

Presented to the governor April 17, 1992

Signed by the governor April 29, 1992, 8:35 a.m.

CHAPTER 598—H.F.No. 2025

An act relating to retirement; various retirement plans; increasing the interest rate on the repayment of refunds and similar transactions; authorizing purchases of prior service credit; increasing the employer contribution rate for certain first class city teacher retirement fund association coordinated programs; making various changes in administrative provisions of laws governing the first class city teachers retirement fund associations; providing authority for the Minneapolis teachers retirement fund association to amend its articles of incorporation to modify disability benefits for basic program members; amending Minnesota Statutes 1990, sections 3A.03, subdivision 2; 352.01, subdivision 11; 352.04, subdivision 8; 352.23; 352.27; 352.271; 352B.11, subdivision 4; 352C.051, subdivision 3; 352C.09, subdivision 2; 352D.05, subdivision 4; 352D.11, subdivision 2; 352D.12; 353.28, subdivision 5; 353.35; 353.36, subdivision 2; 353A.07, subdivision 3, as amended; 354.41, subdivision 9; 354.50, subdivision 2; 354.51, subdivisions 4 and 5; 354.52, subdivision 4; 354.53, subdivision 1; 354A.011, subdivisions 4, 8, 11, 12, 13, 15, 21, 24, and 27; 354A.021, subdivision 6; 354A.05; 354A.08; 354A.096; 354A.12, subdivision 2; 354A.31, subdivision 3; 354A.36, subdivision 3; 354A.38, subdivision 3; and 490.124, subdivision 12; Minnesota Statutes 1991 Supplement, sections 353.01, subdivision 16; 353.27, subdivisions 12, 12a, and 12b; 354.094, subdivision 1; and 354A.011, subdivision 26; repealing Minnesota Statutes 1990, sections 354A.011, subdivision 2; and 354A.40, subdivisions 2 and 3.

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

ARTICLE 1

MINNESOTA STATE RETIREMENT SYSTEM

Section 1. Minnesota Statutes 1990, section 3A.03, subdivision 2, is amended to read:

Subd. 2. **REFUND.** (1) Any person who has made contributions pursuant to subdivision 1 who is no longer a member of the legislature is entitled to receive upon application to the director a refund of all contributions credited to the member's account with interest at ~~the~~ an annual rate of six percent ~~per annum~~ compounded annually.

(2) The refund of contributions as provided in clause (1) above terminates all rights of a former member of the legislature or survivors of the former member under this chapter. Should the former member of the legislature again be a member of the legislature after having taken a refund as provided above, the

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member shall be considered a new member. However, a new member may reinstate the rights and credit for service forfeited, provided the new member repays all refunds taken plus interest at the an annual rate of ~~six~~ 8.5 percent ~~per annum~~ compounded annually.

(3) No person shall be required to apply for or accept a refund.

Sec. 2. Minnesota Statutes 1990, section 352.01, subdivision 11, is amended to read:

Subd. 11. **ALLOWABLE SERVICE.** "Allowable service" means:

(1) Service by an employee for which on or before July 1, 1957, the employee was entitled to allowable service credit on the records of the system by reason of employee contributions in the form of salary deductions, payments in lieu of salary deductions, or in any other manner authorized by Minnesota Statutes 1953, chapter 352, as amended by Laws 1955, chapter 239.

(2) Service by an employee for which on or before July 1, 1961, the employee chose to obtain credit for service by making payments to the fund under Minnesota Statutes 1961, section 352.24.

(3) Except as provided in clauses (9) and (10), service by an employee after July 1, 1957, for any calendar month in which the employee is paid salary from which deductions are made, deposited, and credited in the fund, including deductions made, deposited, and credited as provided in section 352.041.

(4) Except as provided in clauses (9) and (10), service by an employee after July 1, 1957, for any calendar month for which payments in lieu of salary deductions are made, deposited, and credited in the fund, as provided in section 352.27 and Minnesota Statutes 1957, section 352.021, subdivision 4.

For purposes of clauses (3) and (4), except as provided in clauses (9) and (10), any salary paid for a fractional part of any calendar month is deemed the compensation for the entire calendar month.

(5) The period of absence from their duties by employees who are temporarily disabled because of injuries incurred in the performance of duties and for which disability the state is liable under the workers' compensation law until the date authorized by the director for the commencement of payments of a total and permanent disability benefit from the retirement fund.

(6) The unused part of an employee's annual leave allowance for which the employee is paid salary.

(7) Any service covered by a refund repaid as provided in section 352.23 or 352D.05, subdivision 4, except service rendered as an employee of the adjutant general for which the person has credit with the federal civil service retirement system.

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(8) Any service before July 1, 1978, by an employee of the transit operating division of the metropolitan transit commission or by an employee on an authorized leave of absence from the transit operating division of the metropolitan transit commission who is employed by the labor organization which is the exclusive bargaining agent representing employees of the transit operating division, which was credited by the metropolitan transit commission-transit operating division employees retirement fund or any of its predecessor plans or funds as past, intermediate, future, continuous, or allowable service as defined in the metropolitan transit commission-transit operating division employees retirement fund plan document in effect on December 31, 1977.

(9) Service after July 1, 1983, by an employee who is employed on a part-time basis for less than 50 percent of full time, for which the employee is paid salary from which deductions are made, deposited, and credited in the fund, including deductions made, deposited, and credited as provided in section 352.041 or for which payments in lieu of salary deductions are made, deposited, and credited in the fund as provided in section 352.27 shall be credited on a fractional basis either by pay period, monthly, or annually based on the relationship that the percentage of salary earned bears to a full-time salary, with any salary paid for the fractional service credited on the basis of the rate of salary applicable for a full-time pay period, month, or a full-time year. For periods of part-time service that is duplicated service credit, section 356.30, subdivision 1, clauses (i) and (j), govern.

The allowable service determined and credited on a fractional basis shall be used in calculating the amount of benefits payable, but service as determined on a fractional basis must not be used in determining the length of service required for eligibility for benefits.

(10) Any period of authorized leave of absence without pay that does not exceed one year and for which the employee obtained credit by payment to the fund in lieu of salary deductions. To obtain credit, the employee shall pay an amount equal to the employee and employer contribution rate in section 352.04, subdivisions 2 and 3, multiplied by the employee's hourly rate of salary on the date of return from leave of absence and by the days and months of the leave of absence without pay for which the employee wants allowable service credit. The employing department, at its option, may pay the employer amount on behalf of its employees. Payments made under this clause shall include interest at the annual rate of six 8.5 percent per year compounded annually from the date of termination of the leave of absence to the date payment is made unless payment is completed within one year of the return from leave of absence.

Sec. 3. Minnesota Statutes 1990, section 352.04, subdivision 8, is amended to read:

Subd. 8. DEPARTMENT REQUIRED TO PAY OMITTED SALARY DEDUCTIONS. (a) If a department fails to take deductions past due for a period of 60 days or less from an employee's salary as provided in this section, those deductions must be taken on later payroll abstracts.

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(b) If a department fails to take deductions past due for a period in excess of 60 days from an employee's salary as provided in this section, the department, and not the employee, shall pay the employee and employer contributions and an amount equivalent to ~~six~~ 8.5 percent of the total amount due in lieu of interest.

(c) If a department fails to take deductions past due for a period of 60 days or less and the employee is no longer in state service so that the required deductions cannot be taken from the salary of the employee, the department shall nevertheless pay the required employer contributions. If any department fails to take deductions past due for a period in excess of 60 days and the employee is no longer in state service, the omitted contributions shall be recovered under paragraph (b).

(d) If an employee from whose salary required deductions were past due for a period of 60 days or less leaves state service before the payment of the omitted deductions and subsequently returns to state service, the unpaid amount is considered the equivalent of a refund. The employee accrues no right by reason of the unpaid amount, except that the employee may pay the amount of omitted deductions as provided in section 352.23.

Sec. 4. Minnesota Statutes 1990, section 352.23, is amended to read:

352.23 TERMINATION OF RIGHTS.

When any employee accepts a refund as provided in section 352.22, all existing service credits and all rights and benefits to which the employee was entitled before accepting the refund terminate. They must not again be restored until the former employee acquires at least one year's allowable service credit after taking the last refund. In that event, the employee may repay all refunds previously taken from the retirement fund. Repayment of refunds entitles the employee only to credit for service covered by (1) salary deductions, (2) payments made in lieu of salary deductions, and (3) payments made to obtain credit for service as permitted by laws in effect when payment was made. If an employee before taking one or more refunds had credit for prior service or for military service without payment in either case, the employee may obtain credit for any forfeited service before July 1, 1929, and for any forfeited military service by making payments at a contribution rate of three percent of the average salary upon which deductions for the retirement fund were based, for the three-year period immediately preceding repayment of refund for service credit before July 1, 1929, and on the salary received at the time of entering military service to restore military service credit. Payments ~~and for purchase of prior military service under this section and~~ and repayment of refunds are to be paid with interest at ~~six~~ an annual rate of 8.5 percent ~~per year~~ compounded annually. They may be paid in a lump sum or by payroll deduction in the manner provided in section 352.04.

Sec. 5. Minnesota Statutes 1990, section 352.27, is amended to read:

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352.27 CREDIT FOR MILITARY SERVICE.

Any employee given a leave of absence to enter military service who returns to state service upon discharge from military service as provided in section 192.262, may obtain credit for the period of military service. The employee is not entitled to credit for any voluntary extension of military service at the instance of the employee beyond the initial period of enlistment, induction, or call to active duty, nor to credit for any period of service following a voluntary return to military service. An employee may obtain credit by paying into the fund an employee contribution based upon the salary received at the date of return from military service. The amount of this contribution must be the applicable amounts required in section 352.04, subdivision 2, plus interest at six an annual rate of 8.5 percent per year compounded annually. The matching employer contribution and additional contribution provided in section 352.04 must be paid by the department employing the employee upon return to state service from funds available to the department at the time and in the manner provided in section 352.04.

Sec. 6. Minnesota Statutes 1990, section 352.271, is amended to read:

352.271 METROPOLITAN TRANSIT COMMISSION-TRANSIT OPERATING DIVISION EMPLOYEES; CREDIT FOR MILITARY SERVICE.

Any employee of the metropolitan transit commission operating division who was on a leave of absence to enter military service on July 1, 1978, who has not taken a refund of employee contributions as authorized by article 12 of the metropolitan transit commission-transit operating division employees retirement fund document or section 352.22, subdivision 2a, and who returns to service as an employee of the metropolitan transit commission-transit operating division upon discharge from military service as provided in section 192.262 is entitled to allowable service credit for the period of military service. If an employee has taken a refund of employee contributions, and would otherwise be entitled to allowable service credit under this section, the employee is entitled to allowable service credit for the period of military service upon repayment to the executive director of the system of the amount refunded plus interest at the an annual rate of ~~six~~ 8.5 percent per year compounded annually from the date on which the refund was taken to the date of repayment. No employee is entitled to allowable service credit for any voluntary extensions of military service at the instance of the employee beyond any initial period of enlistment, induction, or call to active duty.

Sec. 7. Minnesota Statutes 1990, section 352B.11, subdivision 4, is amended to read:

Subd. 4. **REENTRY INTO STATE SERVICE.** When a former member, who has become separated from state service that entitled the member to membership and has received a refund of retirement payments, reenters the state service in a position that entitles the member to membership, that member shall receive credit for the period of prior allowable state service if the member repays

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into the fund the amount of the refund, plus interest on it at ~~the~~ an annual rate of ~~six 8.5 percent per year compounded annually,~~ at any time before subsequent retirement. Repayment may be made in installments or in a lump sum.

Sec. 8. Minnesota Statutes 1990, section 352C.051, subdivision 3, is amended to read:

Subd. 3. **REFUND REPAYMENT.** Any former constitutional officer or commissioner who has received a refund as provided in section 352C.09, subdivision 2, who is a currently contributing member of a retirement fund specified or enumerated in subdivision 1 or 2, may repay the refund to the elective state officers retirement plan, with interest at ~~six~~ an annual rate of 8.5 percent per annum compounded annually.

Sec. 9. Minnesota Statutes 1990, section 352C.09, subdivision 2, is amended to read:

Subd. 2. (1) Any person who has made contributions pursuant to subdivision 1 who is no longer a constitutional officer or commissioner is entitled to receive upon application to the director a refund of all contributions credited to the individual's account with interest at the rate of six percent per annum compounded annually.

(2) The refund of contributions as provided in clause (1) above terminates all rights of a former constitutional officer or commissioner or survivors thereof under the provisions of this chapter. Should the former constitutional officer or commissioner again hold such office after having taken a refund as provided above, the former officer or commissioner shall be considered a new member and may reinstate the rights and credit for service forfeited provided all refunds previously taken are repaid with interest at ~~six~~ an annual rate of 8.5 percent per annum compounded annually.

(3) No person shall be required to apply for or accept a refund.

Sec. 10. Minnesota Statutes 1990, section 352D.05, subdivision 4, is amended to read:

Subd. 4. A participant in the unclassified program may repay regular refunds taken pursuant to section 352.22, as provided in section 352.23. A participant in the unclassified program or an employee covered by the general plan who has withdrawn the value of the total shares may repay the refund taken and thereupon restore the service credit, rights and benefits forfeited by paying into the fund the greater of (1) the amount refunded plus interest at ~~6-1/2~~ an annual rate of 8.5 percent per annum compounded annually from the date that the refund was taken until the date that the refund is repaid, or (2) an amount equal to the total of the employee and employer matching and additional contributions for the forfeited employment period less the administrative fee provided in section 352D.09, subdivision 7, plus interest at ~~the~~ an annual rate of ~~6-1/2~~ 8.5 percent per annum compounded annually from the date of the start of the for-

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feited employment period until the date that the refund is paid. If the participant had withdrawn only the employee shares as permitted under prior laws, repayment shall be pro rata. Payment shall be made in a lump sum.

Sec. 11. Minnesota Statutes 1990, section 352D.11, subdivision 2, is amended to read:

Subd. 2. **PAYMENTS BY EMPLOYEE.** An employee entitled to purchase service credit may make the purchase by paying to the state retirement system an amount equal to the current employee contribution rate in effect for the state retirement system applied to the current or final salary rate multiplied by the months and days of prior temporary, intermittent, or contract legislative service. Payment shall be made in one lump sum unless the executive director of the state retirement system agrees to accept payment in installments over a period of not more than three years from the date of the agreement. Installment payments shall be charged interest at a an annual rate found appropriate by the executive director of 8.5 percent compounded annually.

Sec. 12. Minnesota Statutes 1990, section 352D.12, is amended to read:

352D.12 TRANSFER OF PRIOR SERVICE CONTRIBUTIONS.

An employee who is a participant in the unclassified program and who has prior service credit in a covered plan under chapters 352, 353, 354, 354A, and 422A may, within the time limits in this section, elect to transfer to the unclassified program accumulated employee and equal employer contributions with interest at ~~six~~ an annual rate of 8.5 percent ~~a year~~ compounded annually, based on fiscal year balances.

If a participant has taken a refund from a fund listed in this section, the participant may repay the refund to that fund, notwithstanding any restrictions on repayment to that fund, plus ~~six~~ 8.5 percent interest ~~a year~~ compounded annually and have the accumulated employee and equal employer contributions transferred to the unclassified program with interest at ~~six~~ an annual rate of 8.5 percent ~~a year~~ compounded annually based on fiscal year balances.

A participant electing to transfer prior service contributions under this section must complete the application for the transfer and repay any refund within one year of July 1, 1985 or the commencement of the employee's participation in the unclassified program, whichever is later.

Sec. 13. Minnesota Statutes 1990, section 490.124, subdivision 12, is amended to read:

Subd. 12. **REFUND.** (a) Any person who ceases to be a judge but who does not qualify for a retirement annuity or other benefit under section 490.121 shall be entitled to a refund in an amount equal to all the person's contributions to the judges' retirement fund plus interest computed to the first day of the month in which the refund is processed based on fiscal year balances at ~~the~~ an annual rate of five percent ~~per annum~~ compounded annually.

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(b) A refund of contributions under paragraph (a) terminates all service credits and all rights and benefits of the judge and the judge's survivors. A person who becomes a judge again after taking a refund under paragraph (a) may reinstate previously terminated service credits, rights, and benefits by repaying all refunds. A repayment must include interest at ~~six~~ an annual rate of 8.5 percent ~~per annum~~, compounded annually.

Sec. 14. EFFECTIVE DATE.

Sections 1 to 13 are effective May 1, 1994.

ARTICLE 2

PUBLIC EMPLOYEES RETIREMENT ASSOCIATION

Section 1. Minnesota Statutes 1991 Supplement, section 353.01, subdivision 16, is amended to read:

Subd. 16. **ALLOWABLE SERVICE.** (a) "Allowable service" means service during years of actual membership in the course of which employee contributions were made, periods covered by payments in lieu of salary deductions under section 353.35, and service in years during which the public employee was not a member but for which the member later elected, while a member, to obtain credit by making payments to the fund as permitted by any law then in effect.

(b) "Allowable service" also means a period of authorized leave of absence with pay from which deductions for employee contributions are made, deposited, and credited to the fund.

(c) "Allowable service" also means a period of authorized leave of absence without pay that does not exceed one year, and during or for which a member obtained credit by payments to the fund made in place of salary deductions, provided that the payments are made in an amount or amounts based on the member's average salary on which deductions were paid for the last six months of public service, or for that portion of the last six months while the member was in public service, to apply to the period in either case immediately preceding commencement of the leave of absence. If the employee elects to pay employee contributions for the period of any leave of absence without pay, or for any portion of the leave, the employee shall also, as a condition to the exercise of the election, pay to the fund an amount equivalent to both the required employer and additional employer contributions for the employee. The payment must be made within one year from the date the leave of absence terminates. The employer by appropriate action of its governing body, made a part of its official records, before the date of the first payment of the employee contribution, may certify to the association in writing that it will cause to be paid the employer and additional employer contributions from the proceeds of a tax levy made under section 353.28. Payments under this paragraph must include interest at ~~the~~ an

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annual rate of ~~six~~ 8.5 percent ~~a year~~ compounded annually from the date of the termination of the leave of absence to the date payment is made.

(d) "Allowable service" also means a period during which a member is on an authorized sick leave of absence, without pay limited to one year, an authorized temporary layoff, or a maternity, paternity, or adoption leave. The association will grant a maximum of two months service credit for a maternity, paternity, or adoption leave upon documentation from the member's governmental subdivision. A member on personal leave of absence who provides the association with a birth certificate or other evidence of birth or adoption during the personal leave time period will be granted up to two months of service credit.

(e) "Allowable service" also means a period during which a member is on an authorized leave of absence to enter military service, provided that the member returns to public service upon discharge from military service under section 192.262 and pays into the fund employee contributions based upon the employee's salary at the date of return from military service. Payment must be made within five years of the date of discharge from the military service. The amount of these contributions must be in accord with the contribution rates and salary limitations, if any, in effect during the leave, plus interest at ~~six~~ an annual rate of 8.5 percent ~~a year~~ compounded annually from the date of return to public service to the date payment is made. The matching employer contribution and additional employer contribution under section 353.27, subdivisions 3 and 3a, must be paid by the department employing the member upon return to public service if the member makes the employee contributions. The governmental subdivision involved may appropriate money for those payments. A member may not receive credit for a voluntary extension of military service at the instance of the member beyond the initial period of enlistment, induction, or call to active duty.

(f) For calculating benefits under sections 353.30, 353.31, 353.32, and 353.33 for state officers and employees displaced by the community corrections act, chapter 401, and transferred into county service under section 401.04, "allowable service" means combined years of allowable service as defined in paragraphs (a) to (e) and section 352.01, subdivision 11.

(g) For a public employee who has prior service covered by a local police or firefighters relief association that has consolidated with the public employees police and fire fund, and who has elected coverage by the public employees police and fire fund benefit plan as provided in section 353A.08 following the consolidation, "applicable service" is a period of service credited by the local police or firefighters relief association as of the effective date of the consolidation based on law and on bylaw provisions governing the relief association on the date of the initiation of the consolidation procedure.

Sec. 2. Minnesota Statutes 1991 Supplement, section 353.27, subdivision 12, is amended to read:

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Subd. 12. **OMITTED SALARY DEDUCTIONS; OBLIGATIONS.** (a) In the case of omission of required deductions from salary of an employee, the department head shall immediately, upon discovery, report the employee for membership and require employee deductions under subdivision 4. Omitted employee deductions due for the 60-day period preceding membership must be deducted upon receipt of billing from the association from the employee's next salary payment and remitted to the association. The employer shall pay any remaining omitted employee deductions and any omitted employer contributions, plus cumulative interest at ~~the~~ an annual rate of ~~8.5~~ 8.5 percent ~~a year~~, compounded annually, from the date or dates each omitted employee contribution was first payable.

(b) An employer shall not hold an employee liable for omitted employee deductions beyond the pay period that covers the 60th day preceding membership nor attempt to recover from the employee those employee deductions paid by the employer. Omitted deductions not paid by the employee constitute a liability of the employer that failed to deduct the omitted deductions from the employee's salary. The employer shall make payment with interest at ~~the~~ an annual rate of ~~8.5~~ 8.5 percent compounded annually. Omitted employee deductions are no longer due if an employee terminates public service before making payment of omitted employee deductions to the association, but the employer remains liable to pay omitted employer contributions plus interest at ~~the~~ an annual rate of ~~8.5~~ 8.5 percent compounded annually from the date the contributions were first payable.

(c) The association may not commence action for the recovery of omitted employee deductions and employer contributions after the expiration of three calendar years after the calendar year in which the contributions and deductions were omitted. No payment may be made or accepted unless the association has already commenced action for recovery of omitted deductions. An action for recovery commences on the date of the mailing of any written correspondence from the association requesting information from the governmental subdivision upon which to determine whether or not omitted deductions occurred.

Sec. 3. Minnesota Statutes 1991 Supplement, section 353.27, subdivision 12a, is amended to read:

Subd. 12a. A terminated employee who has a period of employment in which previously omitted employer contributions were made under subdivision 12 but for whom no, or only partial, omitted employee contributions have been made, or a member who had prior coverage in the association for which previously omitted employer contributions were made under subdivision 12 but who terminated service before required omitted employee deductions could be withheld from salary, may pay the omitted employee deductions for the period on which omitted employer contributions were previously paid plus interest at ~~the~~ an annual rate of ~~8.5~~ 8.5 percent compounded annually. A terminated employee may pay the omitted employee deductions plus interest within six months of an initial notification from the association of eligibility to pay those omitted deduc-

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tions. If a terminated employee is reemployed in a position covered under a public pension fund under section 356.30, subdivision 3, and elects to pay omitted employee deductions, payment must be made no later than six months after a subsequent termination of public service.

Sec. 4. Minnesota Statutes 1991 Supplement, section 353.27, subdivision 12b, is amended to read:

Subd. 12b. If deductions were omitted from salary adjustments or final salary of a terminated employee, the employer shall pay the employer and employer additional contributions, plus interest on both at an annual rate of 8.5 percent compounded annually, and the employee shall pay the employee deductions.

Sec. 5. Minnesota Statutes 1990, section 353.28, subdivision 5, is amended to read:

Subd. 5. Any amount ~~which becomes due and payable pursuant to~~ under this section or section 353.27, subdivision 4, ~~shall bear compound~~ is payable with interest at the an annual rate of six 8.5 percent per year compounded annually from the date due ~~for the next five calendar days, and compound interest at the rate of ten percent per year for amounts past due in excess of five calendar days until the date payment is actually received in the office of~~ by the association, with a minimum interest charge of \$10. Interest for past due payments of excess police state aid under section 69.031, subdivision 5, must be charged at a an annual rate of six 8.5 percent compounded annually.

Sec. 6. Minnesota Statutes 1990, section 353.35, is amended to read:

353.35 CONSEQUENCES OF REFUND; REPAYMENT, RIGHTS RESTORED.

When any former member accepts a refund, all existing service credits and all rights and benefits to which the person was entitled prior to the acceptance of the refund must terminate and must not again be restored until the person acquires at least 18 months allowable service credit after taking the last refund and repays all refunds taken and interest received under section 353.34, subdivisions 1 and 2, plus interest at ~~six~~ an annual rate of 8.5 percent per annum compounded annually. If more than one refund has been taken, the person may repay all refunds or only the refund for the fund in which the person had most recently been a member, with interest at ~~six~~ an annual rate of 8.5 percent per annum compounded annually. All refunds must be repaid within six months of the last date of termination of public service.

Sec. 7. Minnesota Statutes 1990, section 353.36, subdivision 2, is amended to read:

Subd. 2. **EMPLOYEE CONTRIBUTIONS; INTEREST; MATCHING PAYMENT.** A member who has at least one year of allowable service with the

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association, whose public service terminated before July 1, 1982, and who has prior public service on which salary deductions were not taken for the retirement fund and who does not have the required minimum number of years of allowable service credit to qualify for an annuity, may apply for an annuity if otherwise qualified, and within 90 days thereafter purchase whatever period of the member's prior public service which is necessary to bring the member's total allowable service credit to the minimum, provided that the most recent period of prior uncredited public service ~~shall be~~ is purchased first. The member may gain allowable service credit by paying on the salary covered under the law in effect at the time that the prior public service was performed. The applicable member contribution ~~percentage, if the member is a basic member, is eight percent, and if the member is a coordinated member, is four percent~~ percentages for a basic member and a coordinated member are the current contribution percentages under section 353.27, subdivision 2. An amount equal to the employer and employer additional contributions specified in section 353.27, subdivisions 3 and 3a, plus interest on the total amount representing employee, employer and employer additional contributions at the an annual rate of ~~six~~ 8.5 percent ~~per annum~~ compounded annually from the date first payable to the date payment is made, ~~shall must~~ also be paid. The employer, at its sole discretion, may agree to pay the amount representing the employer and employer additional contributions ~~pursuant to~~ under subdivision 2a. An annuity ~~shall accrue as provided in~~ accrues under section 353.29, subdivision 7, but ~~no annuity shall be~~ is not paid until the applicant's payment is made in full for the prior public service. If payment is not made within such 90 days, the application for retirement ~~shall be~~ is void.

Sec. 8. **EFFECTIVE DATE.**

Sections 1 to 7 are effective May 1, 1994.

ARTICLE 3

TEACHERS RETIREMENT ASSOCIATION

Section 1. Minnesota Statutes 1991 Supplement, section 354.094, subdivision 1, is amended to read:

Subdivision 1. **SERVICE CREDIT CONTRIBUTIONS.** Before the end of the fiscal year during which any extended leave of absence is granted pursuant to section 125.60 or 136.88, the employing unit granting the leave must certify the leave to the association on a form specified by the executive director. A member granted an extended leave of absence pursuant to section 125.60 or 136.88 may pay employee contributions and receive allowable service credit toward annuities and other benefits under this chapter, for each year of the leave provided the member and the employing board make the required employer contribution in any proportion they may agree upon, during the period of the leave which shall

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not exceed five years. A member may not receive more than five years of allowable service credit under this section. The employee and employer contributions must be based upon the rates of contribution prescribed by section 354.42 for the salary received during the year immediately preceding the extended leave. Payments for the years for which a member is receiving service credit while on extended leave must be made on or before the later of June 30 of each fiscal year for which service credit is received or within 30 days after first notification of the amount due, if requested by the member, is given by the association. No payment is permitted after the following September 30. Payments received after June 30 must include ~~six~~ interest at an annual rate of 8.5 percent ~~interest~~ from June 30 through the end of the month in which payment is received. Notwithstanding the provisions of any agreements to the contrary, employee and employer contributions may not be made to receive allowable service credit if the member does not have full reinstatement rights as provided in section 125.60 or 136.88, both during and at the end of the extended leave.

Sec. 2. Minnesota Statutes 1990, section 354.41, subdivision 9, is amended to read:

Subd. 9. Any member who has been granted a leave of absence to serve as an elected officer of a professional teachers organization shall be entitled to acquire allowable service credit for the period of leave. To acquire the allowable service credit, the member shall make any required employee contributions currently during the period of the leave, which shall be based upon the contract salary for which the member would have been eligible if the member had not been granted the leave of absence and shall be consistent with the contract in force for the year occurring immediately prior to the commencement of the leave of absence. Any shortage which occurs in the amount of required employee contributions for any year may be paid directly to the fund with interest at ~~the~~ an annual rate of ~~six~~ 8.5 percent ~~per annum~~ compounded annually on or prior to the last day of the fiscal year next following the occurrence of the shortage.

Sec. 3. Minnesota Statutes 1990, section 354.50, subdivision 2, is amended to read:

Subd. 2. **INTEREST CHARGE.** If a member desires to repay the refunds, payment shall include ~~six~~ interest at an annual rate of 8.5 percent ~~interest~~ compounded annually from date of withdrawal to the date payment is made and shall be credited to the fund.

Sec. 4. Minnesota Statutes 1990, section 354.51, subdivision 4, is amended to read:

Subd. 4. **OTHER STATE OR SCHOOL TEACHING SERVICE; PURCHASE OF CREDIT.** Any teacher who has rendered teaching service prior to June 30, 1953, in another state, or in a state public school which is not an employing unit with employees for whom retirement coverage is provided pursuant to this chapter, or for the University of Minnesota, who was a member of the fund prior to or after the uncredited teaching service, who is not entitled to

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any benefits from any other retirement system based on the uncredited teaching service, who has credit for at least 15 years of service as a member of the retirement fund with at least five years of service occurring subsequent to the period of uncredited teaching service, who became a member of the retirement fund prior to June 30, 1957, and who has not accepted a refund of accumulated member contributions or deductions and resumed teaching service covered by the retirement fund after July 1, 1957, shall be entitled to obtain service credit for the period of uncredited teaching service. To obtain service credit, a teacher shall make a payment equal to six percent of the average annual salary of the teacher for the five year period occurring immediately prior to the completion of the minimum service requirement or July 1, 1951, whichever is later, multiplied for the number of years of the period of uncredited teaching service, but not to exceed \$175 annually for any period of uncredited teaching service occurring prior to July 1, 1953, or \$216 annually for any period of uncredited teaching service occurring subsequent to June 30, 1953. The payment made by the teacher shall be accompanied by a matching payment representing the employer contribution. This matching employer contribution payment is to be made by the agency which formerly employed the teacher, except that, at its discretion, the payment may be made by the current employer of the teacher. The payments shall include interest at ~~the~~ an annual rate of ~~six~~ 8.5 percent ~~per annum~~ compounded annually from the end of the year of uncredited service to the date on which payment is first made. Payment shall be made in a single payment unless the executive director authorizes installment payments. If the payment made is less than the full required payment, including interest, the formula service credit granted shall be adjusted in accordance with section 354.05, subdivision 25, clause (3). Any school district or institution which employs a teacher who makes a payment pursuant to this subdivision is authorized to make any required payments representing employer contributions and interest and the required amounts are hereby appropriated from any funds available to the school district or institution. Any payments made pursuant to this subdivision shall be considered accumulations made after July 1, 1957 for purposes of computing an annuity pursuant to section 354.44, subdivision 2. All payments shall be made to the executive director prior to July 1, 1973 or within one year after the completion of the minimum state teaching service requirements whichever is later.

Sec. 5. Minnesota Statutes 1990, section 354.51, subdivision 5, is amended to read:

Subd. 5. In the event that full required member contributions are not deducted from the salary of a teacher, payment shall be made as follows:

(a) Payment of shortages in member deductions on salary earned after June 30, 1957, and prior to July 1, 1981, may be made any time prior to retirement. Payment shall include ~~six~~ interest at an annual rate of 8.5 percent ~~interest~~ compounded annually from the end of the fiscal year in which the shortage occurred to the end of the month in which payment is made and the interest shall be credited to the fund. If payment of a shortage in deductions is not made, the formula service credit of the member shall be prorated pursuant to section 354.05, subdivision 25, clause (3).

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(b) Payment of shortages in member deductions on salary earned after June 30, 1981, shall be the sole obligation of the employing unit and shall be payable by the employing unit upon notification by the executive director of the shortage with interest at the an annual rate of ~~six~~ 8.5 percent ~~per annum~~, compounded annually; from the end of the fiscal year in which the shortage occurred to the end of the month in which payment is made and the interest shall be credited to the fund. Effective July 1, 1986, the employing unit shall also pay the employer contributions as specified in section 354.42, subdivisions 3 and 5 for such shortages. If the shortage payment is not paid by the employing unit within 60 days of notification, the executive director shall certify the amount of the shortage payment to the applicable county auditor, who shall spread a levy in the amount of the shortage payment over the taxable property of the taxing district of the employing unit if the employing unit is supported by property taxes, or to the commissioner of finance, who shall deduct the amount from any state aid or appropriation amount applicable to the employing unit if the employing unit is not supported by property taxes.

(c) Payment may not be made for shortages in member deductions on salary earned prior to July 1, 1957.

Sec. 6. Minnesota Statutes 1990, section 354.52, subdivision 4, is amended to read:

Subd. 4. **REPORTING AND REMITTANCE REQUIREMENTS.** At least once each month, the chief administrative officer of each employing school district or managing body of schools and institutions to which the provisions of this chapter apply shall transmit all amounts due and furnish a signed statement indicating the amount due and transmitted, and shall transmit a statement containing such other information as the executive director shall require. Signing the statement shall have the force and effect of an oath as to the correctness of the amount due and transmitted. Any amount thus due and not transmitted shall accrue interest at the an annual rate of ~~six~~ 8.5 percent compounded annually commencing 15 days after the date first due until the amount is transmitted and shall be paid by the employing school district or other managing body. The state treasurer shall credit all money received or withheld pursuant to the provisions of this chapter to the fund and the reports and date received by the state treasurer from each reporting agency shall be available for the board. Any person willfully failing to perform any of the duties imposed by this section shall be guilty of a misdemeanor.

Sec. 7. Minnesota Statutes 1990, section 354.53, subdivision 1, is amended to read:

Subdivision 1. Any employee given a leave of absence to enter military service and who returns to teaching service upon discharge from military service as provided in section 192.262, shall obtain credit for the period of military service but shall not receive credit for any voluntary extension of military service at the instance of the member beyond the initial period of enlistment, induction or call

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to active duty. The member shall obtain credit by paying into the fund an employee contribution based upon the salary of the member at the date of return from military service. The amount of this contribution shall be as follows:

Period	Basic Member	Coordinated Member
July 1, 1973 thru June 30, 1979	8 percent	4 percent
July 1, 1979 and thereafter	8.5 percent	4.5 percent

The contributions specified in this subdivision shall be multiplied by the number of years of military service together with interest thereon at ~~the~~ an annual rate of ~~six~~ 8.5 percent compounded annually from the time the military service was rendered to the first date of payment. The employer contribution and additional contribution provided in section 354.42 shall be paid by the unit in the manner provided in section 354.43.

Sec. 8. EFFECTIVE DATE.

Sections 1 to 7 are effective May 1, 1994.

ARTICLE 4

**PURCHASES OF PRIOR SERVICE AND OTHER
RETIREMENT LAW CHANGES**

**Section 1. PUBLIC EMPLOYEES RETIREMENT ASSOCIATION;
PURCHASES OF PRIOR SERVICE CREDIT.**

Subdivision 1. ELIGIBILITY; MINNEAPOLIS CONSTRUCTION EQUIPMENT OPERATOR. (a) Notwithstanding any provision of Minnesota Statutes, section 353.27, subdivision 12, to the contrary, an eligible person described in paragraph (b) is entitled to purchase allowable service credit in the coordinated program of the public employees retirement association for the period described in paragraph (c) by paying the amount specified in subdivision 8.

(b) An eligible person is a person who:

(1) is currently a member of the coordinated program of the public employees retirement association;

(2) was born on August 22, 1956;

(3) was employed on a temporary or seasonal basis by a city of the first class on June 24, 1983;

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(4) was first eligible for membership in the public employees retirement association in 1985; and

(5) did not become a member of the public employees retirement association until September 1986, because no timely employee or employer contributions were made until that time.

(c) The period for service credit purchase is the period of eligible service between January 1985 and September 1986, as determined by the executive director of the public employees retirement association based on satisfactory evidence of the eligible person's employment status.

Subd. 2. PURCHASE PAYMENT AMOUNT. (a) To purchase credit for prior eligible service under subdivision 1, there must be paid to the public employees retirement association an amount equal to the present value on the date of payment, of the amount of the additional retirement annuity obtained by purchase of the additional service credit.

(b) Calculation of this amount must be made by the executive director of the public employees retirement association using the applicable preretirement interest rate specified in Minnesota Statutes, section 356.215, subdivision 4d, and the mortality table adopted for the coordinated program of the retirement association. The calculation must assume continuous future service in the association until, and retirement at, the age at which the minimum requirements of the retirement association for normal retirement or retirement with an annuity unreduced for retirement at an early age, including Minnesota Statutes, section 356.30, are met with the additional service credit purchased. The calculation must also assume a future salary history that includes annual salary increases at the salary increase rate specified in section 356.215, subdivision 4d.

(c) The eligible person must establish in the records of the association proof of the service for which the purchase of prior service is requested. The manner of the proof of service must be in accordance with procedures prescribed by the executive director of the retirement association.

(d) The portion of the total cost of the purchase payable by the eligible person is specified in subdivision 3. The remaining portion of total cost is to be paid by the applicable employing unit as specified in subdivision 4.

Subd. 3. ELIGIBLE PERSON PAYMENT. (a) To receive credit for the period of service credit purchase specified in subdivision 1, paragraph (c), the eligible person specified in subdivision 1, paragraph (b), must pay a member contribution equivalent amount.

(b) The member contribution equivalent amount is an amount equal to four percent of the person's actual salary rate or rates during the period for service credit purchase, plus six percent annually compounded interest from the date on which a member contribution should have been made if membership during the period of service credit purchase had been properly determined to the date on which payment is made. Payment must be made in a lump sum. Authority to make the member contribution equivalent amount expires on September 1,

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1992. If the member contribution equivalent amount was tendered by the eligible person before the effective date of this section, no additional contribution amount or interest is payable by the eligible person.

Subd. 4. MANDATORY EMPLOYING UNIT PAYMENT. (a) Within 30 days of the effective date of this section or 60 days of the receipt by the executive director of the public employees retirement association of the payment from the eligible person under subdivision 3, whichever is later, the governmental unit employing the eligible person described in subdivision 1, paragraph (b), during the period of service credit purchase described in subdivision 1, paragraph (c), shall pay the difference between the amounts specified in subdivisions 2 and 3.

(b) The mandatory employing unit payment amount is payable by the governmental unit in a lump sum.

Subd. 5. SERVICE CREDIT GRANT. Service credit for the purchase period must be granted to the account of the eligible person upon receipt of the purchase payment amount specified in subdivision 2.

Subd. 6. ELIGIBILITY; EVELETH FIREFIGHTER. (a) Notwithstanding any provision of Minnesota Statutes, chapter 353, to the contrary, a person described in paragraph (b) is entitled to purchase credit for the period of prior uncredited service specified in paragraph (c) from the public employees police and fire fund by paying the amount specified in subdivision 4.

(b) A person eligible under paragraph (a) is a member of the public employees police and fire plan who:

(1) was born on June 5, 1935;

(2) was initially employed as a firefighter by the city of Eveleth on August 20, 1970; and

(3) is currently employed as a firefighter by the city of Eveleth.

(c) The period of prior service available for purchase under this section is a period equivalent to one year and eleven months originally covered under the Eveleth fire relief association, for which the individual did not receive service credit in the public employees police and fire fund when the Eveleth fire relief association terminated and coverage was transferred to the public employees police and fire fund under Laws 1977, chapter 61.

Subd. 7. ELIGIBILITY; STILLWATER FIRE CHIEF. (a) Notwithstanding any provision of Minnesota Statutes, chapter 353, to the contrary, a person described in paragraph (b) is entitled to purchase credit for the period of prior uncredited service specified in paragraph (c) from the public employees police and fire fund by paying the amount specified in subdivision 8.

(b) A person eligible under paragraph (a) is a person who:

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(1) was born on February 7, 1944;

(2) was initially employed as a firefighter by the city of Stillwater on August 7, 1965; and

(3) is currently employed as fire chief by the city of Stillwater.

(c) The period of prior service available for purchase under this section is a period of five months in 1965 during which no member or employer contributions to the public employees police and fire fund were made.

Subd. 8. PURCHASE PAYMENT AMOUNT. (a) To purchase credit for prior service under this section, there must be paid to the public employees retirement association or the public employees police and fire fund, whichever applies, an amount equal to the present value, on the date of payment, of the amount of the additional retirement annuity obtained by the purchase of the additional service credit. Calculation of this amount must be made using the applicable preretirement interest rate for the association specified in Minnesota Statutes, section 356.215, subdivision 4d, and the mortality table adopted for the fund or association. The calculation must assume continuous future service in the fund or association until, and retirement at, the age at which the minimum requirements of the fund for normal retirement or retirement with an annuity unreduced for retirement at an early age, including Minnesota Statutes, section 356.30, are met with the additional service credit purchased. The calculation must also assume a future salary history that includes annual salary increases at the applicable salary increase rate for the fund or association specified in Minnesota Statutes, section 356.215, subdivision 4d. The member must establish in the records of the fund proof of the service for which the purchase of prior service is requested. The manner of the proof of service must be in accordance with procedures prescribed by the executive director of the public employees retirement association.

(b) Payment must be made in one lump sum.

(c) Payment of the amount calculated under this subdivision must be made by the member. However, the current or former governmental subdivision employer of the member may, at its discretion, pay all or any portion of the payment amount that exceeds an amount equal to the employee contribution rates in effect during the period or periods of prior service applied to the actual salary rates in effect during the period or periods of prior service, plus interest at the rate of six percent a year compounded annually from the date on which the contributions would otherwise have been made to the date on which the payment is made.

Sec. 2. ELIGIBILITY FOR REFUND.

Subdivision 1. ELIGIBILITY. Notwithstanding the requirements of Minnesota Statutes, section 353.34, subdivision 7, or other law to the contrary, a member of the public employees retirement association who was born on December 23, 1950, who is a Hennepin county employee on a sick leave of absence first

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reported to the public employees retirement association on June 19, 1991, may immediately elect to receive a refund of employee contributions as provided in section 353.34, subdivision 2.

Subd. 2. SERVICE CREDIT LIMITATION. Allowable service under Minnesota Statutes section 353.01, subdivision 16, clause (d), for the individual described in subdivision 1 ends one year from the beginning of the sick leave or on the date of the refund, whichever is earlier.

Sec. 3. APPLICABILITY OF CERTAIN PRIOR LAW CHANGES.

(a) A person with service under Minnesota Statutes, chapter 3A, after June 2, 1989, who did not receive credit for a period of service between January 6, 1981, and June 2, 1989, by virtue of the limitation previously contained in the final paragraph of Minnesota Statutes, section 3A.02, subdivision 1, is entitled to receive credit for any period of uncredited service as a result of the limitation upon payment of the amount specified in paragraph (b).

(b) The additional service credit payment amount is an amount equal to nine percent of the salary of the person with service uncredited under Minnesota Statutes, chapter 3A, during the period of uncredited service, plus interest at an annual rate of six percent, compounded annually, from the midpoint of the period of uncredited service to the date of payment. Payment must be made by January 1, 1994, or the date of retirement, whichever is earlier.

Sec. 4. SHOREWOOD COUNCIL MEMBERS; TERMINATION OF PARTICIPATION; REFUND OF CONTRIBUTIONS.

Notwithstanding the prohibition on revocation in Minnesota Statutes, section 353D.02, any member of the Shorewood city council on the effective date of this section who has elected coverage under the public employees defined contribution plan may elect to revoke participation in the plan. The revocation election must be made on or before January 1, 1994. Revocation is effective on receipt of notice by the public employees retirement association, and employee contributions must be returned to the council member. The remaining value of the former participant's account, if any, become property of the association.

Sec. 5. EFFECTIVE DATE.

Sections 1, 2, and 4 are effective the day following final enactment. Section 3 is effective the day following final enactment and applies to any person described in section 3, paragraph (a), including persons on deferred retirement status.

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ARTICLE 5
FIRST CLASS CITY TEACHER RETIREMENT
FUND ASSOCIATIONS
EMPLOYER CONTRIBUTION RATE INCREASE

Section 1. Minnesota Statutes 1990, section 354A.12, subdivision 2, is amended to read:

Subd. 2. ~~EMPLOYER CONTRIBUTIONS~~ RETIREMENT CONTRIBUTION LEVY DISALLOWED. Notwithstanding any law to the contrary, levies for teachers retirement fund associations in cities of the first class, including levies for any employer social security taxes for teachers covered by the Duluth teachers retirement fund association or the Minneapolis teachers retirement fund association or the St. Paul teachers retirement fund association, are disallowed.

Subd. 2a. EMPLOYER REGULAR AND ADDITIONAL CONTRIBUTION RATES. (a) The employing units shall make the following employer contributions to teachers retirement fund associations:

(a) (1) for any coordinated member of a teachers retirement fund association in a city of the first class, the employing unit shall pay the employer social security taxes in accordance with section 355.46, subdivision 3, clause (b);

(b) (2) for any coordinated member of one of the following teachers retirement fund associations in a city of the first class, the employing unit shall make a regular employer contribution to the respective retirement fund association in an amount equal to the designated percentage of the salary of the coordinated member as provided below:

Duluth teachers retirement fund association	5.79 <u>4.50</u> percent
Minneapolis teachers retirement fund association	4.50 percent
St. Paul teachers retirement fund association	4.50 percent;

(c) (3) for any basic member of one of the following teachers retirement fund associations in a city of the first class, the employing unit shall make a regular employer contribution to the respective retirement fund in an amount equal to the designated percentage of the salary of the basic member as provided below:

Minneapolis teachers retirement fund association	13.35 <u>8.50</u> percent
St. Paul teachers retirement fund association	12.63 <u>8.00</u> percent

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(4) for a basic member of a teachers retirement fund association in a city of the first class, the employing unit shall make an additional employer contribution to the respective fund in an amount equal to the designated percentage of the salary of the basic member, as provided below:

<u>Minneapolis teachers retirement fund association</u>	<u>4.85 percent</u>
<u>St. Paul teachers retirement fund association</u>	<u>4.63 percent</u>

(5) for a coordinated member of a teachers retirement fund association in a city of the first class, the employing unit shall make an additional employer contribution to the respective fund in an amount equal to the applicable percentage of the coordinated member's salary, as provided below:

<u>Duluth teachers retirement fund association</u>	<u>1.29 percent</u>
<u>Minneapolis teachers retirement fund association</u>	
<u>July 1, 1992 - June 30, 1993</u>	<u>0.00 percent</u>
<u>July 1, 1993, and thereafter</u>	<u>1.00 percent</u>
<u>St. Paul teachers retirement fund association</u>	
<u>July 1, 1992 - June 30, 1993</u>	<u>0.00 percent</u>
<u>July 1, 1993, and thereafter</u>	<u>1.00 percent</u>

(b) For basic members of the Minneapolis teachers retirement fund association and the St. Paul teachers retirement fund association who retire on or after July 1, 1993, the employing unit shall continue to make an additional employer contribution to the retirement fund in an amount equal to the average salary of the employing unit's basic members multiplied by the relevant percentages in paragraph (a), clause (4).

(c) The regular and additional employer contributions shall must be remitted directly to each the respective teachers retirement fund association each month.

(d) Payments of regular and additional employer contributions for school district or technical college employees who are paid from normal operating funds; shall must be made from the appropriate fund of the district or technical college.

Subd. 2b. REPORT ON CONTRIBUTION INSUFFICIENCIES. By January 1 of each year, the executive secretary or director of each first class city teachers retirement fund association shall report to the chair of the legislative commission on pensions and retirement, the chair of the committee on appropriations of the house of representatives, and the chair of the committee on finance of the senate on the amount raised by the additional employer contribution rates then in effect and the sufficiency of the total statutory support when

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compared to the total required contributions determined under Minnesota Statutes, section 356.215.

Sec. 2. FIRST CLASS CITY SCHOOL DISTRICTS; REPORT ON ADDITIONAL STATE AID NEEDS.

(a) By January 1, annually, until January 1, 1997, the superintendents of special school district No. 1 and independent school district No. 625 shall report on their districts' additional educational revenue needs attributable to the increased employer contribution rate requirements set forth in section 1.

(b) The report required in paragraph (a) must be submitted to the chairs of the following committees or divisions:

(1) education committee, house of representatives,

(2) education finance division of the education committee, house of representatives;

(3) education committee, senate; and

(4) education funding division of the education committee, senate.

(c) Following receipt of the report, the divisions and committees specified in paragraph (b) shall review the indicated additional educational revenue needs and shall indicate their recommendations on increased educational revenue to the applicable school districts in the form of appropriate legislation.

Sec. 3. EFFECTIVE DATE.

Sections 1 and 2 are effective on July 1, 1992.

ARTICLE 6

FIRST CLASS CITY TEACHERS

ADMINISTRATIVE PROVISIONS

Section 1. Minnesota Statutes 1990, section 354A.011, subdivision 4, is amended to read:

Subd. 4. **ALLOWABLE SERVICE.** "Allowable service" means any service rendered by a ~~member teacher~~ during a period in which the ~~member teacher~~ receives salary from which employee contribution salary deductions are made to and credited by the teachers retirement fund association or any service rendered by a person during any period where assessments or payments in lieu of salary deductions were made if authorized by any law or provision of the association's articles of incorporation or bylaws then in effect or pursuant to section 354A.091, 354A.092, 354A.093, or 354A.094.

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Sec. 2. Minnesota Statutes 1990, section 354A.011, subdivision 8, is amended to read:

Subd. 8. **BASIC MEMBER.** "Basic member" means any member of the teachers retirement fund association who is ~~covered by the basic program of the association due to the fact that the member is not covered by any agreement or modification made between the state and the Secretary of Health, Education and Welfare making the provisions of the federal old age, survivors and disability insurance act applicable to certain teachers covered by the association.~~

Sec. 3. Minnesota Statutes 1990, section 354A.011, subdivision 11, is amended to read:

Subd. 11. **COORDINATED MEMBER.** "Coordinated member" means any member of the teachers retirement fund association who is ~~covered by the coordinated program of the association due to the fact that the member is covered by any agreement or modification made between the state and the Secretary of Health, Education and Welfare making the provisions of the federal old age, survivors and disability insurance act applicable to certain teachers covered by the association;~~ except in the case of a member of the Duluth teachers retirement fund association, in which it means additionally that the member either first became a member prior to July 1, 1981, and elected to be covered by the new law coordinated program of the Duluth teachers retirement fund association or first became a member on or subsequent to July 1, 1981.

Sec. 4. Minnesota Statutes 1990, section 354A.011, subdivision 12, is amended to read:

Subd. 12. **COORDINATED SERVICE.** "Coordinated service" means the allowable service credited by the respective teachers retirement fund association for which the member was covered by the coordinated program of the association.

Sec. 5. Minnesota Statutes 1990, section 354A.011, subdivision 13, is amended to read:

Subd. 13. **DESIGNATED BENEFICIARY.** "Designated beneficiary" means the person designated by a member or retiree of a teachers retirement fund association ~~to be entitled to receive the balance of the accumulated member contributions to the credit of the member in the event of the member's death; or if no person has been designated by the member or if the designated beneficiary predeceases the member, the estate of the deceased member benefits to which a beneficiary is entitled under this chapter. A beneficiary designation is valid only if it is made on an appropriate form provided by the executive director and the properly completed form is received by the fund postmarked on or before the date of death of the retiree or member. If a retiree or member does not designate such a person or if the person designated predeceases the retiree or member, beneficiary in such cases means the estate of the deceased retiree or member.~~

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 6. Minnesota Statutes 1990, section 354A.011, subdivision 15, is amended to read:

Subd. 15. **MEMBER.** "Member" for purposes of entitlement to annuities or benefits pursuant to sections 354A.31 to 354A.41 and any other applicable provisions of this chapter means every teacher who ~~joins and is engaged in~~ teaching service and who under section 354A.05 contributes to the respective teachers retirement fund association ~~and who has not retired or terminated teaching service.~~ "Member" for purposes of determining who may participate in the organization and governance of the teachers retirement fund association, including the eligibility to elect members of and to serve as a member of the board of trustees, means every teacher who joins and contributes to the respective teachers retirement fund association and any other person designated as a member by the articles of incorporation or the bylaws of the respective teachers retirement fund association.

Sec. 7. Minnesota Statutes 1990, section 354A.011, subdivision 21, is amended to read:

Subd. 21. **RETIREMENT.** "Retirement" means the time after the date of cessation of active teaching service by a teacher who is thereafter entitled to an accrued retirement annuity commencing as designated by the board of trustees and payable pursuant to an application for an annuity filed with the board ~~under.~~ The applicable provisions of law, articles of incorporation and bylaws in effect ~~on that date, which shall~~ the date of cessation of active teaching service thereafter determine the rights of the person.

Sec. 8. Minnesota Statutes 1990, section 354A.011, subdivision 24, is amended to read:

Subd. 24. **SALARY.** "Salary" or "covered salary" means the entire compensation paid to a ~~member~~ teacher excluding any lump sum annual leave or sick leave payments and all forms of severance payments, even if a portion of the compensation is paid from other than public funds.

Sec. 9. Minnesota Statutes 1991 Supplement, section 354A.011, subdivision 26, is amended to read:

Subd. 26. **SPOUSE.** "Spouse" means the person who was legally married to ~~and living with~~ the member immediately prior to the member's death.

Sec. 10. Minnesota Statutes 1990, section 354A.011, subdivision 27, is amended to read:

Subd. 27. **TEACHER.** "Teacher" means any person who renders service in a public school district located in the corporate limits of one of the cities of the first class which was so classified on January 1, 1979, as any of the following:

(a) a full time employee in a position for which a valid license from the state board of education is required;

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(b) an employee of the teachers retirement fund association located in the city of the first class unless the employee has exercised the option pursuant to Laws 1955, chapter 10, section 1, to retain membership in the Minneapolis employees retirement fund established pursuant to chapter 422A;

(c) a part time employee in a position for which a valid license from the state board of education is required; or

(d) a part-time employee in a position for which a valid license from the state board of education is required who also renders other nonteaching services for the school district unless the board of trustees of the teachers retirement fund association determines that the combined employment is on the whole so substantially dissimilar to teaching service that the service shall not be covered by the association.

The term shall not mean any person who renders service in the school district as any of the following:

(1) an independent contractor or the employee of an independent contractor;

~~(2) for the Duluth and St. Paul teachers retirement fund associations, and for the Minneapolis teachers retirement fund association, unless the person is designated by the board of education of special school district number 1 pursuant to section 356.451 as a provisional member of the teachers retirement fund association; a person employed in subsidized on-the-job training, work experience or public service employment as an enrollee under the federal Comprehensive Employment and Training Act from and after March 30, 1978, unless the person has as of the later of March 30, 1978, or the date of employment, sufficient service credit in the teachers retirement fund association to meet the minimum vesting requirements for a deferred retirement annuity; or the employer agrees in writing to make the required employer contributions; including any employer additional contributions; on account of that person from revenue sources other than funds provided under the federal Comprehensive Employment and Training Act; or the person agrees in writing to make the required employer contributions; including any employer additional contributions; in addition to the required employee or member contributions;~~

(3) an employee who is a full-time teacher covered by another teachers retirement fund association established pursuant to this chapter or chapter 354;

(4) ~~(3)~~ an employee holding a part-time adult supplementary technical college license who renders part-time teaching service in a technical college if (1) the service is incidental to the regular nonteaching occupation of the person; and (2) the applicable technical college stipulates annually in advance that the part-time teaching service will not exceed 300 hours in a fiscal year; and (3) the part-time teaching service actually does not exceed 300 hours in a fiscal year; or

~~(5)~~ (4) an employee exempt from licensure pursuant to section 125.031.

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Sec. 11. Minnesota Statutes 1990, section 354A.021, subdivision 6, is amended to read:

Subd. 6. **TRUSTEES' FIDUCIARY OBLIGATION.** The trustees or directors of each teachers retirement fund association shall administer each fund in accordance with the applicable portions of this chapter, of the articles of incorporation, of the bylaws, and of ~~chapter~~ chapters 356 and 356A. The purpose of this subdivision is to establish each teachers retirement fund association as a trust under the laws of the state of Minnesota for all purposes related to section 401(a) of the Internal Revenue Code of the United States, including all amendments.

Sec. 12. Minnesota Statutes 1990, section 354A.05, is amended to read:

354A.05 MEMBERSHIP IN A TEACHERS RETIREMENT ASSOCIATION IN A CITY OF THE FIRST CLASS.

~~Only~~ Teachers contributing to the respective teachers retirement fund association, as provided in this chapter and the articles of incorporation and the bylaws of the association, ~~shall be~~ are entitled to the benefit of coverage by or entitlement to annuities or benefits from the association. All teachers in a city of the first class in which there exists a teachers retirement fund association ~~shall be entitled to be~~ are members of that teachers retirement fund association and ~~to participate~~ in the benefits provided by the special retirement fund.

Sec. 13. Minnesota Statutes 1990, section 354A.08, is amended to read:

354A.08 AUTHORIZED INVESTMENTS.

Any ~~A~~ teachers retirement fund association may receive, hold, and dispose of real estate or personal property acquired by it, whether the acquisition was by gift, purchase, or any other lawful means, as provided in this chapter or in the association's articles of incorporation. In addition to other authorized real estate investments, an association may also invest funds in Minnesota situs nonfarm real estate ownership interests or loans secured by mortgages or deeds of trust.

Sec. 14. Minnesota Statutes 1990, section 354A.096, is amended to read:

354A.096 MEDICAL LEAVE.

Any teacher in the coordinated program of either the Minneapolis teachers retirement fund association or the St. Paul teachers retirement fund association or the new law coordinated program of the Duluth teachers retirement fund association who is on an authorized medical leave of absence and subsequently returns to teaching service is entitled to receive allowable service credit, not to exceed one year, for the period of leave, upon making the prescribed payment to the fund. This payment must include the required employee and employer contributions at the rates specified in section 354A.12, subdivisions 1 and 2, as applied to the member's average full-time monthly salary rate on the date of ~~return from~~ the leave of absence commenced plus annual interest at the rate of 8.5 percent per year from the midpoint date of end of the fiscal year during which the leave ~~until the date of payment terminates to the end of the month~~

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during which payment is made. The member must pay the total amount required unless the employing unit, at its option, pays the employer contributions. The total amount required must be paid by the end of the fiscal year following the fiscal year in which the leave of absence terminated or before the member retires, whichever is earlier. Payment must be accompanied by a copy of the resolution or action of the employing authority granting the leave and the employing authority, upon granting the leave, must certify the leave to the association in a manner specified by the executive director. A member may not receive more than one year of allowable service credit during any fiscal year by making payment under this section. A member may not receive disability benefits under section 354A.36 and receive allowable service credit under this section for the same period of time.

Sec. 15. Minnesota Statutes 1990, section 354A.31, subdivision 3, is amended to read:

Subd. 3. **RESUMPTION OF TEACHING AFTER COMMENCEMENT OF A RETIREMENT ANNUITY.** Any person who retired and is receiving a coordinated program retirement annuity under the provisions of sections 354A.31 to 354A.41 and who has resumed teaching service for the school district in which the teachers retirement fund association exists is entitled to continue to receive retirement annuity payments, except that annuity payments must be reduced during the calendar year immediately following the calendar year in which the person's income from the teaching service is in an amount greater than the annual maximum earnings allowable for that age for the continued receipt of full benefit amounts monthly under the federal old age, survivors, and disability insurance program as set by the secretary of health and human services under ~~the provisions of~~ United States Code, title 42, section 403. The amount of the reduction must be ~~one-half~~ one-third the amount in excess of the applicable reemployment income maximum specified in this subdivision and must be deducted from the annuity payable for the calendar year immediately following the calendar year in which the excess amount was earned. If the person has not yet reached the minimum age for the receipt of social security benefits, the maximum earnings for the person must be equal to the annual maximum earnings allowable for the minimum age for the receipt of social security benefits.

If the person is retired for only a fractional part of the calendar year during the initial year of retirement, the maximum reemployment income specified in this subdivision must be prorated for that calendar year.

After a person has reached the age of 70, no reemployment income maximum is applicable regardless of the amount of any compensation received for teaching service for the school district in which the teachers retirement fund association exists.

Sec. 16. Minnesota Statutes 1990, section 354A.36, subdivision 3, is amended to read:

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Subd. 3. **COMPUTATION OF DISABILITY BENEFIT.** The coordinated permanent disability benefit ~~shall be~~ is an amount equal to the normal coordinated retirement annuity computed ~~pursuant to~~ under section 354A.31, subdivision 4, based on allowable service credited to the date of disability but without any reduction for the commencement of the benefit prior to the attainment of normal retirement age or age 62 with at least 30 years of service credit as specified in section 354A.31, subdivision 6. ~~The disabled coordinated member shall not be entitled to elect an optional annuity form pursuant to section 354A.32 prior to attaining normal retirement age as provided in subdivision 4.~~

Sec. 17. Minnesota Statutes 1990, section 354A.38, subdivision 3, is amended to read:

Subd. 3. **COMPUTATION OF REFUND REPAYMENT AMOUNT.** If the coordinated member elects to repay a refund ~~pursuant to~~ under subdivision 2, the repayment to the fund ~~shall~~ must be in an amount equal to refunds ~~which~~ the member has accepted plus interest at the rate of ~~six~~ 8-1/2 percent compounded annually from the date that the refund was accepted to the date that the refund is repaid.

Sec. 18. **FIRST CLASS CITY TEACHERS PLANS; RETIREE RESUMING SERVICE.**

In accordance with Minnesota Statutes, section 354A.12, subdivision 4, the Minneapolis teachers retirement fund association, the St. Paul teachers retirement fund association, and the Duluth teachers retirement fund association may amend the articles of incorporation or bylaws of the respective association. This authorization is to provide that any person who is retired and receiving a basic program formula retirement annuity under the articles of incorporation or bylaws of the Minneapolis teachers retirement fund association or the St. Paul teachers retirement fund association, or any person who is retired and receiving an old law coordinated program formula retirement annuity under the articles of incorporation or bylaws of the Duluth retirement fund association, and who has resumed teaching service for the school district covered by that same retirement fund association, is entitled to continue to receive retirement annuity payments. However, the annuity payments must be reduced in accordance with Minnesota Statutes, section 354A.31, subdivision 3, if the person's income from teaching service is an amount greater than the maximum earnings allowable for that age for the continued receipt of full benefit amounts monthly under the federal old age, survivors, and disability insurance program as set by the Secretary of Health and Human Services under United States Code, title 42, section 403.

Sec. 19. **MINNEAPOLIS RESERVE TEACHERS; EXCLUSION OF PRIOR SERVICE.**

A reserve teacher providing service to special school district No. 1 prior to July 1, 1988, for whom contributions were not made to the Minneapolis teachers retirement fund association is not eligible to receive service credit for the period or periods of omitted contributions, unless service credit has previously

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been granted for the period or periods. On or after July 1, 1992, reserve teachers meeting the definition of a teacher as defined under Minnesota Statutes, section 354A.011, subdivision 27, and providing service to special school district No. 1 must become members and contributions must be deducted as required by Minnesota Statutes, section 354A.12.

Sec. 20. OMITTED CONTRIBUTION REIMBURSEMENT; MINNEAPOLIS TEACHERS RETIREMENT FUND ASSOCIATION AND SPECIAL SCHOOL DISTRICT NO. 1.

Subdivision 1. REIMBURSEMENT AUTHORIZATION. Special school district No. 1 is authorized to be reimbursed for a portion of contributions certified by the executive director of the Minneapolis teachers retirement fund association to the commissioner of finance under Laws 1991, chapter 317, sections 3 and 6, if the omitted contributions occurred during the period of July 1, 1988, to July 1, 1991, and were certified to the commissioner of finance before January 31, 1992.

Subd. 2. TEACHER NOTIFICATION. The executive director of the Minneapolis teachers retirement fund association and the school board must jointly notify in writing teachers with omitted contributions, identified in subdivision 1, of their option to make payment of omitted employee contributions without interest.

Subd. 3. PAYMENT PROCEDURE. If an individual notified under subdivision 2 elects to make payment, the full amount must be remitted to the association in a lump sum within 60 days of notification, or the individual may elect to make payment through a payroll deduction. If the individual chooses to make payment through a payroll deduction, that option must be selected within 60 days of notification. The payroll deduction period may not exceed one year. The employing unit must transmit amounts withheld through payroll deductions to the association along with normal payroll contributions.

Subd. 4. SCHOOL DISTRICT REIMBURSEMENT. On a quarterly basis, the executive director of the association will determine the amounts received by the association under subdivision 3 through direct lump-sum payments and payroll deductions. The employing unit will be notified of these amounts received by the association, and the employing unit may withhold an equivalent amount from subsequent obligations under Minnesota Statutes, section 354A.12, subdivision 2.

Subd. 5. EFFECT OF TEACHER NONPAYMENT. (a) If a teacher notified under subdivision 2 does not elect to make payments under subdivision 3, or if full payment is not received within the required time limits, the teacher is not entitled to the service credit for the period of omitted contributions identified in subdivision 1, or for any earlier period, and the teacher forfeits any option to purchase that service credit at a later date.

(b) For individuals identified in paragraph (a), the association must deter-

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mine an amount equivalent to the omitted employee contribution, without interest, for the period specified in subdivision 1. This amount must be applied by the employer against subsequent obligations under Minnesota Statutes, section 354A.12, subdivision 2.

Sec. 21. MINNEAPOLIS TEACHERS MODIFICATION OF DISABILITY BENEFITS.

(a) In accordance with Minnesota Statutes, section 354A.12, subdivision 4, the Minneapolis teachers retirement fund association may amend its articles of incorporation to clarify certain provisions governing disability benefits for members of the basic program and to conform certain administrative provisions to the statutory provisions applicable to disability benefits for coordinated program members, as provided in paragraphs (b) to (g).

(b) Article 5, section 5.11, may be amended to change the definition of "disability" from the "inability to render further satisfactory service as a teacher" to the "inability to engage in any substantial gainful activity" by reason of any medically determinable physical or mental impairment that can be expected to be of long continued and indefinite duration, which may not be less than one year.

(c) Article 21, section 21.3, may be amended to clarify that disability benefits accrue from the later of either 90 days following commencement of the permanent disability or the first day of the month following the date on which the written application for the disability benefit has been filed with the board.

(d) Article 21, section 21.4, may be amended to provide that basic program disability recipients submit to regular medical examinations at least once each year during the first five years of disability and at least once in every subsequent three-year period, in conformity with the requirements applicable to the coordinated program contained in Minnesota Statutes, section 354A.36, subdivision 6.

(e) Article 21, section 21.5, may be amended to provide that if a basic member disability recipient resumes gainful employment, and the earnings from that employment, together with the disability benefit payments, exceed the monthly compensation the member would have received if the member had remained in active teaching service in the position held prior to becoming disabled, the disability benefit must be reduced by the excess.

(f) Article 21 may be amended by adding a subsection to provide that a basic program disability recipient who remains disabled until normal retirement age must be transferred to retirement status. The disability benefit terminates upon the transfer, and the person is subsequently entitled to receive a retirement annuity in accordance with the optional annuity previously elected or, if the person had not elected an optional annuity, then, at the person's option, either a straight life retirement annuity in accordance with the articles of incorporation or a straight life retirement annuity equal to the disability benefit paid prior to the date on which the person attained normal retirement age, whichever is

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greater, or an optional annuity as provided in the articles of incorporation. If an optional annuity is elected, the election must be made prior to the person's attaining normal retirement age and takes effect on the date of the election.

(g) Paragraphs (b) to (f) apply to a basic member who applies for a disability benefit after the effective date of the amendments. Paragraphs (c) to (f) also apply to basic program members who made application for disability benefits before the effective date of the amendments and who are currently receiving disability benefits.

Sec. 22. REPEALER.

Minnesota Statutes 1990, sections 354A.011, subdivision 2; and 354A.40, subdivisions 2 and 3, are repealed.

Sec. 23. EFFECTIVE DATE.

Section 17 is effective May 1, 1994. Sections 1 to 16 and 18 to 22 are effective the day following final enactment.

ARTICLE 7

CORRECTION OF PRIOR ENACTMENTS

Section 1. Minnesota Statutes 1990, section 353A.07, subdivision 3, as amended by Laws 1992, chapter 432, article 2, section 30, is amended to read:

Subd. 3. **TRANSFER OF ASSETS.** On the effective date of consolidation, the chief administrative officer of the relief association shall transfer the entire assets of the special fund of the relief association to the public employees retirement association. The transfer must include any investment securities of the consolidation account which are not determined to be ineligible or inappropriate by the executive director of the state board under section 353A.05, subdivision 2, at the market value of the investment security as of the effective date of the consolidation. The transfer must include any accounts receivable determined by the executive director of the state board as capable of being collected. The transfer must also include an amount, in cash, representing any remaining investment security or other asset of the consolidation account which was liquidated, after defraying any accounts payable.

As of the effective date of consolidation, subject to the authority of the state board, the board of trustees of the public employee retirement association has legal title to and management responsibility for any transferred assets as trustees for any person having a beneficial interest arising out of benefit coverage provided by the relief association. The public employees retirement association is the successor in interest for all claims for and against the consolidation account or the municipality with respect to the consolidation account of the relief associ-

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ation: ~~In~~, except a claim against the relief association or the municipality or any person connected with the relief association or the municipality in a fiduciary capacity, based on any act or acts by that person which were not done in good faith and which constituted a breach of the obligation of the person as a fiduciary. As a successor in interest, the public employees retirement association may assert any applicable defense in any judicial proceeding which the board of the relief association or the municipality would have otherwise been entitled to assert.

Sec. 2. **EFFECTIVE DATE.**

Section 1 is effective on the day following final enactment.

Presented to the governor April 17, 1992

Signed by the governor April 29, 1992, 8:36 a.m.

CHAPTER 599—S.F.No. 1880

An act relating to workers' compensation; funding various activities of the department of labor and industry; appropriating money.

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

**Section 1. APPROPRIATION;
DEPARTMENT OF LABOR AND
INDUSTRY.**

(a) Total Appropriation \$ 1,644,000

This appropriation is from the workers' compensation special compensation fund to the commissioner of labor and industry for the biennium ending June 30, 1993. This appropriation is for the purpose of carrying out the additional duties imposed on the commissioner by S.F. No. 2107 as enacted by the 1992 legislature. This section is of no effect if S.F. No. 2107 is vetoed.

(b) \$141,000 of this appropriation is for the purpose of setting standards of treatment required by S.F. No. 2107, article 4, section 21.

(c) \$415,000 of this appropriation is for

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