13.32 (1) lump-sum sick leave payments;

13.33 (2) severance payments including payments referenced in section 356.24,
13.34 subdivision 1, clause (4);

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- 14.1 (3) lump-sum annual leave payments;
- 14.2 (4) overtime payments made at the time of separation from active service;
- 14.3 (5) lump-sum wellness payments;
- 14.4 (6) employer-paid amounts used by a judge towards the cost of insurance coverage,
14.5 employer-paid fringe benefits, flexible spending accounts, cafeteria plans, health care
14.6 expense accounts, or day care expenses;
- 14.7 (7) payments made in lieu of any employer-paid group insurance coverage, including
14.8 the difference between single and family rates that may be paid to a judge with single
14.9 coverage and certain amounts determined by the executive director to be ineligible;
- 14.10 (8) payments made as an employer-paid fringe benefit;
- 14.11 (9) workers' compensation payments;
- 14.12 (10) expense reimbursements;
- 14.13 (11) disability insurance payments, including self-insured disability payments;
- 14.14 (12) lump-sum settlements that are not directly associated with a specific earnings
14.15 period;
- 14.16 (13) payments made to a suspended judge or made to a judge who is placed on a
14.17 health-related leave of absence unless the payments are periodic payments of accumulated
14.18 amounts under the provisions of a uniform policy of the employing unit applied equally to
14.19 all similarly situated employees;
- 14.20 (14) employer contributions to a deferred compensation or tax-sheltered annuity
14.21 program; and
- 14.22 (15) amounts contributed under a benevolent vacation or sick leave donation
14.23 program that is authorized by the employing unit.
- 14.24 (c) Salary includes amounts provided to a judge by the employer through a grievance
14.25 proceeding or a legal settlement only if the settlement terms are reviewed by the executive
14.26 director and the amounts are determined by the executive director to be consistent with
14.27 paragraph (a) and with prior determinations.

14.28 Sec. 19. Minnesota Statutes 2006, section 422A.01, is amended by adding a
14.29 subdivision to read:

14.30 Subd. 13b. **Severance payments.** "Severance payments" include, but are not
14.31 limited to:

14.32 (1) payments to a member in order to induce the member to terminate employment
14.33 or as consideration for an agreement to terminate employment;

14.34 (2) payments, or that portion of payments, that are not clearly compensation for the
14.35 performance of services by the member to the employer;

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15.1 (3) payments to a member or to a former member for service as an advisor to a
15.2 successor or as a consultant to the employer under an agreement to terminate employment
15.3 that occurs within two years or less of the execution of the agreement for compensation
15.4 that is significantly different than the most recent prior contract salary;

15.5 (4) payments under a procedure that allows the member to designate the time of
15.6 payment if the payments are made during the period of service credit used to compute
15.7 a benefit or annuity under section 354.44, subdivision 6; 354.46, subdivision 1 or 2; or
15.8 354.48, subdivision 3; and

15.9 (5) lump-sum payments during the time period that contains the average salary for
15.10 additional services that were performed without pay during other years of salary.

15.11 Sec. 20. Minnesota Statutes 2006, section 422A.15, subdivision 1, is amended to read:

15.12 Subdivision 1. **Formula pension and annuity.** Except as otherwise provided in
15.13 subdivision 3, each contributing member who, at the time of retirement, fulfills the
15.14 conditions necessary to enable the member to retire is entitled to receive a "formula
15.15 pension and annuity" equal to two percent for each year of allowable service for the first
15.16 ten years and thereafter 2.5 percent per year of allowable service of ~~the~~ average salary,
15.17 multiplied by the years of service credited by the retirement fund. The formula pension
15.18 and annuity must be computed on the single life plan but is subject to the option selections
15.19 provided for in section 422A.17.

15.20 In order to be entitled to the formula pension and annuity herein provided for, the
15.21 retiring employee at the time of cessation of employment and of actual retirement must
15.22 have attained the age of 60 years or have been employed by the city not less than 30 years,
15.23 or meet the qualifications provided for in section 422A.16, and in addition thereto have
15.24 contributed to the retirement fund at the percentage rate prescribed by the retirement law
15.25 applicable when the salary, wages or compensation was paid on all salaries, wages, or
15.26 compensation received from the city or from an applicable employing unit. The years of
15.27 service to be applied in the formula pension and annuity must be found and determined by
15.28 the retirement board, except that no credit may be allowed for any year in which a back
15.29 charge is owing at time of retirement and the earnings from any year in which a back
15.30 charge is owing may not be used in determining the average salary.

15.31 Sec. 21. Minnesota Statutes 2006, section 490.121, subdivision 21, is amended to read:

15.32 Subd. 21. **Final average compensation.** "Final average compensation" means
15.33 the total amount of salary payable to a judge in the highest five years out of the last ten
15.34 years before the termination of judicial service, divided by five if the number of years of

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16.1 allowable service by the judge equals or exceeds ten. If the number of years of service by
16.2 the judge is less than ten years, but more than five years, the highest five years of salary
16.3 must be counted. If the number of years of service by the judge is less than five years, the
16.4 aggregate salary for the period of service must be divided by the number of months in
16.5 the period of allowable service and the results must be multiplied by 12. Final average
16.6 compensation may not include more than the equivalent of 60 monthly salary payments.

16.7 Sec. 22. Minnesota Statutes 2006, section 490.121, is amended by adding a subdivision
16.8 to read:

16.9 Subd. 21g. **Salary.** (a) Subject to the limitations of section 356.611, "salary"
16.10 means the periodic compensation upon which member contributions are required and
16.11 made and that is paid to a judge before deductions are made for deferred compensation,
16.12 supplemental retirement plans, or other voluntary salary reduction programs.

16.13 (b) Salary does not mean:

16.14 (1) lump-sum sick leave payments;

16.15 (2) severance payments including payments referenced in section 356.24,
16.16 subdivision 1, clause (4);

16.17 (3) lump-sum annual leave payments;

16.18 (4) overtime payments made at the time of separation from active service;

16.19 (5) lump-sum wellness payments;

16.20 (6) employer-paid amounts used by a judge towards the cost of insurance coverage,
16.21 employer-paid fringe benefits, flexible spending accounts, cafeteria plans, health care
16.22 expense accounts, or day care expenses;

16.23 (7) payments made in lieu of any employer-paid group insurance coverage, including
16.24 the difference between single and family rates that may be paid to a judge with single
16.25 coverage and certain amounts determined by the executive director to be ineligible;

16.26 (8) payments made as an employer-paid fringe benefit;

16.27 (9) workers' compensation payments;

16.28 (10) expense reimbursements;

16.29 (11) disability insurance payments, including self-insured disability payments;

16.30 (12) lump-sum settlements that are not directly associated with a specific earnings
16.31 period;

16.32 (13) payments made to a suspended judge or made to a judge who is placed on a
16.33 health-related leave of absence unless the payments are periodic payments of accumulated
16.34 amounts under the provisions of a uniform policy of the employing unit applied equally
16.35 to all similarly situated judges;

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17.1 (14) employer contributions to a deferred compensation or tax-sheltered annuity
17.2 program; and

17.3 (15) amounts contributed under a benevolent vacation or sick leave donation program
17.4 that is authorized by the employing unit or provided in a collectively bargained agreement.

17.5 (c) Salary includes amounts provided to a judge by the employer through a grievance
17.6 proceeding or a legal settlement only if the settlement terms are reviewed by the executive
17.7 director and the amounts are determined by the executive director to be consistent with
17.8 paragraph (a) and with prior determinations.

17.9 Sec. 23. Minnesota Statutes 2006, section 490.121, is amended by adding a subdivision
17.10 to read:

17.11 Subd. 22a. **Severance payments.** "Severance payments" include, but are not
17.12 limited to:

17.13 (1) payments to a judge in order to induce the judge to terminate employment or as
17.14 consideration for an agreement to terminate employment;

17.15 (2) payments, or that portion of payments, that are not clearly compensation for the
17.16 performance of services by the judge to the employer;

17.17 (3) payments to a judge or to a former judge for service as an advisor to a successor
17.18 or as a consultant to the employer under an agreement to terminate employment that
17.19 occurs within two years or less of the execution of the agreement for compensation that is
17.20 significantly different than the most recent prior contract salary;

17.21 (4) payments under a procedure that allows the judge to designate the time of
17.22 payment if the payments are made during the period of service credit used to compute a
17.23 benefit or annuity under section 490.124, subdivision 1, 3, 4, or 9; and

17.24 (5) lump-sum payments during the time period that contains the average salary for
17.25 additional services that were performed without pay during other years of salary.

17.26 Sec. 24. **EFFECTIVE DATE.**

17.27 Sections 1 to 23 are effective July 1, 2007.