

- (2) does not pay out principal and interest in equal monthly installments; or
- (3) does not begin payment at the earliest possible date after annuitization.

(f) Transfers under this section shall affect determinations of eligibility for all medical assistance services or long-term care services, whichever receives federal approval.

EFFECTIVE DATE. This section is effective upon publication of a notice in the State Register of receipt of federal approval for the 72-month lookback period described in paragraph (a).

Presented to the governor May 18, 2004

Signed by the governor May 28, 2004, 4:50 p.m.

CHAPTER 267—S.F.No. 676

An act relating to retirement; statewide and major local public pension plans; making various changes of an administrative nature; setting various limitations and requirements for public employees police and fire retirement plan disability benefit applications; modifying permanent disability benefits provisions; resolving one person and small group pension problems; reducing the early retirement age for the judges retirement plan; authorizing a shorter vesting schedule for the Marine on St. Croix Volunteer Firefighters Relief Association; revising the salary maximum for the executive secretary of the Minneapolis Firefighters Relief Association; permitting single Teachers Retirement Association members to make survivor benefit designations; authorizing retirement coverage discontinuation by an elected county official; continuing retirement coverage by the general employees retirement plan of the Public Employees Retirement Association for Anoka County Achieve Program and the Government Training Services; including in privatized public employee retirement coverage employees of the Fair Oaks Lodge, Wadena, and RenVilla Nursing Home; extending the expiration date on certain prior military service credit purchases; temporarily exempting Metropolitan Airports Commission police from reemployed annuitant earnings limitation; ratifying certain Bellingham volunteer firefighter relief association annuity purchases; including the Lake Johanna fire department employees in Public Employees Retirement Association coverage; expanding the health care savings plan; modifying the department of transportation pilots retirement plan; authorizing shorter vesting periods for defined contribution volunteer firefighter relief associations; modifying Minneapolis Police Relief Association provisions; amending Minnesota Statutes 2002, sections 3A.03, subdivision 2; 69.77, subdivision 4; 352.01, subdivision 13; 352.113, subdivisions 4, 6, 8, by adding a subdivision; 352.12, subdivisions 1, 6; 352.22, subdivisions 2, 3; 352.27; 352.275, subdivision 1; 352.86, subdivision 1; 352.91, subdivision 3g; 352.95, subdivisions 1, 2, 4; 352.98; 352B.01, subdivisions 3a, 11, by adding a subdivision; 352B.10, subdivisions 1, 2, 3, 4, 5; 352B.105; 352B.11, subdivisions 1, 2, by adding subdivisions; 352D.065, subdivision 2; 352D.075, subdivisions 2, 3, by adding a subdivision; 353.01, subdivisions 2b, 10, 12a, 12b, 16, 16a; 353.33, subdivisions 4, 6, 6b, 7, by adding a subdivision; 353.37; subdivision 3, by adding a subdivision; 353.656, subdivision 5, by adding subdivisions; 354.05, subdivisions 2, 22, 35; 354.07, subdivision 9; 354.091; 354.096, subdivision 1; 354.42, subdivision 7; 354.44, subdivisions 4, 5, 6; 354.46,

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

subdivisions 2, 2b, 5, by adding a subdivision; 354.48, subdivisions 2, 4, 6, 6a, 10; 354.51, subdivision 5; 354.52, subdivisions 4a, 6, by adding a subdivision; 354.53; 354.533, subdivision 1; 354.66, subdivision 2; 354A.011, subdivision 24; 354A.093; 354A.094, subdivision 3; 354A.097, subdivision 1; 354A.36, subdivisions 4, 6; 354B.20, subdivisions 4, 6; 354B.23, subdivision 1; 354B.32; 354C.11, subdivision 2; 356.216; 356.302, subdivision 3; 356.441; 356.611, subdivisions 1, 2, by adding subdivisions; 422A.18, subdivisions 1, 4; 423B.01, subdivision 12; 423B.09, subdivisions 1, 4, by adding a subdivision; 423B.10, subdivision 1; 423B.15, subdivision 3; 423C.05, subdivisions 4, 5, 6, by adding a subdivision; 424A.02, subdivisions 2, 7; 490.121, subdivision 10, by adding a subdivision; 490.124, subdivision 12; Minnesota Statutes 2003 Supplement, sections 353.01, subdivision 6; 353F.02, subdivision 4; 423C.03, subdivision 3; Laws 1999, chapter 222, article 16, section 16, as amended; Laws 2000, chapter 461, article 4, section 4, as amended; proposing coding for new law in Minnesota Statutes, chapters 352F; 353F; 356; 423B; repealing Minnesota Statutes 2002, sections 352D.02, subdivision 5; 353.33, subdivision 5b; 354A.107; 490.11.

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

ARTICLE 1

MEMBERSHIP ISSUES

Section 1. Minnesota Statutes 2002, section 352.91, subdivision 3g, is amended to read:

Subd. 3g. **ADDITIONAL CORRECTIONS DEPARTMENT PERSONNEL.**

(a) "Covered correctional service" means service by a state employee in one of the employment positions at the designated Minnesota correctional facility specified in paragraph (b), provided that if at least 75 percent of the employee's working time is spent in direct contact with inmates and the fact of this direct contact is certified to the executive director by the commissioner of corrections.

(b) The qualifying employment positions and the designated correctional facilities are:

(1) corrections discipline unit supervisor, at the Minnesota Correctional Facility-Faribault, the Minnesota Correctional Facility-Lino Lakes, the Minnesota Correctional Facility-Oak Park Heights, the Minnesota Correctional Facility-Rush City, and the Minnesota Correctional Facility-St. Cloud;

(2) dental assistant registered, at the Minnesota Correctional Facility-Faribault, the Minnesota Correctional Facility-Lino Lakes, the Minnesota Correctional Facility-Moose Lake, the Minnesota Correctional Facility-Oak Park Heights, and the Minnesota Correctional Facility-Red Wing;

(3) dental hygienist, at the Minnesota Correctional Facility-Shakopee and the Minnesota Correctional Facility-Rush City;

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

(4) psychologist 2, at the Minnesota Correctional Facility-Faribault, the Minnesota Correctional Facility-Lino Lakes, the Minnesota Correctional Facility-Moose Lake, the Minnesota Correctional Facility-Oak Park Heights, the Minnesota Correctional Facility-Red Wing, the Minnesota Correctional Facility-Rush City, the Minnesota Correctional Facility-St. Cloud, the Minnesota Correctional Facility-Shakopee, and the Minnesota Correctional Facility-Stillwater; and or

(5) sentencing to service crew leader involved with the inmate community work crew program, at the Minnesota Correctional Facility-Faribault and the Minnesota Correctional Facility-Lino Lakes.

Sec. 2. Minnesota Statutes 2002, section 353.01, subdivision 2b, is amended to read:

Subd. 2b. **EXCLUDED EMPLOYEES.** The following public employees are not eligible to participate as members of the association with retirement coverage by the public employees retirement plan, the local government correctional employees retirement plan under chapter 353E, or the public employees police and fire retirement plan:

(1) public officers, other than county sheriffs, who are elected to a governing body, or persons who are appointed to fill a vacancy in an elective office of a governing body, whose term of office first commences on or after July 1, 2002, for the service to be rendered in that elective position. Elected governing body officials who were active members of the association's coordinated or basic retirement plans as of June 30, 2002, continue participation throughout incumbency in office until termination of public service occurs as defined in subdivision 11a;

(2) election officers or election judges;

(3) patient and inmate personnel who perform services for a governmental subdivision;

(4) except as otherwise specified in subdivision 12a, employees who are hired for a temporary position as defined under subdivision 12a, and employees who resign from a nontemporary position and accept a temporary position within 30 days in the same governmental subdivision; ~~An employer must not apply the definition of temporary position so as to exclude employees who are hired to fill positions that are permanent or that are for an unspecified period but who are serving a probationary period at the start of the employment. If the period of employment extends beyond six consecutive months and the employee earns more than \$425 from one governmental subdivision in any calendar month, the department head shall report the employee for membership and require employee deductions be made on behalf of the employee under section 353.27, subdivision 4.~~

The membership eligibility of an employee who resigns or is dismissed from a temporary position and within 30 days accepts another temporary position in the same governmental subdivision is determined on the total length of employment rather than on each separate position. Membership eligibility of an employee who holds concurrent temporary and nontemporary positions in one governmental subdivision is

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

determined by the length of employment and salary of each separate position;

(5) employees who are employed by reason of work emergency caused by fire, flood, storm, or similar disaster;

(6) employees who by virtue of their employment in one governmental subdivision are required by law to be a member of and to contribute to any of the plans or funds administered by the Minnesota State Retirement System, the Teachers Retirement Association, the Duluth Teachers Retirement Fund Association, the Minneapolis Teachers Retirement Fund Association, the St. Paul Teachers Retirement Fund Association, the Minneapolis Employees Retirement Fund, or any police or firefighters relief association governed by section 69.77 that has not consolidated with the Public Employees Retirement Association, or any local police or firefighters consolidation account but who have not elected the type of benefit coverage provided by the public employees police and fire fund under sections 353A.01 to 353A.10, or any persons covered by section 353.665, subdivision 4, 5, or 6, who have not elected public employees police and fire plan benefit coverage. This clause must not be construed to prevent a person from being a member of and contributing to the Public Employees Retirement Association and also belonging to and contributing to another public pension plan or fund for other service occurring during the same period of time. A person who meets the definition of "public employee" in subdivision 2 by virtue of other service occurring during the same period of time becomes a member of the association unless contributions are made to another public retirement fund on the salary based on the other service or to the Teachers Retirement Association by a teacher as defined in section 354.05, subdivision 2;

(7) persons who are members of a religious order and are excluded from coverage under the federal Old Age, Survivors, Disability, and Health Insurance Program for the performance of service as specified in United States Code, title 42, section 410(a)(8)(A), as amended through January 1, 1987, if no irrevocable election of coverage has been made under section 3121(r) of the Internal Revenue Code of 1954, as amended;

(8) employees of a governmental subdivision who have not reached the age of 23 and are enrolled on a full-time basis to attend or are attending classes on a full-time basis at an accredited school, college, or university in an undergraduate, graduate, or professional-technical program, or a public or charter high school;

(9) resident physicians, medical interns, and pharmacist residents and pharmacist interns who are serving in a degree or residency program in public hospitals;

(10) students who are serving in an internship or residency program sponsored by an accredited educational institution;

(11) persons who hold a part-time adult supplementary technical college license who render part-time teaching service in a technical college;

(12) except for employees of Hennepin County, foreign citizens working for a governmental subdivision with a work permit of less than three years, or an H-1b visa valid for less than three years of employment. Upon notice to the association that the

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

work permit or visa extends beyond the three-year period, the foreign citizens are to must be reported for membership from the date of the extension;

(13) public hospital employees who elected not to participate as members of the association before 1972 and who did not elect to participate from July 1, 1988, to October 1, 1988;

(14) except as provided in section 353.86, volunteer ambulance service personnel, as defined in subdivision 35, but persons who serve as volunteer ambulance service personnel may still qualify as public employees under subdivision 2 and may be members of the Public Employees Retirement Association and participants in the public employees retirement fund or the public employees police and fire fund, whichever applies, on the basis of compensation received from public employment service other than service as volunteer ambulance service personnel;

(15) except as provided in section 353.87, volunteer firefighters, as defined in subdivision 36, engaging in activities undertaken as part of volunteer firefighter duties; provided that a person who is a volunteer firefighter may still qualify as a public employee under subdivision 2 and may be a member of the Public Employees Retirement Association and a participant in the public employees retirement fund or the public employees police and fire fund, whichever applies, on the basis of compensation received from public employment activities other than those as a volunteer firefighter;

(16) pipefitters and associated trades personnel employed by Independent School District No. 625, St. Paul, with coverage under a collective bargaining agreement by the pipefitters local 455 pension plan who were either first employed after May 1, 1997, or, if first employed before May 2, 1997, elected to be excluded under Laws 1997, chapter 241, article 2, section 12;

(17) electrical workers, plumbers, carpenters, and associated trades personnel employed by Independent School District No. 625, St. Paul, or the city of St. Paul, who have retirement coverage under a collective bargaining agreement by the Electrical Workers Local 110 pension plan, the United Association Plumbers Local 34 pension plan, or the Carpenters Local 87 pension plan who were either first employed after May 1, 2000, or, if first employed before May 2, 2000, elected to be excluded under Laws 2000, chapter 461, article 7, section 5;

(18) bricklayers, allied craftworkers, cement masons, glaziers, glassworkers, painters, allied tradesworkers, and plasterers employed by the city of St. Paul or Independent School District No. 625, St. Paul, with coverage under a collective bargaining agreement by the Bricklayers and Allied Craftworkers Local 1 pension plan, the Cement Masons Local 633 pension plan, the Glaziers and Glassworkers Local L-1324 pension plan, the Painters and Allied Trades Local 61 pension plan, or the Twin Cities Plasterers Local 265 pension plan who were either first employed after May 1, 2001, or if first employed before May 2, 2001, elected to be excluded under Laws 2001, First Special Session chapter 10, article 10, section 6;

(19) plumbers employed by the metropolitan airports commission, with coverage under a collective bargaining agreement by the Plumbers Local 34 pension plan, who

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

either were first employed after May 1, 2001, or if first employed before May 2, 2001, elected to be excluded under Laws 2001, First Special Session chapter 10, article 10, section 6;

(20) employees who are hired after June 30, 2002, to fill seasonal positions under subdivision 12b which are limited in duration by the employer to 185 consecutive calendar days or less in each year of employment with the governmental subdivision;

(21) persons who are provided supported employment or work-study positions by a governmental subdivision and who participate in an employment or industries program maintained for the benefit of these persons where the governmental subdivision limits the position's duration to three years or less, including persons participating in a federal or state subsidized on-the-job training, work experience, senior citizen, youth, or unemployment relief program where the training or work experience is not provided as a part of, or for, future permanent public employment;

(22) independent contractors and the employees of independent contractors; and

(23) reemployed annuitants of the association during the course of that reemployment.

Sec. 3. Minnesota Statutes 2002, section 353.01, subdivision 12a, is amended to read:

Subd. 12a. **TEMPORARY POSITION.** (1) (a) "Temporary position" means an employment position predetermined by the employer at the time of hiring to be a period of six months or less. Temporary position also means an employment position occupied by a person hired by the employer as a temporary replacement who is employed for a predetermined period of six months or less.

(2) (b) "Temporary position" does not mean an employment position for a specified or unspecified term in which a person serves a probationary period as a requirement for subsequent employment on a permanent or unlimited basis.

(c) If employment in a temporary position extends beyond six consecutive months, the head of the department shall report the employee for membership if salary in any month exceeds the salary threshold specified in subdivision 2a. The membership eligibility of an employee who resigns or is dismissed from a temporary position and accepts another temporary position in the same governmental subdivision within 30 days must be determined on the total length of employment rather than on each separate position.

Sec. 4. Minnesota Statutes 2002, section 353.01, subdivision 12b, is amended to read:

Subd. 12b. **SEASONAL POSITION.** "Seasonal position" means a position where the nature of the work or its duration are related to a specific season or seasons of the year, regardless of whether or not the employing agency anticipates that the same employee will return to the position each season in which it becomes available. The entire period of employment in a business year must be used to determine whether or not a position may be excluded as seasonal when there is less than a 30-day break

New language is indicated by underline, deletions by strikeout.

between one seasonal position and a subsequent seasonal position for employment with the same governmental employer. Seasonal positions include, but are not limited to, coaching athletic activities or employment to plow snow or to maintain roads or parks, or to operate skating rinks, ski lodges, golf courses, or swimming pools.

Sec. 5. Minnesota Statutes 2002, section 354.05, subdivision 2, is amended to read:

Subd. 2. **TEACHER.** (a) "Teacher" means:

(1) a person who renders service as a teacher, supervisor, principal, superintendent, librarian, nurse, counselor, social worker, therapist, or psychologist in a public school of the state located outside of the corporate limits of a city of the first class, or in any charter school, irrespective of the location of the school, or in any charitable, penal, or correctional institutions of a governmental subdivision, or who is engaged in educational administration in connection with the state public school system, but excluding the University of Minnesota, whether the position be a public office or an employment, and not including the members or officers of any general governing or managing board or body;

(2) an employee of the Teachers Retirement Association;

(3) a person who renders teaching service on a part-time basis and who also renders other services for a single employing unit. A person whose teaching service comprises at least 50 percent of the combined employment salary is a member of the association for all services with the single employing unit. If the person's teaching service comprises less than 50 percent of the combined employment salary, the executive director must determine whether all or none of the combined service is covered by the association; or

(4) a person who is not covered by the plans established under chapter 352D, 354A, or 354B and who is employed by the Board of Trustees of the Minnesota State Colleges and Universities system in an unclassified position as:

(i) a president, vice-president, or dean;

(ii) a manager or a professional in an academic or an academic support program other than specified in item (i);

(iii) an administrative or a service support faculty position; or

(iv) a teacher or a research assistant.

(b) "Teacher" does not mean:

(1) a person who works for a school or institution as an independent contractor as defined by the Internal Revenue Service;

(2) 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

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

~~retirement association to meet the minimum vesting requirements for a deferred retirement annuity, or the employer agrees in writing on forms prescribed by the executive director 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 Training and Employment Act, or the person agrees in writing on forms prescribed by the executive director to make the required employer contribution in addition to the required employee contribution;~~

(3) a person holding a part-time adult supplementary technical college license who renders part-time teaching service or who is a customized trainer as defined by the Minnesota State Colleges and Universities system in a technical college if (i) the service is incidental to the regular nonteaching occupation of the person; and (ii) the applicable technical college employer stipulates annually in advance that the part-time teaching service or customized training service will not exceed 300 hours in a fiscal year and retains the stipulation in its records; and (iii) the part-time teaching service or customized training service actually does not exceed 300 hours in a fiscal year; or

~~(4)~~ (3) a person exempt from licensure under section 122A.30.

Sec. 6. Minnesota Statutes 2002, section 354B.20, subdivision 4, is amended to read:

Subd. 4. **COVERED EMPLOYMENT.** (a) "Covered employment" means employment by a person eligible for coverage by this retirement program under section 354B.21 in a faculty position or in an eligible unclassified administrative position.

(b) "Covered employment" does not mean employment specified in paragraph (a) by a faculty member employed in a state university or a community college the Minnesota State Colleges and Universities system if the person's initial appointment is specified as constituting less than 25 percent of a full academic year, exclusive of summer session, for the applicable institution.

Sec. 7. Minnesota Statutes 2002, section 354B.20, subdivision 6, is amended to read:

Subd. 6. **ELIGIBLE UNCLASSIFIED ADMINISTRATIVE POSITION.** "Eligible unclassified administrative position" means the following:

(1) the chancellor of the board;

(2) a president of a state college or university; or

(3) an ~~excluded~~ administrator employed in a state university or college, by the board, or by the Higher Education Services Office; or

(4) other managers and professionals in academic and academic support programs in the unclassified service employed in a state university or college, by the board, or by the Higher Education Services Office.

Sec. 8. Minnesota Statutes 2002, section 354C.11, subdivision 2, is amended to read:

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

Subd. 2. **ELIGIBILITY.** (a) An individual must participate in the supplemental retirement plan if the individual is employed by the Board of Trustees in the unclassified service of the state and has completed at least two years with a full-time contract of applicable unclassified employment with the board or an applicable predecessor board in any of the positions specified in paragraph (b).

(b) Eligible positions or employment classifications are:

(1) an unclassified administrative position as defined in section 354B.20, subdivision 6;

(2) an employment classification included in one of the following collective bargaining units under section 179A.10, subdivision 2:

(i) the state university instructional unit;

(ii) the state college instructional unit; and

(iii) the state university administrative unit; or

(3) an unclassified employee of the board:

(i) included in the general professional unit or the supervisory employees unit under section 179A.10, subdivision 2; or

(ii) an employee who is excluded from one of those units due to the employee's confidential status under section 179A.10, subdivision 1, clause (8).

Sec. 9. **REPEALER.**

Minnesota Statutes 2002, section 352D.02, subdivision 5, is repealed.

Sec. 10. **EFFECTIVE DATE.**

(a) Sections 2 to 6 and 9 are effective on July 1, 2004.

(b) Section 7 is effective on July 1, 2004, and applies retroactively to the date of hire of the applicable person in the affected position.

(c) Section 8 is effective retroactively to July 1, 2001.

ARTICLE 2

COVERED SALARY DEFINITION

Section 1. Minnesota Statutes 2002, section 352.01, subdivision 13, is amended to read:

Subd. 13. **SALARY.** (a) "Salary" means wages, or other periodic compensation, paid to an employee before deductions for deferred compensation, supplemental retirement plans, or other voluntary salary reduction programs.

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

(b) "Salary" does not include:

(1) lump sum sick leave payments;

(2) severance payments;

(3) lump sum annual leave payments and overtime payments made at the time of separation from state service;

(4) payments in lieu of any employer-paid group insurance coverage, including the difference between single and family rates that may be paid to an employee with single coverage; and;

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

(6) workers' compensation payments;

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

(8) amounts contributed under a benevolent vacation and sick leave donation program are not salary.

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

Sec. 2. Minnesota Statutes 2002, section 352B.01, subdivision 11, is amended to read:

Subd. 11. **AVERAGE MONTHLY SALARY.** (a) "Average monthly salary" means the average of the highest monthly salaries for five years of service as a member upon which contributions were deducted from pay under section 352B.02, or upon which appropriate contributions or payments were made to the fund to receive allowable service and salary credit as specified under the applicable law. Average monthly salary must be based upon all allowable service if this service is less than five years. #

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

(c) A member on leave of absence receiving temporary workers' compensation payments and a reduced salary or no salary from the employer who is entitled to allowable service credit for the period of absence may make payment to the fund for the difference between salary received, if any, and the salary the member would normally receive if not on leave of absence during the period. The member shall pay an amount equal to the member and employer contribution rate under section 352B.02,

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

subdivisions 1b and 1c, on the differential salary amount for the period of the leave of absence. The employing department, at its option, may pay the employer amount on behalf of the member. Payment made under this subdivision must include interest at the rate of 8.5 percent per year, and must be completed within one year of the return from the leave of absence.

Sec. 3. Minnesota Statutes 2002, section 353.01, subdivision 10, is amended to read:

Subd. 10. **SALARY.** (a) "Salary" means:

(1) the periodic compensation of a public employee, before deductions for deferred compensation, supplemental retirement plans, or other voluntary salary reduction programs, and also means "wages" and includes net income from fees; and

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

(b) Salary does not mean:

(1) the fees paid to district court reporters, unused annual vacation or sick leave payments, in lump-sum or periodic payments, severance payments, reimbursement of expenses, lump-sum settlements not attached to a specific earnings period, or workers' compensation payments;

(2) employer-paid amounts used by an employee toward the cost of insurance coverage, employer-paid fringe benefits, flexible spending accounts, cafeteria plans, health care expense accounts, day care expenses, or any payments in lieu of any employer-paid group insurance coverage, including the difference between single and family rates that may be paid to a member with single coverage and certain amounts determined by the executive director to be ineligible;

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

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

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

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

insurance coverages under a group plan offered by the employer; and

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

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

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

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

Sec. 4. Minnesota Statutes 2002, section 354.05, subdivision 35, is amended to read:

Subd. 35. **SALARY.** (a) "Salary" means the periodic compensation, upon which member contributions are required before deductions for deferred compensation, supplemental retirement plans, or other voluntary salary reduction programs.

(b) "Salary" does not mean:

- (1) lump sum annual leave payments;
- (2) lump sum wellness and sick leave payments;

(3) employer-paid amounts used by an employee toward the cost of insurance coverage, employer-paid fringe benefits, flexible spending accounts, cafeteria plans, health care expense accounts, day care expenses, or any payments in lieu of any employer-paid group insurance coverage, including the difference between single and family rates that may be paid to a member with single coverage and certain amounts determined by the executive director to be ineligible;

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

(5) any form of severance payments;

(6) workers' compensation payments;

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

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

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

(10) payments made under section 122A.40, subdivision 12, except for payments for sick leave that are accumulated under the provisions of a uniform school district

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

policy that applies equally to all similarly situated persons in the district.

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

Sec. 5. Minnesota Statutes 2002, section 354A.011, subdivision 24, is amended to read:

Subd. 24. **SALARY; COVERED SALARY.** (a) "Salary" or "covered salary" means the entire compensation, upon which member contributions are required and made, that is paid to a teacher before deductions for deferred compensation, supplemental retirement plans, or other voluntary salary reduction programs.

(b) "Salary" does not mean:

(1) lump sum annual leave payments;

(2) lump sum wellness and sick leave payments;

(3) employer-paid amounts used by an employee toward the cost of insurance coverage, employer-paid fringe benefits, flexible spending accounts, cafeteria plans, health care expense accounts, day care expenses, or any payments in lieu of any employer-paid group insurance coverage, including the difference between single and family rates that may be paid to a member with single coverage, and certain amounts determined by the executive secretary or director to be ineligible;

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

(5) any form of severance payments;

(6) workers' compensation payments;

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

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

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

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

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

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

Sec. 6. Minnesota Statutes 2002, section 356.611, subdivision 1, is amended to read:

Subdivision 1. **STATE SALARY LIMITATIONS.** (a) Notwithstanding any provision of law, bylaws, articles of incorporation, retirement and disability allowance plan agreements, or retirement plan contracts to the contrary, the covered salary for pension purposes for a plan participant of a covered retirement fund enumerated in section 356.30, subdivision 3, may not exceed 95 percent of the salary established for the governor under section 15A.082 at the time the person received the salary.

(b) This section does not apply to a salary paid:

(1) to the governor or to a judge;

(2) to an employee of a political subdivision in a position that is excluded from the limit as specified under section 43A.17, subdivision 9; or

(3) to a state employee in a position for which the commissioner of employee relations has approved a salary rate that exceeds 95 percent of the governor's salary as defined under section 43A.02, subdivision 21;

(4) to an employee of Gillette Hospital who is covered by the general state employees retirement plan of the Minnesota State Retirement System;

(5) to an employee of the Minnesota Crop Improvement Council; or

(6) to an employee of the Minnesota Historical Society.

(c) The limited covered salary determined under this section must be used in determining employee and employer contributions and in determining retirement annuities and other benefits under the respective covered retirement fund and under this chapter.

Sec. 7. Minnesota Statutes 2002, section 356.611, subdivision 2, is amended to read:

Subd. 2. **FEDERAL COMPENSATION LIMITS.** (a) For members ~~first contributing to~~ of a covered pension plan enumerated in section 356.30, subdivision 3, ~~on or after July 1, 1995,~~ compensation in excess of the limitation set forth specified in section 401(a)(17) of the Internal Revenue Code, as amended, for changes in the cost of living under section 401(a)(17)(B) of the Internal Revenue Code, may not be included for contribution and benefit computation purposes.

(b) Notwithstanding paragraph (a), for members specified in paragraph (a) who first contributed to a covered plan before July 1, 1995, the annual compensation limit set forth specified in Internal Revenue Code 401(a)(17) on June 30, 1993, applies to members first contributing before July 1, 1995 if that provides a greater allowable annual compensation.

Sec. 8. Minnesota Statutes 2002, section 356.611, is amended by adding a subdivision to read:

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

Subd. 3. MAXIMUM BENEFIT LIMITATIONS. A member's annual benefit, if necessary, must be reduced to the extent required by section 415(b) of the Internal Revenue Code, as adjusted by the United States Secretary of the Treasury under section 415(d) of the Internal Revenue Code. For purposes of section 415 of the Internal Revenue Code, the limitation year of a pension plan covered by this section must be the fiscal year or calendar year of that plan, whichever is applicable. The accrued benefit limitation described in section 415(e) of the Internal Revenue Code must cease to be effective for limitation years beginning after December 31, 1999.

Sec. 9. EFFECTIVE DATE.

(a) Sections 1, 2, 3, 7, and 8 are effective on July 1, 2004.

(b) Sections 4 and 5 are effective on the day following final enactment.

(c) Section 6 applies retroactively to April 28, 1994, and retirement annuities that were based on covered salary amounts that were in excess of the limit in effect after April 28, 1994, but conform with section 6, are ratified.

ARTICLE 3

ALLOWABLE SERVICE CREDIT

Section 1. Minnesota Statutes 2002, section 352.27, is amended to read:

352.27 CREDIT FOR MILITARY BREAK IN SERVICE TO PROVIDE UNIFORMED SERVICE.

Any (a) An employee given a leave of absence to enter military service who is absent from employment by reason of service in the uniformed services, as defined in United States Code, title 38, section 4303(13), and who returns to state service upon discharge from military service as provided in the uniformed service within the time frames required in United States Code, title 38, section ~~492-262~~ 4312(e), may obtain service credit for the period of military the uniformed 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 as further specified in this section, provided that the employee did not separate from uniformed service with a dishonorable or bad conduct discharge or under other than honorable conditions. An

(b) The employee may obtain credit by paying into the fund an equivalent employee contribution based upon the contribution rate or rates in effect at the time that the uniformed service was performed multiplied by the full and fractional years being purchased and applied to the annual salary received at the date of return from military service. The amount of this contribution must be the applicable amounts

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

required in section 352.04, subdivision 2, plus interest at an annual rate of 8.5 percent compounded annually rate. The annual salary rate is the average annual salary during the purchase period that the employee would have received if the employee had continued to be employed in covered employment rather than to provide uniformed service, or, if the determination of that rate is not reasonably certain, the annual salary rate is the employee's average salary rate during the 12-month period of covered employment rendered immediately preceding the period of the uniformed service.

(c) The matching equivalent employer contribution and, if applicable, the equivalent additional employer 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, using the employer and additional employer contribution rate or rates in effect at the time that the uniformed service was performed, applied to the same annual salary rate or rates used to compute the equivalent employee contribution.

(d) If the employee equivalent contributions provided in this section are not paid in full, the employee's allowable service credit must be prorated by multiplying the full and fractional number of years of uniformed service eligible for purchase by the ratio obtained by dividing the total employee contribution received by the total employee contribution otherwise required under this section.

(e) To receive service credit under this section, the contributions specified in this section must be transmitted to the Minnesota State Retirement System during the period which begins with the date on which the individual returns to state service and which has a duration of three times the length of the uniformed service period, but not to exceed five years. If the determined payment period is less than one year, the contributions required under this section to receive service credit may be made within one year of the discharge date.

(f) The amount of service credit obtainable under this section may not exceed five years unless a longer purchase period is required under United States Code, title 38, section 4312.

(g) The employing unit shall pay interest on all equivalent employee and employer contribution amounts payable under this section. Interest must be computed at a rate of 8.5 percent compounded annually from the end of each fiscal year of the leave or the break in service to the end of the month in which the payment is received.

Sec. 2. Minnesota Statutes 2002, section 352B.01, is amended by adding a subdivision to read:

Subd. 3b. **CREDIT FOR BREAK IN SERVICE TO PROVIDE UNIFORMED SERVICE.** (a) A member who is absent from employment by reason of service in the uniformed services, as defined in United States Code, title 38, section 4303(13), and who returns to state employment in a position covered by the plan upon discharge from service in the uniformed service within the time frame required in United States Code, title 38, section 4312(e), may obtain service credit for the period of the uniformed service, provided that the member did not separate from uniformed

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

service with a dishonorable or bad conduct discharge or under other than honorable conditions.

(b) The member may obtain credit by paying into the fund an equivalent member contribution based on the contribution rate or rates in effect at the time that the unformed service was performed multiplied by the full and fractional years being purchased and applied to the annual salary rate. The annual salary rate is the average annual salary during the purchase period that the member would have received if the member had continued to provide employment services to the state rather than to provide unformed service, or if the determination of that rate is not reasonably certain, the annual salary rate is the member's average salary rate during the 12-month period of covered employment rendered immediately preceding the purchase period.

(c) The equivalent employer contribution and, if applicable, the equivalent employer additional contribution, must be paid by the employing unit, using the employer and employer additional contribution rate or rates in effect at the time that the unformed service was performed, applied to the same annual salary rate or rates used to compute the equivalent member contribution.

(d) If the member equivalent contributions provided for in this subdivision are not paid in full, the member's allowable service credit must be prorated by multiplying the full and fractional number of years of unformed service eligible for purchase by the ratio obtained by dividing the total member contributions received by the total member contributions otherwise required under this subdivision.

(e) To receive allowable service credit under this subdivision, the contributions specified in this section must be transmitted to the fund during the period which begins with the date on which the individual returns to state employment covered by the plan and which has a duration of three times the length of the unformed service period, but not to exceed five years. If the determined payment period is calculated to be less than one year, the contributions required under this subdivision to receive service credit may be within one year from the discharge date.

(f) The amount of allowable service credit obtainable under this section may not exceed five years, unless a longer purchase period is required under United States Code, title 38, section 4312.

(g) The employing unit shall pay interest on all equivalent member and employer contribution amounts payable under this subdivision. Interest must be computed at a rate of 8.5 percent compounded annually from the end of each fiscal year of the leave or break in service to the end of the month in which payment is received.

Sec. 3. Minnesota Statutes 2002, section 353.01, subdivision 16, is amended to read:

Subd. 16. **ALLOWABLE SERVICE; LIMITS AND COMPUTATION.** (a) "Allowable service" means:

(1) 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;

New language is indicated by underline, deletions by strikeout.

(2) 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;

(3) a period of authorized leave of absence with pay from which deductions for employee contributions are made, deposited, and credited to the fund;

(4) a period of authorized personal, parental, or medical leave of absence without pay, including a leave of absence covered under the federal Family Medical Leave Act, that does not exceed one year, and during or for which a member obtained service credit for each month in the leave period by payments to the fund made in place of salary deductions. The payments must be 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 that immediately precedes the commencement of the leave of absence. If the employee elects to pay the employee contributions for the period of any authorized personal, parental, or medical 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 the required employer and the additional employer contributions, if any, for the employee. The payment must be made within one year from the expiration of the leave of absence or within 20 days after termination of public service under subdivision 11a, whichever is earlier. The employer, by appropriate action of its governing body which is made a part of its official records and which is adopted before the date of the first payment of the employee contribution, may certify to the association in writing its commitment to pay 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 an annual rate of 8.5 percent compounded annually from the date of the termination of the leave of absence to the date payment is made. An employee shall return to public service and render a minimum of three months of allowable service in order to be eligible to pay employee and employer contributions for a subsequent authorized leave of absence without pay. Upon payment, the employee must be granted allowable service credit for the purchased period;

(5) a periodic, repetitive leave that is offered to all employees of a governmental subdivision. The leave program may not exceed 208 hours per annual normal work cycle as certified to the association by the employer. A participating member obtains service credit by making employee contributions in an amount or amounts based on the member's average salary that would have been paid if the leave had not been taken. The employer shall pay the employer and additional employer contributions on behalf of the participating member. The employee and the employer are responsible to pay interest on their respective shares at the rate of 8.5 percent a year, compounded annually, from the end of the normal cycle until full payment is made. An employer shall also make the employer and additional employer contributions, plus 8.5 percent interest, compounded annually, on behalf of an employee who makes employee contributions but terminates public service. The employee contributions must be made within one year after the end of the annual normal working cycle or within 20 days

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

after termination of public service, whichever is sooner. The association shall prescribe the manner and forms to be used by a governmental subdivision in administering a periodic, repetitive leave. Upon payment, the member must be granted allowable service credit for the purchased period;

(6) an authorized temporary layoff under subdivision 12, limited to three months allowable service per authorized temporary layoff in one calendar year. An employee who has received the maximum service credit allowed for an authorized temporary layoff must return to public service and must obtain a minimum of three months of allowable service subsequent to the layoff in order to receive allowable service for a subsequent authorized temporary layoff; or

(7) a period during which a member is on an authorized leave of absence to enter military absent from employment by a governmental subdivision by reason of service in the armed forces of the United States in the uniformed services, as defined in United States Code, title 38, section 4303(13), if the member returns to public service upon discharge from military service in the uniformed service within the time frames required under United States Code, title 38, section ~~192.262~~ and 4312(e), provided that the member did not separate from uniformed service with a dishonorable or bad conduct discharge or under other than honorable conditions. The service is credited if the member pays into the fund equivalent employee contributions based upon the employee's contribution rate or rates in effect at the time that the uniformed service was performed multiplied by the full and fractional years being purchased and applied to the annual salary at the date of return from military service rate. The annual salary rate is the average annual salary during the purchase period that the member would have received if the member had continued to be employed in covered employment rather than to provide uniformed service, or, if the determination of that rate is not reasonably certain, the annual salary rate is the member's average salary rate during the 12-month period of covered employment rendered immediately preceding the period of the uniformed service. Payment of the member equivalent contributions must be made within during a period which begins with the date on which the individual returns to public employment and that is three times the length of the military leave period, or within five years of the date of discharge from the military service, whichever is less. If the determined payment period is less than one year, the contributions required under this clause to receive service credit may be made within one year of the discharge date. Payment may not be accepted following 20 days after termination of public service under subdivision 11a. 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 an annual rate of 8.5 percent compounded annually from the date of return to public service to the date payment is made. If the member equivalent contributions provided for in this clause are not paid in full, the member's allowable service credit must be prorated by multiplying the full and fractional number of years of uniformed service eligible for purchase by the ratio obtained by dividing the total member contributions received by the total member contributions otherwise required under this clause. The corresponding equivalent employer contribution, and, if applicable, the equivalent additional employer contribution, if applicable, must be paid by the governmental subdivision employing the member upon the person's return to public service if the

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

member makes the equivalent employee contributions. The employer payments must be made from funds available to the employing unit, using the employer and additional employer contribution rate or rates in effect at the time that the uniformed service was performed, applied to the same annual salary rate or rates used to compute the equivalent member contribution. 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. The amount of service credit obtainable under this section may not exceed five years unless a longer purchase period is required under United States Code, title 38, section 4312. The employing unit shall pay interest on all equivalent member and employer contribution amounts payable under this clause. Interest must be computed at a rate of 8.5 percent compounded annually from the end of each fiscal year of the leave or the break in service to the end of the month in which the payment is received. Upon payment, the employee must be granted allowable service credit for the purchased period.

(b) 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 the combined years of allowable service as defined in paragraph (a), clauses (1) to (6), and section 352.01, subdivision 11.

(c) For a public employee who has prior service covered by a local police or firefighters relief association that has consolidated with the Public Employees Retirement Association or to which section 353.665 applies, and who has elected the type of benefit coverage provided by the public employees police and fire fund either under section 353A.08 following the consolidation or under section 353.665, subdivision 4, "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.

(d) No member may receive more than 12 months of allowable service credit in a year either for vesting purposes or for benefit calculation purposes.

(e) "Allowable service" also means a period purchased under section 356.555.

Sec. 4. Minnesota Statutes 2002, section 354.091, is amended to read:

354.091 SERVICE CREDIT.

(a) In computing service credit, no teacher shall receive credit for more than one year of teaching service for any fiscal year. Commencing July 1, 1961:

(1) if a teacher teaches less than five hours in a day, service credit must be given for the fractional part of the day as the term of service performed bears to five hours;

(2) if a teacher teaches five or more hours in a day, service credit must be given for only one day;

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

(3) if a teacher teaches at least 170 full days in any fiscal year, service credit must be given for a full year of teaching service; and

(4) if a teacher teaches for only a fractional part of the year, service credit must be given for such fractional part of the year as the period of service performed bears to 170 days.

(b) A teacher shall receive a full year of service credit based on the number of days in the employer's full school year if it is less than 170 days. Teaching service performed before July 1, 1961, must be computed under the law in effect at the time it was performed.

(c) A teacher ~~does~~ must not lose or gain retirement service credit as a result of the employer converting to a flexible or alternate work schedule. If the employer converts to a flexible or alternate work schedule, the forms for reporting and the procedures for determining service credit must be determined by the executive director with the approval of the board of trustees.

(d) For all services rendered on or after July 1, 2003, service credit for all members employed by the Minnesota State Colleges and Universities system must be determined:

(1) for full-time employees, by the definition of full time employment contained in the collective bargaining agreement for those units listed in section 179A.10, subdivision 2, or contained in the applicable personnel or salary plan for those positions designated in section 179A.10, subdivision 1;

(2) for part-time employees, by the appropriate proration of full-time equivalency based on the provisions contained in the collective bargaining agreement for those units listed in section 179A.10, subdivision 2, or contained in the applicable personnel or salary plan for those positions designated in section 179A.10, subdivision 1, and the applicable procedures of the Minnesota State Colleges and Universities system; and

(3) in no case may a member receive more than one year of service credit for any fiscal year.

Sec. 5. Minnesota Statutes 2002, section 354.096, subdivision 1, is amended to read:

Subdivision 1. **CERTIFICATION.** Upon granting a family leave to a member, an employing unit must certify the leave to the association on a form specified by the executive director before the end of the fiscal year during which the leave was granted.

Sec. 6. Minnesota Statutes 2002, section 354.53, is amended to read:

354.53 CREDIT FOR MILITARY BREAK IN SERVICE LEAVE OF ABSENCE TO PROVIDE UNIFORMED SERVICE.

Subdivision 1. **ELIGIBILITY; EMPLOYEE AND EMPLOYER CONTRIBUTIONS.** (a) Any employee given a leave of absence to enter military service teacher who is absent from employment by reason of service in the uniformed services, as defined in United States Code, title 38, section 4303(13), and who returns to the

New language is indicated by underline, deletions by strikethrough.

employer providing teaching service upon discharge from military service as provided in the uniformed service within the time frames required in United States Code, title 38, section ~~192.262~~ 4312(c), may obtain service credit for the period of military the uniformed 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 to active duty as further specified in this section, provided that the teacher did not separate from uniformed service with a dishonorable or bad conduct discharge or under other than honorable conditions.

(b) The member shall may obtain credit by paying into the fund an equivalent employee contribution based upon the contribution rate or rates in effect at the time that the military uniformed service was performed multiplied by the full and fractional years being purchased and applied to the annual salary rate of the member for the year beginning with the date of return from military service and the number of years of military service together with interest thereon at an annual rate of 8.5 percent compounded annually from the time the military service was rendered to the first date of payment. The annual salary rate is the average annual salary during the purchase period that the teacher would have received if the teacher had continued to provide teaching service to the employer rather than provide uniformed service or if the determination of that rate is not reasonably certain, the annual salary rate is the teacher's average salary rate during the 12-month period immediately preceding the period, or, if the preceding period is less than 12 months, the annualized rate derived from the teacher's average salary rate during the period of teacher employment rendered immediately preceding the period of the uniformed service.

(c) The equivalent employer contribution and, if applicable, the equivalent additional contribution provided in section 354.42 must be paid by the employing unit at as provided in section 354.52, subdivision 4, using the employer and employer additional contribution rate or rates in effect at the time that the military uniformed service was performed, applied to the same annual salary rate of or rates used to compute the member for the year beginning with the date of return from military service, in the manner provided in section 354.52, subdivision 4 equivalent employee contribution.

Subd. 2. CALCULATION OF CREDIT. (a) For purposes of computing a money purchase annuity under section 354.44, subdivision 2, all payments into the fund pursuant to under this section shall must be considered accumulations after July 1, 1957 for the purpose of computing any annuity in accordance with section 354.44, subdivision 2.

(b) For purposes of computing a formula annuity under section 354.44, subdivision 6, if the employee equivalent contributions and interest thereon provided in this section are not paid in full, the member's formula service credit shall must be calculated prorated by multiplying the full and fractional number of years of military uniformed service eligible for purchase by the ratio obtained by dividing the total amount paid and employee contribution received by the maximum amount payable provided herein total employee contribution otherwise required under this section.

New language is indicated by underline, deletions by strikeout.

Subd. 3. **PAYMENTS ELIGIBLE PAYMENT PERIOD.** Payments pursuant to this (a) To receive service credit under this section, the contributions specified in this section shall must be made within transmitted to the teachers retirement association during the period which begins with the date on which the individual returns to teaching service and which has a duration of three times the length of the uniformed service period, but not to exceed five years from the date of discharge.

(b) Notwithstanding paragraph (a), if the payment period determined under paragraph (a) is less than one year, the contributions required under this section to receive service credit may be made within one year from the discharge date.

Subd. 4. **LIMITS ON SERVICE CREDIT.** The amount of service credit obtainable under this section may not exceed five years, unless a longer purchase period is required under United States Code, title 38, section 4312.

Subd. 5. **INTEREST REQUIREMENTS.** The employer shall pay interest on all equivalent employee and employer contribution amounts payable under this section. Interest must be computed at a rate of 8.5 percent compounded annually from the end of each fiscal year of the leave or the break in service to the end of the month in which the payment is received.

Sec. 7. Minnesota Statutes 2002, section 354A.093, is amended to read:

354A.093 MILITARY BREAK IN SERVICE CREDIT TO PROVIDE UNIFORMED SERVICE.

Subdivision 1. ELIGIBILITY. Any teacher in the coordinated program of either the Minneapolis Teachers Retirement Fund Association or the St. Paul Teachers Retirement Fund Association or any teacher in the new law coordinated program of the Duluth Teachers Retirement Fund Association who is granted a leave absent from employment by reason of absence to enter military service in the uniformed services as defined in United States Code, title 38, section 4303(13) and who returns to the employer providing active teaching service upon discharge from military uniformed service as provided in within the time frames required under United States Code, title 38, section 4312(e), shall be entitled to may receive allowable service credit in the applicable association for all or a portion of the period of military uniformed service but, provided that the teacher did not for any voluntary extension of military separate from uniformed service beyond the initial period of enlistment, induction with a dishonorable or call to active duty which occurred at the instance of the teacher bad conduct discharge or under other than honorable conditions.

Subd. 2. CONTRIBUTIONS. If the teacher granted the military service leave of absence makes the equivalent employee contribution for a period of military service leave of absence pursuant to service provided to the uniformed services under this section, the employing unit shall make an equivalent employer contribution on behalf of the teacher to the applicable association for the period of the military service leave of absence being purchased in the manner described in section 354A.12, subdivision 2a. The equivalent employee and employer contributions shall must be in an amount equal to the employee and employer contribution rates in effect for other active

New language is indicated by underline, deletions by strikeout.

members of the association covered by the same program applied to a salary figure equal to the teacher's average annual salary rate at the date of return from military service that the teacher would have received if the leave or break in service had not occurred, or if the determination of that average salary rate is not reasonably certain, on the basis of the teacher's average salary rate during the 12-month period immediately preceding the period, or, if the preceding period is less than 12 months, the annualized rate derived from the teacher's average salary rate during the period of teacher employment rendered immediately preceding the period of uniformed service, with the result multiplied by the number of full and fractional years constituting the period of service provided to the military uniformed service leave of absence which the teacher seeks is authorized to purchase under this section. Payment shall include interest on the amount payable pursuant to this section at the rate of six percent compounded annually from the year the military service was rendered to the date of payment.

Subd. 3. PRORATING. If the payments made by a teacher pursuant to under this section are less than an the full amount equal to the applicable contribution rate applied to a salary figure equal to the teacher's annual salary rate at the date of return from military service, multiplied by the number of years constituting the period of the military service leave of absence determined under subdivision 2, the service credit shall must be prorated. The prorated service credit shall must be determined by the ratio between the amount of the actual equivalent employee payment which was made and the full contribution amount payable pursuant to equivalent employee payment required under this section. In order to be entitled to receive service credit under this section, payment shall be made within five years from the date of discharge from military service.

Subd. 4. ELIGIBLE PAYMENT PERIOD. (a) To receive service credit under this section, the contributions specified in this section must be transmitted to the applicable first class city teachers retirement fund association during the period which begins with the date the individual returns to teaching service and which has a duration of three times the length of the uniformed service period, but not to exceed five years.

(b) Notwithstanding paragraph (a), if the payment period determined under paragraph (a) is less than one year, the contributions required under this section to receive service credit may be made within one year from the discharge date.

Subd. 5. LIMITS ON SERVICE CREDIT. The amount of service credit obtainable under this section may not exceed five years, unless a longer purchase period is required under United States Code, title 38, section 4312.

Subd. 6. INTEREST REQUIREMENTS. The employer shall pay interest on all equivalent employee and employer contribution amounts payable under this section. Interest must be computed at a rate of 8.5 percent compounded annually from the end of each fiscal year of the leave or break in service to the end of the month in which payment is received.

Sec. 8. Minnesota Statutes 2002, section 490.121, is amended by adding a subdivision to read:

New language is indicated by underline, deletions by strikeout.

Subd. 4b. **[490.1211] CREDIT FOR BREAK IN SERVICE TO PROVIDE UNIFORMED SERVICE.** (a) A judge who is absent from employment by reason of service in the uniformed services, as defined in United States Code, title 38, section 4303(13), and who returns to state employment as a judge upon discharge from service in the uniformed service within the time frame required in United States Code, title 38, section 4312(e) may obtain service credit for the period of the uniformed service, provided that the judge did not separate from uniformed service with a dishonorable or bad conduct discharge or under other than honorable conditions.

(b) The judge may obtain credit by paying into the fund equivalent member contribution based on the contribution rate rates in effect at the time that the uniformed service was performed multiplied by the full and fractional years being purchased and applied to the annual salary rate. The annual salary rate is the average annual salary during the purchase period that the judge would have received if the judge had continued to provide employment services to the state rather than to provide uniformed service, or if the determination of that rate is not reasonably certain, the annual salary rate is the judge's average salary rate during the 12-month period of judicial employment rendered immediately preceding the purchase period.

(c) The equivalent employer contribution and, if applicable, the equivalent employer additional contribution, must be paid by the employing unit, using the employer and employer additional contribution rate or rates in effect at the time that the uniformed service was performed, applied to the same annual salary rate or rates used to compute the equivalent member contribution.

(d) If the member equivalent contributions provided for in this subdivision are not paid in full, the judge's allowable service credit must be prorated by multiplying the full and fractional number of years of uniformed service eligible for purchase by the ratio obtained by dividing the total member contributions received by the total member contributions otherwise required under this subdivision.

(e) To receive allowable service credit under this subdivision, the contributions specified in this section must be transmitted to the fund during the period which begins with the date on which the individual returns to judicial employment and which has a duration of three times the length of the uniformed service period, but not to exceed five years. If the determined payment period is calculated to be less than one year, the contributions required under this subdivision to receive service credit may be within one year from the discharge date.

(f) The amount of allowable service credit obtainable under this section may not exceed five years, unless a longer purchase period is required under United States Code, title 38, section 4312.

(g) The state court administrator shall pay interest on all equivalent member and employer contribution amounts payable under this subdivision. Interest must be computed at a rate of 8.5 percent compounded annually from the end of each fiscal year of the leave or break in service to the end of the month in which payment is received.

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

Sec. 9. EFFECTIVE DATE.

Sections 1 to 8 are effective on July 1, 2004.

ARTICLE 4**QUALIFIED PART-TIME TEACHER PROVISIONS**

Section 1. Minnesota Statutes 2002, section 354.66, subdivision 2, is amended to read:

Subd. 2. **QUALIFIED PART-TIME TEACHER PROGRAM PARTICIPATION REQUIREMENTS.** (a) A teacher in a Minnesota public elementary school, a Minnesota secondary school, or the Minnesota State Colleges and Universities system who has three years or more of allowable service in the association or three years or more of full-time teaching service in Minnesota public elementary schools, Minnesota secondary schools, or the Minnesota State Colleges and Universities system, by agreement with the board of the employing district or with the authorized representative of the board, may be assigned to teaching service in a part-time teaching position under subdivision 3. The agreement must be executed before October 1 of the school year for which the teacher requests to make retirement contributions under subdivision 4. A copy of the executed agreement must be filed with the executive director of the association. If the copy of the executed agreement is filed with the association after October 1 of the school year for which the teacher requests to make retirement contributions under subdivision 4, the employing unit shall pay the fine specified in section 354.52, subdivision 6, for each calendar day that elapsed since the October 1 due date. The association may not accept an executed agreement that is received by the association more than 15 months late. The association may not waive the fine required by this section.

(b) Notwithstanding paragraph (a), if the teacher is also a legislator:

(1) the agreement in paragraph (a) must be executed before March 1 of the school year for which the teacher requests to make retirement contributions under subdivision 4; and

(2) the fines specified in paragraph (a) apply if the employing unit does not file the executed agreement with the executive director of the association by March 1.

Sec. 2. Minnesota Statutes 2002, section 354A.094, subdivision 3, is amended to read:

Subd. 3. **QUALIFIED PART-TIME TEACHER PROGRAM PARTICIPATION REQUIREMENTS.** (a) A teacher in the public schools of a city of the first class who has three years or more allowable service in the applicable retirement fund association or three years or more of full-time teaching service in Minnesota public

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

elementary schools, Minnesota secondary schools, and Minnesota State Colleges and Universities system may, by agreement with the board of the employing district, be assigned to teaching service within the district in a part-time teaching position. The agreement must be executed before October 1 of the year for which the teacher requests to make retirement contributions under subdivision 4. A copy of the executed agreement must be filed with the executive director of the retirement fund association. If the copy of the executed agreement is filed with the association after October 1 of the year for which the teacher requests to make retirement contributions under subdivision 4, the employing school district shall pay a fine of \$5 for each calendar day that elapsed since the October 1 due date. The association may not accept an executed agreement that is received by the association more than 15 months late. The association may not waive the fine required by this section.

(b) Notwithstanding paragraph (a), if the teacher is also a legislator:

(1) the agreement in paragraph (a) must be executed before March 1 of the school year for which the teacher requests to make retirement contributions under subdivision 4; and

(2) the fines specified in paragraph (a) apply if the employing unit does not file the executed agreement with the executive director of the applicable Teachers Retirement Fund Association by March 1.

Sec. 3. EFFECTIVE DATE.

Sections 1 and 2 are effective on July 1, 2004.

ARTICLE 5

RETIREMENT PLAN CONTRIBUTIONS AND TRANSFERS

Section 1. Minnesota Statutes 2002, section 354.42, subdivision 7, is amended to read:

Subd. 7. **ERRONEOUS SALARY DEDUCTIONS OR DIRECT PAYMENTS.** (a) ~~Any~~ deductions taken from the salary of an employee for the retirement fund in error ~~shall~~ must be refunded to the employee upon the discovery of the error and after the verification of the error by the employing unit making the deduction, ~~and~~. The corresponding employer contribution and additional employer contribution amounts attributable to the erroneous salary deduction must be refunded to the employing unit.

(b) If salary deductions and employer contributions were erroneously transmitted to the retirement fund and should have been transmitted to another Minnesota public pension plan, the ~~retirement association~~ executive director must transfer these salary deductions and employer contributions to the appropriate public pension fund without

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

interest. For purposes of this paragraph, a Minnesota public pension plan means a plan specified in section 356.30, subdivision 3, or the plan governed by chapter 354B.

(c) A potential transfer under paragraph (b) that would cause the plan to fail to be a qualified plan under section 401(a) of the Internal Revenue Code, as amended, must not be made by the executive director. Within 30 days after being notified by the Teachers Retirement Association of an unmade potential transfer under this paragraph, the employer of the affected person must transmit an amount representing the applicable salary deductions and employer contributions, without interest, to the retirement fund of the appropriate Minnesota public pension plan fund. The retirement association must provide a credit for the amount of the erroneous salary deductions and employer contributions against future contributions from the employer.

(d) If a salary warrant or check from which a deduction for the retirement fund was taken has been canceled or the amount of the warrant or if a check has been returned to the funds of the employing unit making the payment, a refund of the amount deducted, or any portion of it that is required to adjust the salary deductions, shall must be made to the employing unit.

(e) Any erroneous direct payments of member-paid contributions or erroneous salary deductions that were not refunded in during the regular payroll cycle processing of an employing unit's annual summary report shall must be refunded to the member with , plus interest computed using the rate and method specified in section 354.49, subdivision 2.

(f) Any refund under this subdivision that would cause the plan to fail to be a qualified plan under section 401(a) of the Internal Revenue Code, as amended, may not be refunded and instead must be credited against future contributions payable by the employer. The employer is responsible for refunding to the applicable employee any amount that was erroneously deducted from the salary of the employee, with interest as specified in paragraph (e).

Sec. 2. Minnesota Statutes 2002, section 354.51, subdivision 5, is amended to read:

Subd. 5. **PAYMENT OF SHORTAGES.** (a) Except as provided in paragraph (b), in the event that full required member contributions are not deducted from the salary of a teacher, payment shall must be made as follows:

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

(b) (2) Payment of shortages in member deductions on salary earned after June 30, 1981, shall be are the sole obligation of the employing unit and shall be are payable

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

by the employing unit upon notification by the executive director of the shortage with interest at an annual rate of 8.5 percent 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 ~~must~~ 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~~ the 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.

(e) (3) Payment may not be made for shortages in member deductions on salary earned ~~prior to~~ before July 1, 1957, for shortages in member deductions on salary paid or payable under paragraph (b), or for shortages in member deductions for persons employed by the Minnesota State Colleges and Universities system in a faculty position or in an eligible unclassified administrative position and whose employment was less than 25 percent of a full academic year, exclusive of the summer session, for the applicable institution that exceeds the most recent 36 months.

(b) For a person who is employed by the Minnesota State Colleges and Universities system in a faculty position or in an eligible unclassified administrative position and whose employment was less than 25 percent of a full academic year, exclusive of the summer session, for the applicable institution, upon the person's election under section 354B.21 of retirement coverage under this chapter, the shortage in member deductions on the salary for employment by the Minnesota State Colleges and Universities system institution of less than 25 percent of a full academic year, exclusive of the summer session, for the applicable institution for the most recent 36 months and the associated employer contributions must be paid by the Minnesota State Colleges and Universities system institution, plus annual compound interest at the rate of 8.5 percent from the end of the fiscal year in which the shortage occurred to the end of the month in which the teachers retirement association coverage election is made. If the shortage payment is not made by the institution within 60 days of notification, the executive director shall certify the amount of the shortage payment to the commissioner of finance, who shall deduct the amount from any state appropriation to the system. An individual electing coverage under this paragraph shall repay the amount of the shortage in member deductions, plus interest, through deduction from salary or compensation payments within the first year of employment after the election under section 354B.21, subject to the limitations in section 16D.16. The Minnesota State Colleges and Universities system may use any means available to recover amounts which were not recovered through deductions from salary or compensation payments. No payment of the shortage in member deductions under this paragraph may be made for a period longer than the most recent 36 months.

Sec. 3. Minnesota Statutes 2002, section 354B.23, subdivision 1, is amended to read:

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

Subdivision 1. **MEMBER CONTRIBUTION RATE.** (a) ~~Except as provided in paragraph (b),~~ The member contribution rate for participants in the individual retirement account plan is 4.5 percent of salary.

(b) ~~For participants in the individual retirement account plan who were otherwise eligible to elect retirement coverage in the state unclassified employees retirement program, the member contribution rate is the rate specified in section 352D.04, subdivision 2, paragraph (a).~~

Sec. 4. Minnesota Statutes 2002, section 354B.32, is amended to read:

354B.32 TRANSFER OF FUNDS TO IRAP.

A participant in the individual retirement account plan established in this chapter who has less than ten years of allowable service under the Teachers Retirement Association or the a teachers retirement fund association, whichever applies, may elect to transfer an amount equal to the participant's accumulated member contributions to the Teachers Retirement Association or the applicable teachers retirement fund association, plus compound interest at the rate of six percent per annum, to the individual retirement account plan. The transfers are irrevocable ~~fund to fund~~ fund-to-fund transfers, and, in no event, may the participant receive direct payment of the money transferred prior to retirement before the termination of employment. If a participant elects the contribution transfer, all of the participant's allowable and formula service credit in the Teachers Retirement Association or the teachers retirement fund association associated with the transferred amount is forfeited.

The executive director of the Teachers Retirement Association and the chief administrative officers of the teachers retirement fund associations, in cooperation with the chancellor of the Minnesota State Colleges and Universities system, shall notify participants who are eligible to transfer of their right to transfer and the amount that they are eligible to transfer, and shall, upon request, provide forms to implement the transfer. The chancellor of the Minnesota State Colleges and Universities system shall assist the Teachers Retirement Association and the teachers retirement fund associations in developing transfer forms and in implementing the transfers.

Authority to elect a transfer under this section expires on July 1, 2004.

Sec. 5. EFFECTIVE DATE; RETROACTIVE APPLICATION.

(a) Section 2 is effective on July 1, 2004.

(b) Section 2 applies to shortages in member deductions that occurred before the effective date of the section.

(c) Sections 1, 3, and 4 are effective on July 1, 2004.

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

ARTICLE 6

REPORTING AND INFORMATION PROVISION

Section 1, Minnesota Statutes 2002, section 354.07, subdivision 9, is amended to read:

Subd. 9. **INFORMATION DISTRIBUTION.** All school districts, the Minnesota State Colleges and Universities, ~~community colleges~~ and other employers of members of the association are obligated to distribute to their employees ballots for the election of members to the board of trustees, pamphlets, brochures, documents or any other material containing association information which are prepared by the executive director or the board and are delivered to the employers for distribution.

Sec. 2, Minnesota Statutes 2002, section 354.52, subdivision 4a, is amended to read:

Subd. 4a. **MEMBER DATA REPORTING REQUIREMENTS.** (a) An employing unit must initially provide the member data specified in paragraph (b) or any of that data not previously provided to the association for payroll warrants dated after June 30, 1995, in a format prescribed by the executive director. An employing unit must provide the member data specified in paragraph (b) in a format prescribed by the executive director. Data changes and the dates of those changes under this subdivision must be reported to the association in a format prescribed by the executive director on an ongoing basis within 14 calendar days after the date of the end of the payroll cycle in which they occur. These data changes must be reported with the payroll cycle data under subdivision 4b.

(b) Data on the member includes:

(1) legal name, address, date of birth, association member number, employer-assigned employee number, and Social Security number;

(2) association status, including, but not limited to, basic, coordinated, exempt annuitant, exempt technical college teacher, and exempt independent contractor or consultant;

(3) employment status, including, but not limited to, full time, part time, intermittent, substitute, or part-time mobility;

(4) employment position, including, but not limited to, teacher, superintendent, principal, administrator, or other;

(5) employment activity, including, but not limited to, hire, termination, resumption of employment, disability, or death;

(6) leaves of absence;

(7) county district number assigned by the association for the employing unit;

(8) data center identification number, if applicable; and

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

(9) gender;

(10) position code; and

(11) other information as may be required by the executive director.

Sec. 3. Minnesota Statutes 2002, section 354.52, is amended by adding a subdivision to read:

Subd. 4c. MNSCU SERVICE CREDIT REPORTING. For all part-time service rendered on or after July 1, 2004, the service credit reporting requirement in subdivision 4b for all part-time employees of the Minnesota State Colleges and Universities system must be met by the Minnesota State Colleges and Universities system reporting to the association on or before July 31 of each year the final calculation of each part-time member's service credit for the immediately preceding fiscal year based on the employee's assignments for the fiscal year.

Sec. 4. Minnesota Statutes 2002, section 354.52, subdivision 6, is amended to read:

Subd. 6. NONCOMPLIANCE CONSEQUENCES. An employing unit that does not comply with the reporting requirements under this section shall subdivision 2a, 4a, or 4b must pay a fine of \$5 per calendar day until the association receives the required data.

Sec. 5. [356.2165] LEGISLATIVE COMMISSION ON PENSIONS AND RETIREMENT; ACTUARIAL SERVICES BILLING TO THIRD PARTIES.

Notwithstanding any provision of law to the contrary, the Legislative Commission on Pensions and Retirement may bill third parties for actuarial services performed for their benefit under its contract with its consulting actuary under Minnesota Statutes, section 3.85, and may deposit the actuarial services reimbursements from those third parties to the credit of the commission, and those deposited reimbursements are reappropriated to the commission.

Sec. 6. EFFECTIVE DATE.

(a) Sections 1 to 4 are effective on July 1, 2004.

(b) Section 5 is effective retroactively to July 1, 2003, and expires when the requirement that the Legislative Commission on Pensions and Retirement retain a consulting actuary to perform annual actuarial valuations of retirement plans terminates.

ARTICLE 7

RETIREMENT ANNUITY PROVISIONS

Section 1. Minnesota Statutes 2002, section 352.86, subdivision 1, is amended to read:

New language is indicated by underline, deletions by strikeout.

Subdivision 1. **ELIGIBILITY; RETIREMENT ANNUITY.** A person who is employed by the Department of Transportation in the civil service employment classification of aircraft pilot or chief pilot who is covered by the general employee retirement plan of the system under section 352.01, subdivision 23, who elects this special retirement coverage under subdivision 3, who is prohibited from performing the duties of aircraft pilot or chief pilot after reaching age 62 65 by a rule policy adopted by the commissioner of transportation, and who terminates employment as a state employee on reaching that on or after age 62 but prior to normal retirement age is entitled, upon application, to a retirement annuity computed in accordance with under section 352.115, subdivisions 2 and 3, without any reduction for early retirement under section 352.116, subdivision 1.

Sec. 2. Minnesota Statutes 2002, section 353.37, is amended by adding a subdivision to read:

Subd. 1b. **RETIREMENT AGE.** For purposes of this section, "retirement age" means retirement age as defined in United States Code, title 42, section 416(l).

Sec. 3. Minnesota Statutes 2002, section 353.37, subdivision 3, is amended to read:

Subd. 3. **REDUCTION OF ANNUITY.** The association shall reduce the amount of the annuity as follows:

(a) for of a person who has not reached normal the retirement age, by one-half of the amount in excess of the applicable reemployment income maximum under subdivision 1;

(b) for a person who has reached normal retirement age, but has not reached age 70, one-third of the amount in excess of the applicable reemployment income maximum under subdivision 1;

(c) for a person who has reached age 70, or for salary earned through service in an elected office, there is no reduction upon reemployment, regardless of income.

There is no reduction upon reemployment, regardless of income, for a person who has reached the retirement age.

Sec. 4. Minnesota Statutes 2002, section 354.44, subdivision 4, is amended to read:

Subd. 4. **RETIREMENT ANNUITY ACCRUAL DATE.** (a) An annuity payment begins to accrue, providing provided that the age and service requirements under subdivision 1 are satisfied, after the termination of teaching service, or after the application for retirement has been filed with the board, whichever is later, as follows:

(1) on the 16th day of the month of termination or filing if the termination or filing occurs on or before the 15th day of the month;

(2) on the first day of the month following the month of termination or filing if the termination or filing occurs on or after the 16th day of the month;

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

(3) on July 1 for all school principals and other administrators who receive a full annual contract salary during the fiscal year for performance of a full year's contract duties; or

(4) a later date to be either the first or the 16th day of a month occurring within the six-month period immediately following the termination of teaching service as specified under paragraph (b) by the member.

(b) If an application for retirement is filed with the board during the six-month period that occurs immediately following the termination of teaching service, the annuity may begin to accrue as if the application for retirement had been filed with the board on the date teaching service terminated or a later date under paragraph (a), clause (4). ~~An annuity must not begin to accrue more than one month before the date of final salary receipt.~~

Sec. 5. Minnesota Statutes 2002, section 354.44, subdivision 5, is amended to read:

Subd. 5. RESUMPTION OF TEACHING SERVICE AFTER RETIREMENT. (a) Any person who retired under the provisions of this chapter and has thereafter resumed teaching in any employer unit to which this chapter applies is eligible to continue to receive payments in accordance with the annuity except that annuity payments must be reduced during the calendar year immediately following any 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 United States Code, title 42, section 403. The amount of the reduction must be one-half of 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.

(b) 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.

(c) After a person has reached the Social Security full retirement age of 70, no reemployment income maximum is applicable regardless of the amount of income.

(d) The amount of the retirement annuity reduction must be handled or disposed of as provided in section 356.47.

(e) For the purpose of this subdivision, income from teaching service includes, but is not limited to:

(1) all income for services performed as a consultant or an independent contractor for an employer unit covered by the provisions of this chapter; and

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

(2) the greater of either the income received or an amount based on the rate paid with respect to an administrative position, consultant, or independent contractor in an employer unit with approximately the same number of pupils and at the same level as the position occupied by the person who resumes teaching service.

Sec. 6. Minnesota Statutes 2002, section 354.44, subdivision 6, is amended to read:

Subd. 6. **COMPUTATION OF FORMULA PROGRAM RETIREMENT ANNUITY.** ~~(1)~~ (a) The formula retirement annuity must be computed in accordance with the applicable provisions of the formulas stated in ~~clause (2) or (4) paragraph (b) or (d)~~ on the basis of each member's average salary for the period of the member's formula service credit.

For all years of formula service credit, "average salary," for the purpose of determining the member's retirement annuity, means the average salary upon which contributions were made and upon which payments were made to increase the salary limitation provided in Minnesota Statutes 1971, section 354.511, for the highest five successive years of formula service credit provided, however, that such "average salary" shall not include any more than the equivalent of 60 monthly salary payments. Average salary must be based upon all years of formula service credit if this service credit is less than five years.

~~(2)~~ (b) This ~~clause paragraph~~, in conjunction with ~~clause (3) paragraph (c)~~, applies to a person who first became a member of the association or a member of a pension fund listed in section 356.30, subdivision 3, before July 1, 1989, unless ~~clause (4) paragraph (d)~~, in conjunction with ~~clause (5) paragraph (e)~~, produces a higher annuity amount, in which case ~~clause (4) paragraph (d)~~ applies. The average salary as defined in ~~clause (1) paragraph (a)~~, multiplied by the following percentages per year of formula service credit shall determine the amount of the annuity to which the member qualifying therefor is entitled:

	Coordinated Member	Basic Member
Each year of service during first ten	the percent specified in section 356.315, subdivision 1, per year	the percent specified in section 356.315, subdivision 3, per year
Each year of service thereafter	the percent specified in section 356.315, subdivision 2, per year	the percent specified in section 356.315, subdivision 4, per year

~~(3)~~ (c)(i) This ~~clause paragraph~~ applies only to a person who first became a member of the association or a member of a pension fund listed in section 356.30, subdivision 3, before July 1, 1989, and whose annuity is higher when calculated under ~~clause (2) paragraph (b)~~, in conjunction with this ~~clause paragraph~~ than when calculated under ~~clause (4) paragraph (d)~~, in conjunction with ~~clause (5) paragraph (e)~~.

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

(ii) Where any member retires prior to normal retirement age under a formula annuity, the member shall be paid a retirement annuity in an amount equal to the normal annuity provided in ~~clause (2) paragraph (b)~~ reduced by one-quarter of one percent for each month that the member is under normal retirement age at the time of retirement except that for any member who has 30 or more years of allowable service credit, the reduction shall be applied only for each month that the member is under age 62.

(iii) Any member whose attained age plus credited allowable service totals 90 years is entitled, upon application, to a retirement annuity in an amount equal to the normal annuity provided in ~~clause (2) paragraph (b)~~, without any reduction by reason of early retirement.

(4) (d) This ~~clause paragraph~~ applies to a member who has become at least 55 years old and first became a member of the association after June 30, 1989, and to any other member who has become at least 55 years old and whose annuity amount when calculated under this ~~clause paragraph~~ and in conjunction with ~~clause (5) paragraph (e)~~, is higher than it is when calculated under ~~clause (2) paragraph (b)~~, in conjunction with ~~clause (3) paragraph (c)~~. The average salary, as defined in ~~clause (1) paragraph (a)~~ multiplied by the percent specified by section 356.315, subdivision 4, for each year of service for a basic member and by the percent specified in section 356.315, subdivision 2, for each year of service for a coordinated member shall determine the amount of the retirement annuity to which the member is entitled.

(5) (e) This ~~clause paragraph~~ applies to a person who has become at least 55 years old and first becomes a member of the association after June 30, 1989, and to any other member who has become at least 55 years old and whose annuity is higher when calculated under ~~clause (4) paragraph (d)~~ in conjunction with this ~~clause paragraph~~ than when calculated under ~~clause (2) paragraph (b)~~, in conjunction with ~~clause (3) paragraph (c)~~. An employee who retires under the formula annuity before the normal retirement age shall be paid the normal annuity provided in ~~clause (4) paragraph (d)~~ reduced so that the reduced annuity is the actuarial equivalent of the annuity that would be payable to the employee if the employee deferred receipt of the annuity and the annuity amount were augmented at an annual rate of three percent compounded annually from the day the annuity begins to accrue until the normal retirement age.

(f) No retirement annuity is payable to a former employee with a salary that exceeds 95 percent of the governor's salary unless and until the salary figures used in computing the highest five successive years average salary under paragraph (a) have been audited by the Teachers Retirement Association and determined by the executive director to comply with the requirements and limitations of section 354.05, subdivisions 35 and 35a.

Sec. 7. Minnesota Statutes 2002, section 490.121, subdivision 10, is amended to read:

Subd. 10. **EARLY RETIREMENT DATE.** "Early retirement date" means the last day of any month after a judge attains the age of ~~62~~ 60 until the normal retirement date.

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

Sec. 8. PERA-POLICE AND FIRE; TEMPORARY EXEMPTION FROM REEMPLOYED ANNUITANT EARNINGS LIMITATIONS.

Notwithstanding any provision of Minnesota Statutes, section 353.37, to the contrary, a person who is receiving a retirement annuity from the public employees police and fire plan and who is employed as a sworn peace officer by the Metropolitan Airports Commission is exempt from the limitation on reemployed annuitant earnings for the period January 1, 2004, until June 30, 2007.

Sec. 9. TRA; REPORT ON CERTAIN SALARY AUDITS.

(a) The executive director shall report to the chair of the Legislative Commission on Pensions and Retirement, the chair of the Committee on Governmental Operations and Veterans Affairs Policy of the house of representatives, and the chair of the State and Local Government Operations Committee of the senate on the number of superintendents, assistant superintendents, and principals who retired during the most recent calendar year, the number of superintendents, assistant superintendents, and principals where the preretirement salary audit under Minnesota Statutes, section 354.44, subdivision 6, paragraph (f), disclosed an impermissible salary inclusion amount, the school district or districts in which impermissible salary inclusions occurred, the average amount of the impermissible salary inclusions where there were impermissible salary inclusions, and the range of impermissible salary inclusions.

(b) When a report is due, the report must be filed on or before February 15.

(c) Reports under this section must be made for calendar years 2004 and 2005. A report under this section also must be filed for calendar years 2006 and 2007 if the report for calendar year 2005 indicates that there were impermissible salary inclusions that occurred during the calendar year.

Sec. 10. EFFECTIVE DATE.

(a) Section 1 is effective on the day following final enactment

(b) Sections 2, 3, 4, 5, 6, and 7 are effective on July 1, 2004.

(c) Section 8 is effective on the day following final enactment and applies retroactively from January 1, 2004.

ARTICLE 8**DISABILITY BENEFIT PROVISIONS**

Section 1. Minnesota Statutes 2002, section 352.113, subdivision 4, is amended to read:

Subd. 4. MEDICAL OR PSYCHOLOGICAL EXAMINATIONS; AUTHORIZATION FOR PAYMENT OF BENEFIT. (a) An applicant shall provide medical,

New language is indicated by underline, deletions by strikeout.

chiropractic, or psychological evidence to support an application for total and permanent disability.

(b) The director shall have the employee examined by at least one additional licensed chiropractor, physician, or psychologist designated by the medical adviser. The chiropractors, physicians, or psychologists shall make written reports to the director concerning the employee's disability including ~~medical expert~~ opinions as to whether the employee is permanently and totally disabled within the meaning of section 352.01, subdivision 17.

(c) The director shall also obtain written certification from the employer stating whether the employment has ceased or whether the employee is on sick leave of absence because of a disability that will prevent further service to the employer and as a consequence the employee is not entitled to compensation from the employer.

(d) The medical adviser shall consider the reports of the physicians, psychologists, and chiropractors and any other evidence supplied by the employee or other interested parties. If the medical adviser finds the employee totally and permanently disabled, the adviser shall make appropriate recommendation to the director in writing together with the date from which the employee has been totally disabled. The director shall then determine if the disability occurred within 180 days of filing the application, while still in the employment of the state, and the propriety of authorizing payment of a disability benefit as provided in this section.

(e) A terminated employee may apply for a disability benefit within 180 days of termination as long as the disability occurred while in the employment of the state. The fact that an employee is placed on leave of absence without compensation because of disability does not bar that employee from receiving a disability benefit.

(f) Unless the payment of a disability benefit has terminated because the employee is no longer totally disabled, or because the employee has reached normal retirement age as provided in this section, the disability benefit shall must cease with the last payment received by the disabled employee or which had accrued during the lifetime of the employee unless there is a spouse surviving. In that event, the surviving spouse is entitled to the disability benefit for the calendar month in which the disabled employee died.

Sec. 2. Minnesota Statutes 2002, section 352.113, subdivision 6, is amended to read:

Subd. 6. **REGULAR MEDICAL OR PSYCHOLOGICAL EXAMINATIONS.** At least once each year during the first five years following the allowance of a disability benefit to any employee, and at least once in every three-year period thereafter, the director may require any disabled employee to undergo a medical, chiropractic, or psychological examination. The examination must be made at the place of residence of the employee, or at any place mutually agreed upon, by a physician or physicians an expert or experts designated by the medical adviser and engaged by the director. If any examination indicates to the medical adviser that the employee is no longer permanently and totally disabled, or is engaged in or can engage in a gainful

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

occupation, payments of the disability benefit by the fund must be discontinued. The payments shall ~~discontinue~~ must be discontinued as soon as the employee is reinstated to the payroll following sick leave, but in no case shall may payment be made for more than 60 days after the medical adviser finds that the employee is no longer permanently and totally disabled.

Sec. 3. Minnesota Statutes 2002, section 352.113, is amended by adding a subdivision to read:

Subd. 7a. TEMPORARY REEMPLOYMENT BENEFIT REDUCTION WAIVER. A reduction in benefits under subdivision 7, or a termination of benefits due to the disabled employee resuming a gainful occupation from which earnings are equal to or more than the employee's salary at the date of disability or the salary currently paid for similar positions does not apply until six months after the individual returns to a gainful occupation.

Sec. 4. Minnesota Statutes 2002, section 352.113, subdivision 8, is amended to read:

Subd. 8. REFUSAL OF EXAMINATION. If a disabled employee refuses to submit to a medical expert examination as required, payments by the fund must be discontinued and the director shall revoke all rights of the employee in any disability benefit.

Sec. 5. Minnesota Statutes 2002, section 352.95, subdivision 1, is amended to read:

Subdivision 1. JOB-RELATED DISABILITY. A covered correctional employee who becomes disabled and who is expected to be physically or mentally unfit to perform the duties of the position for at least one year as a direct result of an injury, sickness, or other disability that incurred in or arising arose out of any act of duty that makes the employee physically or mentally unable to perform the duties, is entitled to a disability benefit. The disability benefit may be based on covered correctional service only. The benefit amount must equal is 50 percent of the average salary defined in section 352.93, plus an additional percent equal to that specified in section 356.315, subdivision 5, for each year of covered correctional service in excess of 20 years, ten months, prorated for completed months.

Sec. 6. Minnesota Statutes 2002, section 352.95, subdivision 2, is amended to read:

Subd. 2. NON-JOB-RELATED DISABILITY. ~~Any~~ A covered correctional employee who, after rendering at least one year of covered correctional service, becomes disabled and who is expected to be physically or mentally unfit to perform the duties of the position for at least one year because of sickness or injury occurring that occurred while not engaged in covered employment, is entitled to a disability benefit based on covered correctional service only. The disability benefit must be computed as provided in section 352.93, subdivisions 1 and 2, and must be computed as though the employee had at least 15 years of covered correctional service.

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

Sec. 7. Minnesota Statutes 2002, section 352.95, subdivision 4, is amended to read:

Subd. 4. **MEDICAL OR PSYCHOLOGICAL EVIDENCE.** (a) An applicant shall provide medical, chiropractic, or psychological evidence to support an application for disability benefits. The director shall have the employee examined by at least one additional licensed physician, chiropractor, or psychologist who is designated by the medical adviser. The physicians, chiropractors, or psychologists with respect to a mental impairment, shall make written reports to the director concerning the question of the employee's disability, including medical their expert opinions as to whether the employee is disabled within the meaning of this section. The director shall also obtain written certification from the employer stating whether or not the employee is on sick leave of absence because of a disability that will prevent further service to the employer, and as a consequence, the employee is not entitled to compensation from the employer.

(b) If, on considering the physicians' reports by the physicians, chiropractors, or psychologists and any other evidence supplied by the employee or others, the medical adviser finds the employee disabled within the meaning of this section, the advisor shall make the appropriate recommendation to the director, in writing, together with the date from which the employee has been disabled. The director shall then determine the propriety of authorizing payment of a disability benefit as provided in this section.

(c) Unless the payment of a disability benefit has terminated because the employee is no longer disabled, or because the employee has reached either age 65 or the five-year anniversary of the effective date of the disability benefit, whichever is later, the disability benefit shall must cease with the last payment which was received by the disabled employee or which had accrued during the employee's lifetime. While disability benefits are paid, the director has the right, at reasonable times, to require the disabled employee to submit proof of the continuance of the disability claimed. If any examination indicates to the medical adviser that the employee is no longer disabled, the disability payment must be discontinued upon the person's reinstatement to state service or within 60 days of the finding, whichever is sooner.

Sec. 8. Minnesota Statutes 2002, section 352B.10, subdivision 1, is amended to read:

Subdivision 1. **INJURIES;₂ PAYMENT AMOUNTS.** Any A member who becomes disabled and who is expected to be physically or mentally unfit to perform duties for at least one year as a direct result of an injury, sickness, or other disability that incurred in or arising arose out of any act of duty, shall is entitled to receive disability benefits while disabled. The benefits must be paid in monthly installments. The benefit is an amount equal to the member's average monthly salary multiplied by 60 percent, plus an additional percent equal to that specified in section 356.315, subdivision 6, for each year and pro rata for completed months of service in excess of 20 years, if any.

Sec. 9. Minnesota Statutes 2002, section 352B.10, subdivision 2, is amended to read:

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

Subd. 2. **DISABLED WHILE NOT ON DUTY.** If a member ~~terminates employment after with~~ at least one year of service ~~because of sickness or injury occurring while not on duty and not engaged in state work entitling the member to membership, and the member becomes disabled and is expected to be physically or mentally unfit to perform the duties of the position for at least one year because of sickness or injury occurring that occurred while not engaged in covered employment, the member individual is entitled to disability benefits. The benefit must be in the same amount and computed in the same way as if the member individual were 55 years old at the date of disability and the annuity were paid~~ was payable under section 352B.08. If a disability under this clause subdivision occurs after one year of service but before 15 years of service, the disability benefit must be computed as though the member individual had credit for 15 years of service.

Sec. 10. Minnesota Statutes 2002, section 352B.10, subdivision 3, is amended to read:

Subd. 3. **ANNUAL AND SICK LEAVE; WORK AT LOWER PAY.** No member ~~shall~~ is entitled to receive ~~any~~ a disability benefit payment when the member has unused annual leave or sick leave, or under any other circumstances, when, during the period of disability, there has been no impairment of salary. ~~Should If the member or former member resume disabilitant resumes gainful work employment, the disability benefit must be continued in an amount which, when added to current earnings, does not exceed the salary rate received of by the person at the date of disability as, which must be adjusted over time by the same percentage increase in United States average wages used by the Social Security Administration in calculating average indexed monthly earnings for the old age, survivors, and disability insurance programs for the same period.~~

Sec. 11. Minnesota Statutes 2002, section 352B.10, subdivision 4, is amended to read:

Subd. 4. **PROOF OF DISABILITY.** (a) ~~No disability benefit payment shall benefits may be made except upon paid unless adequate proof is furnished to the executive director of the existence of the disability. While disability benefits are being paid~~

(b) Adequate proof of a disability must include a written expert report by a licensed physician, by a licensed chiropractor, or with respect to a mental impairment, by a licensed psychologist.

(c) Following the commencement of benefit payments, the executive director has the right, at reasonable times, to require the disabled former member disabilitant to submit proof of the continuance of the disability claimed.

Sec. 12. Minnesota Statutes 2002, section 352B.10, subdivision 5, is amended to read:

Subd. 5. **OPTIONAL ANNUITY.** A disabled member ~~disabilitant~~ may, in lieu of survivorship coverage under section 352B.11, subdivision 2, choose the normal disability benefit or an optional annuity as provided in section 352B.08, subdivision 3.

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

The choice of an optional annuity must be made in writing, on a form prescribed by the executive director, and must be made before the commencement of the payment of the disability benefit, or within 90 days of attaining before reaching age 65 or before reaching the five-year anniversary of the effective date of the disability benefit, whichever is later. If The optional annuity is effective on the date on which the disability benefit begins to accrue, or the month following the attainment of age 65 or following the five-year anniversary of the effective date of the disability benefit, whichever is later.

Sec. 13. Minnesota Statutes 2002, section 352B.105, is amended to read:

352B.105 TERMINATION OF DISABILITY BENEFITS.

Disability benefits payable under section 352B.10 shall must terminate at on the transfer date, which is the end of the month in which the beneficiary disabilitant becomes 65 years old or the five-year anniversary of the effective date of the disability benefit, whichever is later. If the beneficiary disabilitant is still disabled when on the beneficiary becomes 65 years old transfer date, the beneficiary shall disabilitant must be deemed to be a retired member and, if the beneficiary disabilitant had chosen an optional annuity under section 352B.10, subdivision 5, shall must receive an annuity in accordance with under the terms of the optional annuity previously chosen. If the beneficiary disabilitant had not chosen an optional annuity under section 352B.10, subdivision 5, the beneficiary disabilitant may then choose to receive either a normal retirement annuity computed under section 352B.08, subdivision 2, or an optional annuity as provided in section 352B.08, subdivision 3. An optional annuity must be chosen within 90 days of attaining age 65 or reaching the five-year anniversary of the effective date of the disability benefit, whichever is later transfer date. If an optional annuity is chosen, the optional annuity shall begin to accrue accrues on the first of the month next following attainment of age 65 or the five-year anniversary of the effective transfer date of the disability benefit, whichever is later.

Sec. 14. Minnesota Statutes 2002, section 352D.065, subdivision 2, is amended to read:

Subd. 2. **DISABILITY BENEFIT AMOUNT.** A participant who becomes totally and permanently disabled has the option, even if on leave of absence without pay, to receive:

- (1) the value of the participant's total shares;
- (2) the value of ~~one-half~~ of a portion of the total shares and an annuity based on the ~~value of one-half remainder~~ of the total shares; or
- (3) an annuity based on the value of the participant's total shares.

Sec. 15. Minnesota Statutes 2002, section 353.33, subdivision 4, is amended to read:

Subd. 4. **PROCEDURE TO DETERMINE ELIGIBILITY.** (a) The applicant shall provide an expert report signed by a licensed physician, psychologist, or chiropractor and the applicant must authorize the release of medical and health care

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

evidence, including all medical records and relevant information from any source, to support the application for total and permanent disability benefits.

(b) The medical adviser shall verify the medical evidence and, if necessary for disability determination, suggest the referral of the applicant to specialized medical consultants.

(c) The association shall also obtain from the employer, a certification of the member's past public service, the dates of any paid sick leave and vacation beyond the last working day and whether or not any sick leave or annual leave has been allowed.

(d) If, upon consideration of the medical evidence received and the recommendations of the medical adviser, it is determined by the executive director that the applicant is totally and permanently disabled within the meaning of the law, the association shall grant the person a disability benefit. The fact that

(e) An employee who is placed on leave of absence without compensation because of a disability does is not bar the person barred from receiving a disability benefit.

Sec. 16. Minnesota Statutes 2002, section 353.33, subdivision 6, is amended to read:

Subd. 6. **CONTINUING ELIGIBILITY FOR BENEFITS.** The association shall determine eligibility for continuation of disability benefits and require periodic examinations and evaluations of disabled members as frequently as deemed necessary. The association shall require the disabled member to provide an expert report signed by a licensed physician, psychologist, or chiropractor and the disabled member shall authorize the release of medical and health care evidence, including all medical and health care records and information from any source, relating to an application for continuation of disability benefits. Disability benefits are contingent upon a disabled person's participation in a vocational rehabilitation ~~program~~ evaluation if the executive director determines that the disabled person may be able to return to a gainful occupation. If a member is found to be no longer totally and permanently disabled, payments must cease the first of the month following the expiration of a 30-day period after the member receives a certified letter notifying the member that payments will cease.

Sec. 17. Minnesota Statutes 2002, section 353.33, subdivision 6b, is amended to read:

Subd. 6b. **DUTIES OF THE MEDICAL ADVISER.** At the request of the executive director, the medical adviser shall designate licensed physicians, psychologists, or chiropractors to examine applicants for disability benefits and review the medical expert reports based upon these examinations to determine whether an applicant is totally and permanently disabled as defined in section 353.01, subdivision 19, disabled as defined in section 353.656, or eligible for continuation of disability benefits under subdivision 6. The medical examiner shall also review, at the request of the executive director, all medical and health care statements on behalf of an applicant for disability benefits, and shall report in writing to the executive director the

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

conclusions and recommendations of the examiner on those matters referred for advice.

Sec. 18. Minnesota Statutes 2002, section 353.33, subdivision 7, is amended to read:

Subd. 7. **PARTIAL REEMPLOYMENT.** If, following a work or non-work-related injury or illness, a disabled person ~~resumes a gainful occupation from which~~ who remains totally and permanently disabled as defined in section 353.01, subdivision 19, has income from employment that is not substantial gainful activity and the rate of earnings from that employment are less than the salary rate at the date of disability or the salary rate currently paid for similar positions similar to the employment position held by the disabled person immediately before becoming disabled, whichever is greater, ~~the board executive director shall continue the disability benefit in an amount that, when added to the earnings and any workers' compensation benefit, does not exceed the salary rate at the date of disability or the salary currently paid for similar positions similar to the employment position held by the disabled person immediately before becoming disabled, whichever is higher; provided. The disability benefit does under this subdivision may not exceed the disability benefit originally allowed, plus any postretirement adjustments payable after December 31, 1988, in accordance with section 11A.18, subdivision 10. No deductions for the retirement fund may be taken from the salary of a disabled person who is receiving a disability benefit as provided in this subdivision.~~

Sec. 19. Minnesota Statutes 2002, section 353.33, is amended by adding a subdivision to read:

Subd. 7a. **TRIAL WORK PERIOD.** (a) If, following a work or non-work related injury or illness, a disabled member attempts to return to work for their previous public employer or attempts to return to a similar position with another public employer, on a full-time or less than full-time basis, the Public Employees Retirement Association shall continue paying the disability benefit for a period not to exceed six months. The disability benefit must continue in an amount that, when added to the subsequent employment earnings and workers' compensation benefit, does not exceed the salary at the date of disability or the salary currently paid for similar positions, whichever is higher.

(b) No deductions for the retirement fund may be taken from the salary of a disabled person who is attempting to return to work under this provision unless the member waives further disability benefits.

(c) A member only may return to employment and continue disability benefit payments once while receiving disability benefits from a plan administered by the Public Employees Retirement Association.

Sec. 20. Minnesota Statutes 2002, section 353.656, subdivision 5, is amended to read:

Subd. 5. **PROOF OF DISABILITY.** (a) A disability benefit payment must not be made except upon adequate proof furnished to the executive director of the association of the existence of such a disability, and.

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

(b) During the time when disability benefits are being paid, the executive director of the association has the right, at reasonable times, to require the disabled member to submit proof of the continuance of the disability claimed.

(c) Adequate proof of a disability must include a written expert report by a licensed physician, by a licensed chiropractor, or with respect to a mental impairment, by a licensed psychologist.

(d) A person applying for or receiving a disability benefit shall provide or authorize release of medical evidence, including all medical records and information from any source, relating to an application for disability benefits or the continuation of those benefits.

Sec. 21. Minnesota Statutes 2002, section 353.656, is amended by adding a subdivision to read:

Subd. 8. APPLICATION PROCEDURE TO DETERMINE ELIGIBILITY FOR POLICE AND FIRE PLAN DISABILITY BENEFITS. (a) An application for disability benefits must be made in writing on a form or forms prescribed by the executive director.

(b) If an application for disability benefits is filed within two years of the date of the injury or the onset of the illness that gave rise to the disability application, the application must be supported by evidence that the applicant is unable to perform the duties of the position held by the applicant on the date of the injury or the onset of the illness causing the disability. The employer must provide evidence indicating whether the applicant is able or unable to perform the duties of the position held on the date of the injury or onset of illness causing the disability and the specifications of any duties that the individual can or cannot perform.

(c) If an application for disability benefits is filed more than two years after the date of the injury or the onset of an illness causing the disability, the application must be supported by evidence that the applicant is unable to perform the most recent duties that are expected to be performed by the applicant during the 90 days before the filing of the application. The employer must provide evidence of the duties that are expected to be performed by the applicant during the 90 days before to the filing of the application, whether the applicant can or cannot perform those duties overall, and the specifications of any duties that the applicant can or cannot perform.

(d) Unless otherwise permitted by law, no application for disability benefits can be filed by a former member of the police and fire plan more than three years after the former member has terminated from Public Employees Retirement Association police and fire plan covered employment. If an application is filed within three years after the termination of public employment, the former member must provide evidence that the disability is the direct result of an injury or the contracting of an illness that occurred while the person was still actively employed and participating in the police and fire plan.

(e) Any application for duty-related disability must be supported by a first report of injury as defined in section 176.231.

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

(f) If a member who has applied for and been approved for disability benefits before the termination of service does not terminate service or is not placed on an authorized leave of absence as certified by the governmental subdivision within 45 days following the date on which the application is approved, the application shall be canceled. If an approved application for disability benefits has been canceled, a subsequent application for disability benefits may not be filed on the basis of the same medical condition for a minimum of one year from the date on which the previous application was canceled.

(g) An applicant may file a retirement application under section 353.29, subdivision 4, at the same time as the disability application is filed. If the disability application is approved, the retirement application is canceled. If the disability application is denied, the retirement application must be initiated and processed upon the request of the applicant. A police and fire fund member may not receive a disability benefit and a retirement annuity from the police and fire fund at the same time.

(h) A repayment of a refund must be made within six months after the effective date of disability benefits or within six months after the date of the filing of the disability application, whichever is later. No purchase of prior service or payment made in lieu of salary deductions otherwise authorized under section 353.01 or 353.36, subdivision 2, may be made after the occurrence of the disability for which an application is filed under this section.

Sec. 22. Minnesota Statutes 2002, section 353.656, is amended by adding a subdivision to read:

Subd. 9. REFUSAL OF EXAMINATION OR MEDICAL EVIDENCE. If a person applying for or receiving a disability benefit refuses to submit to a medical examination under subdivision 11, or fails to provide or to authorize the release of medical evidence under subdivisions 5 and 7, the association shall cease the application process or shall discontinue the payment of a disability benefit, whichever is applicable. Upon the receipt of the requested medical evidence, the association shall resume the application process or the payment of a disability benefit upon approval for the continuation, whichever is applicable.

Sec. 23. Minnesota Statutes 2002, section 353.656, is amended by adding a subdivision to read:

Subd. 10. ACCRUAL OF BENEFITS. (a) A disability benefit begins to accrue the day following the commencement of disability, 90 days preceding the filing of an application, or, if annual or sick leave is paid for more than the 90-day period, from the date on which the payment of salary ceased, whichever is later.

(b) Payment of the disability benefit must not continue beyond the end of the month in which entitlement has terminated. If the disabllitant dies prior to negotiating the check for the month in which death occurs, payment must be made to the surviving spouse or, if none, to the designated beneficiary or, if none, to the estate.

Sec. 24. Minnesota Statutes 2002, section 353.656, is amended by adding a subdivision to read:

New language is indicated by underline, deletions by strikeout.

Subd. 11. INDEPENDENT MEDICAL EXAMINATION; DUTIES OF THE MEDICAL ADVISOR. Any individual receiving disability benefits or any applicant, if requested by the executive director, must submit to an independent medical examination. The medical examination must be paid for by the association. The medical advisor shall review all medical reports submitted to the association, including the findings of an independent medical examination requested under this section, and shall advise the executive director.

Sec. 25. Minnesota Statutes 2002, section 353.656, is amended by adding a subdivision to read:

Subd. 12. APPROVAL OF DISABILITY BENEFITS. Review of disability benefit applications and review of existing disability cases must be made by the executive director based upon all relevant evidence, including advice from the medical advisor and the evidence provided by the member and employer. A member whose application for disability benefits or whose continuation of disability benefits is denied may appeal the executive director's decision to the board of trustees within 45 days of the receipt of a certified letter notifying the member of the decision to deny the application or the benefit continuation.

Sec. 26. Minnesota Statutes 2002, section 354.48, subdivision 2, is amended to read:

Subd. 2. APPLICATIONS; ACCRUAL. (a) A person described in subdivision 1, or another person authorized to act on behalf of the person, may make written application on a form prescribed by the executive director for a total and permanent disability benefit only within the 18-month period following the termination of teaching service. This

(b) The benefit accrues from the day following the commencement of the disability or the day following the last day for which salary is paid, whichever is later, but does not begin to accrue more than six months before the date on which the written application is filed with the executive director. If salary is being received for either annual or sick leave during the disability period, payments accrue the disability benefit accrues from the day following the last day for which this salary is paid.

Sec. 27. Minnesota Statutes 2002, section 354.48, subdivision 4, is amended to read:

Subd. 4. DETERMINATION BY THE EXECUTIVE DIRECTOR. (a) The executive director shall have the member examined by at least two licensed physicians, licensed chiropractors, or licensed psychologists selected by the medical adviser.

(b) These physicians, chiropractors, or psychologists with respect to a mental impairment, shall make written reports to the executive director concerning the member's disability, including medical expert opinions as to whether or not the member is permanently and totally disabled within the meaning of section 354.05, subdivision 14.

(c) The executive director shall also obtain written certification from the last employer stating whether or not the member was separated from service because of a

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

disability which would reasonably prevent further service to the employer and as a consequence the member is not entitled to compensation from the employer.

(d) If, upon the consideration of the reports of the physicians, chiropractors, or psychologists and any other evidence presented by the member or by others interested therein, the executive director finds that the member is totally and permanently disabled, the executive director shall grant the member a disability benefit. ~~The fact that~~

(e) An employee who is placed on leave of absence without compensation because of disability ~~shall is not bar the member barred~~ from receiving a disability benefit.

Sec. 28. Minnesota Statutes 2002, section 354.48, subdivision 6, is amended to read:

Subd. 6. **REGULAR PHYSICAL EXAMINATIONS.** At least once each year during the first five years following the allowance of a disability benefit to any member, and at least once in every three-year period thereafter, the executive director shall require the disability beneficiary to undergo a ~~medical~~ an expert examination by a physician or physicians, by a chiropractor or chiropractors, or by one or more psychologists with respect to a mental impairment, engaged by the executive director. ~~If any an examination indicates that the member is no longer permanently and totally disabled or that the member is engaged or is able to engage in a substantial gainful occupation, payments of the disability benefit by the association shall must be discontinued. The payments shall discontinue must be discontinued as soon as the member is reinstated to the payroll following sick leave, but payment may not be made for more than 60 days after the physicians, the chiropractors, or the psychologists engaged by the executive director find that the person is no longer permanently and totally disabled.~~

Sec. 29. Minnesota Statutes 2002, section 354.48, subdivision 6a, is amended to read:

Subd. 6a. **MEDICAL ADVISER; DUTIES.** The state commissioner of health or a licensed physician on the staff of the department of health who is designated by the commissioner ~~shall be~~ is the medical adviser of the executive director. The medical adviser shall designate licensed physicians, licensed chiropractors, or licensed psychologists with respect to a mental impairment, who shall examine applicants for disability benefits. The medical adviser shall pass upon all ~~medical~~ expert reports based on any examinations performed in order to determine whether a teacher is totally and permanently disabled as defined in section 354.05, subdivision 14. The medical adviser shall also investigate all health and medical statements and certificates by or on behalf of a teacher in connection with a disability benefit, and shall report in writing to the director setting forth any conclusions and recommendations on all matters referred to the medical adviser.

Sec. 30. Minnesota Statutes 2002, section 354.48, subdivision 10, is amended to read:

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

Subd. 10. RETIREMENT STATUS AT NORMAL RETIREMENT AGE. (a)

No person shall be ~~is~~ entitled to receive both a disability benefit and a retirement annuity provided by this chapter.

(b) The disability benefit paid to a person hereunder shall ~~must~~ terminate at the end of the month in which the person attains the normal retirement age. If the person is still totally and permanently disabled at the beginning of the month next following the month in which the person attains the normal retirement age, the person shall ~~must~~ be deemed to be on retirement status and, if the person had elected an optional annuity pursuant to ~~under~~ subdivision 3a, shall ~~must~~ receive an annuity in accordance with the terms of the optional annuity previously elected, or, if the person had not elected an optional annuity pursuant to ~~under~~ subdivision 3a, may elect to receive a straight life retirement annuity equal to the disability benefit paid ~~prior to~~ before the date on which the person attains the normal retirement age 65 or reaches the five-year anniversary of the effective date of the disability benefit, whichever is later, or may elect to receive an optional annuity as provided in section 354.45, subdivision 1.

(c) Election of an optional annuity must be made within 90 days of the normal retirement age 65 or the five-year anniversary of the effective date of the disability benefit, whichever is later.

(d) If an optional annuity is elected, the election shall be ~~is~~ effective on the date on which the person attains the normal retirement age 65 or reaches the five-year anniversary of the effective date of the disability benefit, whichever is later. The optional annuity shall ~~begin~~ begins to accrue on the first day of the month next following the month in which the person attains the normal retirement age 65 or reaches the five-year anniversary of the effective date of the disability benefit, whichever is later.

Sec. 31. Minnesota Statutes 2002, section 354A.36, subdivision 4, is amended to read:

Subd. 4. **DETERMINATION OF DISABILITY.** The board of the teachers retirement fund association shall make the final determination of the existence of a permanent and total disability. The board shall have the coordinated member examined by at least two licensed physicians, licensed chiropractors, or licensed psychologists who shall be ~~are~~ selected by the board. After making any required examinations, each physician, chiropractor, or psychologist with respect to a mental impairment, shall make a written report to the board concerning the coordinated member, which shall include a statement of the physician's medical expert opinion of the physician, chiropractor, or psychologist as to whether or not the member is permanently and totally disabled within the meaning of section 354A.011, subdivision 14. The board shall also obtain a written statement from the school district employer as to whether or not the coordinated member was terminated or separated from active employment due to a disability which is deemed by the district employer to reasonably prevent further service by the member to the district employer and which caused the coordinated member not to be entitled to further compensation from the district employer for services rendered by the member. If, after consideration of the reports of the

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

physicians, chiropractors, or psychologists with respect to a mental impairment, and any evidence presented by the member or by any other interested parties, the board determines that the coordinated member is totally and permanently disabled within the meaning of section 354A.011, subdivision 14, it shall grant the coordinated member a disability benefit. ~~The fact that A member has been who is placed on a leave of absence without compensation as a result of the disability shall is not operate to bar barred a eordinated member from receiving a disability benefit under this section.~~

Sec. 32. Minnesota Statutes 2002, section 354A.36, subdivision 6, is amended to read:

Subd. 6. REQUIREMENT FOR REGULAR PHYSICAL EXAMINATIONS.
At least once each year during the first five years following the granting of a disability benefit to a coordinated member by the board and at least once in every three year period thereafter, the board shall require the disability benefit recipient to undergo a medical an expert examination as a condition for continued entitlement of the benefit recipient to receive a disability benefit. ~~The medical expert examination shall must be made at the place of residence of the disability benefit recipient or at any other place mutually agreeable to the disability benefit recipient and the board. The medical expert examination shall must be made by a physician or physicians, by a chiropractor or chiropractors, or by one or more psychologists engaged by the board. The physician or physicians, the chiropractor or chiropractors, or the psychologist or psychologists with respect to a mental impairment, conducting the medical expert examination shall make a written report to the board concerning the disability benefit recipient and the recipient's disability, including a statement of the physician's medical expert opinion of the physician, chiropractor, or psychologist as to whether or not the member remains permanently and totally disabled within the meaning of section 354A.011, subdivision 14. If the board determines from consideration of the physician's written medical expert examination report of the physician, of the chiropractor, or of the psychologist, with respect to a mental impairment, that the disability benefit recipient is no longer permanently and totally disabled or if the board determines that the benefit recipient is engaged or is able to engage in a gainful occupation, unless the disability benefit recipient is partially employed pursuant to under subdivision 7, then further disability benefit payments from the fund shall must be discontinued. The discontinuation of disability benefits shall must occur immediately if the disability recipient is reinstated to the district payroll following sick leave and within 60 days of the determination by the board following the medical expert examination and report of the physician or physicians, chiropractor or chiropractors, or psychologist or psychologists engaged by the board that the disability benefit recipient is no longer permanently and totally disabled within the meaning of section 354A.011, subdivision 14.~~

Sec. 33. Minnesota Statutes 2002, section 356.302, subdivision 3, is amended to read:

Subd. 3. GENERAL EMPLOYEE PLAN ELIGIBILITY REQUIREMENTS.
A disabled member of a covered retirement plan who has credit for allowable service in a combination of general employee retirement plans is entitled to a combined service disability benefit if the member:

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

(1) is less than 65 years of the normal retirement age on the date of the application for the disability benefit;

(2) has become totally and permanently disabled;

(3) has credit for allowable service in any combination of general employee retirement plans totaling at least three years;

(4) has credit for at least one-half year of allowable service with the current general employee retirement plan before the commencement of the disability;

(5) has at least three continuous years of allowable service credit by the general employee retirement plan or has at least a total of three years of allowable service credit by a combination of general employee retirement plans in a 72-month period during which no interruption of allowable service credit from a termination of employment exceeded 29 days; and

(6) was not receiving a retirement annuity or disability benefit from any covered general employee retirement plan at the time of the commencement of the disability.

Sec. 34. Minnesota Statutes 2002, section 422A.18, subdivision 1, is amended to read:

Subdivision 1. **MEDICAL EXPERT EXAMINATION.** (a) Upon the application of the head of the department in which a contributing employee is employed, or upon the application of the contributing employee or of one acting in the employee's behalf, the retirement board shall place the contributor on disability, provided and pay the person a disability allowance under this section if the medical board, after a medical an expert examination of the contributor made at the place of residence of the contributor or at a place mutually agreed upon, shall certify to the retirement board that the contributor is physically or mentally incapacitated for the performance of further service to the city and recommend that the contributor be placed on disability.

(b) The medical board shall consist of the city physician, a physician, chiropractor, or licensed psychologist to be selected by the retirement board, and a physician, chiropractor, or licensed psychologist to be selected by the employee.

(c) Disability of an employee resulting from injury or illness received in the performance of the duties of the city service shall be defined as duty disability.

(d) Disability incurred as a result of injury or illness not connected with the performance of such service shall be defined as nonduty disability. In order to be entitled to a retirement allowance for a nonduty disability, an employee shall have rendered five or more years of service to the city.

Sec. 35. Minnesota Statutes 2002, section 422A.18, subdivision 4, is amended to read:

Subd. 4. **ADDITIONAL MEDICAL EXAMINATIONS.** (a) Once each year, the retirement board may require any disability beneficiary while still under the established age for retirement to undergo medical an expert examination by a physician or one or more physicians, one or more chiropractors, or one or more licensed

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

psychologists designated by the retirement board. The examination ~~to~~ must be made at the place of residence of the beneficiary or other place mutually agreed upon. Should

(b) ~~If the medical board report and certify~~ certifies to the retirement board that ~~such the~~ disability beneficiary is no longer physically or mentally incapacitated for the performance of duty, the beneficiary's allowance ~~shall~~ must be discontinued and the head of the department in which the beneficiary was employed at the time of retirement shall, upon notification by the retirement board of the report of the medical board, reemploy the beneficiary at a rate of salary not less than the amount of the disability allowance, ~~but~~.

(c) After the expiration of five years subsequent to the retirement of ~~such the~~ beneficiary, the restoration to duty, notwithstanding the recommendation of the medical board, ~~shall be~~ optional with the head of the department. ~~Should If~~ any disability beneficiary, while under the established age for retirement ~~refuse, refuses~~ to submit to at least one medical expert examination in any year by a physician or one or more physicians, one or more chiropractors, or one or more licensed psychologists designated by the medical board, the allowance ~~shall~~ must be discontinued until the withdrawal of such refusal, and should such refusal continue for one year, all the beneficiary's rights in and to any retirement or disability allowance ~~shall be~~ are forfeited.

Sec. 36. Minnesota Statutes 2002, section 423B.09, subdivision 4, is amended to read:

Subd. 4. **CERTIFICATE OF PHYSICIANS REQUIRED.** (a) No member is entitled to a pension under subdivision 1, paragraph (b) or (c), except upon the certificate of two or more physicians ~~or, surgeons, chiropractors, licensed psychologists, or a combination of experts~~ chosen by the governing board. This certificate must set forth the cause, nature, and extent of the disability, disease, or injury of the member.

(b) No active member may be awarded, granted, or paid a disability pension under subdivision 1, paragraph (c), unless the certificate states that the disability, disease, or injury was incurred or sustained by the member while in the service of the police department of the city. The certificate must be filed with the secretary of the association.

Sec. 37. Minnesota Statutes 2002, section 423C.05, subdivision 4, is amended to read:

Subd. 4. **TEMPORARY DISABILITY PENSION.** (a) An active member who, by sickness or accident, becomes temporarily disabled from performing firefighter duties for the fire department ~~shall be~~ is entitled to a temporary disability pension.

(b) No allowance for disability ~~shall~~ may be made unless notice of the disability and an application for benefits is made by or on behalf of the disabled member within 90 days after the beginning of the disability. This application ~~shall~~ must include a certificate from a qualified ~~medical professional expert~~ setting forth the cause, nature, and extent of the disability. This certificate must also conclude that the disability was incurred or sustained while the member was in the service of the fire department.

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

(c) The board shall utilize the board of examiners established pursuant to under section 423C.03, subdivision 6, to investigate and report on an application for benefits pursuant to under this section and to make recommendations as to eligibility and the benefit amount to be paid.

(d) A member entitled to a disability pension shall must receive benefits in the amount and manner determined by the board.

Sec. 38. Minnesota Statutes 2002, section 423C.05, subdivision 5, is amended to read:

Subd. 5. **SERVICE-RELATED PERMANENT DISABILITY PENSION.** An active member who becomes permanently disabled as the result of a service-related disease or injury ~~shall is~~, upon application and approval of the board, be entitled to a pension of 41 units or in the amount determined under subdivision 8. The application for service-related permanent disability ~~shall must~~ include a certificate from a qualified medical professional expert setting forth the permanent nature of the disability or disease and that it was service related.

Sec. 39. Minnesota Statutes 2002, section 423C.05, subdivision 6, is amended to read:

Subd. 6. **NON-SERVICE-RELATED PERMANENT DISABILITY PENSION.** An active member who, by reason of sickness or accident, becomes permanently disabled and unable to perform firefighter duties for the fire department due to non-service-related disease or injury ~~shall be is~~ entitled to a permanent disability pension. No allowance for disability ~~shall may~~ be made unless notice of the disability and an application for benefits is made by or on behalf of the disabled member within 90 days after the beginning of the disability. This application ~~shall must~~ include a certificate from a qualified medical professional setting forth the cause, nature, and extent of the disability. A member who is entitled to a disability pension under this subdivision ~~shall must~~ receive benefits in the amount and manner determined by the board, not to exceed 41 units.

Sec. 40. Minnesota Statutes 2002, section 423C.05, is amended by adding a subdivision to read:

Subd. 6a. **QUALIFIED EXPERT.** A qualified expert includes a licensed physician or chiropractor, or in the case of mental impairment, includes a licensed psychologist.

Sec. 41. **REPEALER.**

(a) Minnesota Statutes 2002, sections 353.33, subdivision 5b; and 490.11, are repealed on July 1, 2004.

(b) Sections 3 and 19 are repealed on July 1, 2006.

Sec. 42. **EFFECTIVE DATE.**

Sections 1 to 41 are effective on July 1, 2004.

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

ARTICLE 9

DEATH AND SURVIVOR BENEFITS AND REFUNDS

Section 1. Minnesota Statutes 2002, section 3A.03, subdivision 2, is amended to read:

Subd. 2. **REFUND.** (a) ~~Any A~~ former member who has made contributions under subdivision 1 and who is no longer a member of the legislature is entitled to receive, upon written application to the executive director on a form prescribed by the executive director, a refund of all contributions credited to the member's account with interest at an annual rate of six percent compounded annually computed as provided in section 352.22, subdivision 2.

(b) The refund of contributions as provided in paragraph (a) terminates all rights of a former member of the legislature ~~or~~ and the survivors of the former member under this chapter.

(c) If the former member of the legislature again becomes a member of the legislature after having taken a refund as provided in paragraph (a), the member must be considered a new member of this plan. However, a ~~new~~ the member may reinstate the rights and credit for service previously forfeited if the new member repays all refunds taken plus interest at an annual rate of 8.5 percent compounded annually from the date on which the refund was taken to the date on which the refund is repaid.

(e) (d) No person may be required to apply for or to accept a refund.

Sec. 2. Minnesota Statutes 2002, section 352.12, subdivision 1, is amended to read:

Subdivision 1. **DEATH BEFORE TERMINATION OF SERVICE.** If an employee dies before state service has terminated and neither a survivor annuity nor a reversionary annuity is payable on behalf of the employee, or if a former employee who has sufficient service credit to be entitled to an annuity dies before the benefit annuity has become payable, the director shall make a refund with interest is payable upon filing a written application on a form prescribed by the executive director. The refund is payable to the last designated beneficiary or, if there is none, to the surviving spouse or, if none, to the employee's surviving children in equal shares or, if none, to the employee's surviving parents in equal shares or, if none, to the representative of the estate in an amount equal to the accumulated employee contributions plus interest at the rate of six percent per annum compounded annually. Interest must be computed as provided in section 352.22, subdivision 2, to the first day of the month in which the refund is processed. Upon the death of an employee who has received a refund that was later repaid in full, interest must be paid on the repaid refund only from the date of the repayment. If the repayment was made in installments, interest must be paid only from the date on which the installment payments began. The designated beneficiary, the surviving spouse, or the representative of the estate of an employee who had received a disability benefit is not entitled to the payment of interest upon any balance

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

remaining to the decedent's credit in the fund at the time of death, unless the death occurred before any payment could be negotiated.

Sec. 3. Minnesota Statutes 2002, section 352.12, subdivision 6, is amended to read:

Subd. 6. **DEATH AFTER SERVICE TERMINATION.** Except as provided in subdivision 1, if a former employee covered by the system ~~dies and~~ who has not received an annuity, a retirement allowance, or a disability benefit ~~dies, a refund must be made~~ is payable to the last designated beneficiary or, if there is none, to the surviving spouse or, if none, to the employee's surviving children in equal shares or, if none, to the employee's surviving parents in equal shares or, if none, to the representative of the estate in an amount equal to accumulated employee contributions plus interest. The refund must include interest at the rate of six percent per year compounded annually. The interest on the refund must be computed as provided in section 352.22, subdivision 2.

Sec. 4. Minnesota Statutes 2002, section 352.22, subdivision 2, is amended to read:

Subd. 2. **AMOUNT OF REFUND.** Except as provided in subdivision 3, the refund payable to a person who ceased to be a state employee by reason of a termination of state service is ~~in~~ an amount equal to employee accumulated contributions plus interest at the rate of six percent per year compounded annually daily from the date that the contribution was made until the date on which the refund is paid. Included with the refund is any interest paid as part of repayment of a past refund, plus interest thereon from the date of repayment. Interest must be computed to the first day of the month in which the refund is processed and must be based on fiscal year or monthly balances, whichever applies.

Sec. 5. Minnesota Statutes 2002, section 352.22, subdivision 3, is amended to read:

Subd. 3. **DEFERRED ANNUITY.** (a) An employee who has at least three years of allowable service when termination occurs may elect to leave the accumulated contributions in the fund and thereby be entitled to a deferred retirement annuity. The annuity must be computed under the law in effect when state service terminated, on the basis of the allowable service credited to the person before the termination of service.

(b) An employee on layoff or on leave of absence without pay, except a leave of absence for health reasons, and who does not return to state service shall must have an annuity, deferred annuity, or other benefit to which the employee may become entitled computed under the law in effect on the employee's last working day.

(c) No application for a deferred annuity may be made more than 60 days before the time the former employee reaches the required age for entitlement to the payment of the annuity. The deferred annuity begins to accrue no earlier than 60 days before the date the application is filed in the office of the system, but not (1) before the date on which the employee reaches the required age for entitlement to the annuity nor (2)

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

before the day following the termination of state service in a position which is not covered by the retirement system.

(d) Application for the accumulated contributions left on deposit with the fund may be made at any time after 30 days following the date of the termination of service.

Sec. 6. Minnesota Statutes 2002, section 352B.10, subdivision 5, is amended to read:

Subd. 5. **OPTIONAL ANNUITY.** A disabled member disabilitant may elect, in lieu of spousal survivorship coverage under section 352B.11, subdivision 2 subdivisions 2b and 2c, ~~choose~~ the normal disability benefit or an optional annuity as provided in section 352B.08, subdivision 3. The choice of an optional annuity must be made before the commencement of the payment of the disability benefit, or within 90 days of attaining before reaching age 65 or reaching the five-year anniversary of the effective date of the disability benefit, whichever is later. ~~It~~ The optional annuity is effective on the date on which the disability benefit begins to accrue, or the month following attainment of age 65 or the five-year anniversary of the effective date of the disability benefit, whichever is later.

Sec. 7. Minnesota Statutes 2002, section 352B.11, subdivision 1, is amended to read:

Subdivision 1. **REFUND OF PAYMENTS.** (a) A member who has not received other benefits under this chapter is entitled to a refund of payments made by salary deduction, plus interest, if the member is separated, either voluntarily or involuntarily, from the state service that entitled the member to membership.

(b) In the event of the member's death, if there are no survivor benefits payable under this chapter, a refund plus interest is payable to the last designated beneficiary on a form filed with the director before death, or if no designation is filed, the refund is payable to the member's estate. Interest under this subdivision must be ~~computed~~ at the rate of six percent a year, compounded annually calculated as provided in section 352.22, subdivision 2. To receive a refund, the application must be made on a form prescribed by the executive director.

Sec. 8. Minnesota Statutes 2002, section 352B.11, subdivision 2, is amended to read:

Subd. 2. **DEATH; PAYMENT TO SPOUSE AND DEPENDENT CHILDREN; FAMILY MAXIMUMS.** If a member serving actively as a member, or a member or former member receiving the disability benefit before attaining age 65 or reaching the five-year anniversary of the effective date of the disability benefit, whichever is later, provided by section 352B.10, subdivisions 1 and 2, dies from any cause before attaining age 65 or reaching the five-year anniversary of the effective date of the disability benefit, whichever is later, the surviving spouse and dependent children are entitled to benefit payments as follows:

(a) A member with at least three years of allowable service is deemed to have elected a 100 percent joint and survivor annuity payable to a surviving spouse only on

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

or after the date the member or former member became or would have become 55.

(b) The surviving spouse of a member who had credit for less than three years of service shall receive, for life, a monthly annuity equal to 50 percent of that part of the average monthly salary of the member from which deductions were made for retirement.

(c) The surviving spouse of a member who had credit for at least three years service and who died after becoming 55 years old, may elect to receive a 100 percent joint and survivor annuity, for life, notwithstanding a subsequent remarriage, in lieu of the annuity prescribed in paragraph (b).

(d) The surviving spouse of any member who had credit for three years or more and who was not 55 years old at death, shall receive the benefit equal to 50 percent of the average monthly salary as described in clause (b) until the deceased member would have become 55 years old, and beginning the first of the month following that date, may elect to receive the 100 percent joint and survivor annuity.

(e) Each dependent child, as defined in section 352B.01, subdivision 10, shall is entitled to receive a monthly annuity equal to ten percent of that part of the average monthly salary of the former deceased member from which deductions were made for retirement. A dependent child over 18 and under 23 years of age also may receive the monthly benefit provided in this section, if the child is continuously attending an accredited school as a full-time student during the normal school year as determined by the director. If the child does not continuously attend school, but separates from full-time attendance during any part of a school year, the annuity shall must cease at the end of the month of separation. In addition, a payment of \$20 per month shall must be prorated equally to the surviving dependent children when the former member is survived by more than one or more dependent children child. Payments for the benefit of any qualified dependent child must be made to the surviving spouse, or if there is none, to the legal guardian of the child. The maximum monthly benefit for any one family, including a surviving spouse benefit, if applicable, must not be less than 50 percent nor exceed 70 percent of the average monthly salary for any number of children of the deceased member.

(f) If the member dies under circumstances that entitle the surviving spouse and dependent children to receive benefits under the workers' compensation law, the workers' compensation benefits received by them must not be deducted from the benefits payable under this section.

(g) The surviving spouse of a deceased former member who had credit for three or more years of allowable service, but not the spouse of a former member receiving a disability benefit under section 352B.10, subdivision 2, is entitled to receive the 100 percent joint and survivor annuity at the time the deceased member would have become 55 years old. If a former member dies who does not qualify for other benefits under this chapter, the surviving spouse or, if none, the children or heirs are entitled to a refund of the accumulated deductions left in the fund plus interest at the rate of six percent per year compounded annually.

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

Sec. 9. Minnesota Statutes 2002, section 352B.11, is amended by adding a subdivision to read:

Subd. 2b. SURVIVING SPOUSE BENEFIT ELIGIBILITY. (a) If an active member with three or more years of allowable service dies before attaining age 55, the surviving spouse is entitled to the benefit specified in subdivision 2c, paragraph (b).

(b) If an active member with less than three years of allowable service dies at any age, the surviving spouse is entitled to receive the benefit specified in subdivision 2c, paragraph (c).

(c) If an active member with three or more years of allowable service dies on or after attaining exact age 55, the surviving spouse is entitled to receive the benefits specified in subdivision 2c, paragraph (d).

(d) If a disabiltant dies while receiving a disability benefit under section 352B.10 or before the benefit under that section commenced, and an optional annuity was not elected under section 352B.10, subdivision 5, the surviving spouse is entitled to receive the benefit specified in subdivision 2c, paragraph (b).

(e) If a former member with three or more years of allowable service, who terminated from service and has not received a refund or commenced receipt of any other benefit provided by this chapter, dies, the surviving spouse is entitled to receive the benefit specified in subdivision 2c, paragraph (e).

(f) If a former member with less than three years of allowable service, who terminated from service and has not received a refund or commenced receipt of any other benefit, if applicable, provided by this chapter, dies, the surviving spouse is entitled to receive the refund specified in subdivision 2c, paragraph (f).

Sec. 10. Minnesota Statutes 2002, section 352B.11, is amended by adding a subdivision to read:

Subd. 2c. SURVIVING SPOUSE BENEFIT ENTITLEMENTS. (a) A surviving spouse specified in subdivision 2b is eligible to receive, following the filing of a valid application and consistent with any other applicable requirements, a benefit as specified in this subdivision. A 100 percent joint and survivor annuity under paragraph (b) must be computed assuming the exact age 55 for the deceased member and the age of the surviving spouse on the date of death. A 100 percent joint and survivor annuity under paragraph (d) or (e) must be computed using the age of the deceased member on the date of death and the age of the surviving spouse on that same date.

(b) For a surviving spouse specified in subdivision 2b, paragraph (a) or (d), the surviving spouse benefit is a benefit for life equal to 50 percent of the average monthly salary of the deceased member. On the first of the month next following the date on which the deceased member would have attained exact age 55, in lieu of continued receipt of the prior benefit, the surviving spouse is eligible to commence receipt of the second half of a 100 percent joint and survivor annuity, if this provides a larger benefit.

(c) For a surviving spouse specified in subdivision 2b, paragraph (b), the surviving spouse benefit is a benefit for life equal to 50 percent of the average monthly salary of the deceased member.

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

(d) For a surviving spouse specified in subdivision 2b, paragraph (c), the surviving spouse benefit is a benefit for life equal to 50 percent of the average monthly salary of the deceased member, or the second half of a 100 percent joint and survivor annuity, whichever is larger.

(e) For a surviving spouse specified in subdivision 2b, paragraph (e), the surviving spouse benefit is the second half of a 100 percent joint and survivor annuity, commencing on the first of the month next following the deceased member's date of death, or the first of the month next following the date on which the deceased member would have attained age 55, whichever is later.

(f) For a surviving spouse specified in subdivision 2b, paragraph (f), the surviving spouse or, if none, the children or, if none, the deceased member's estate, is entitled to a refund of the employee contributions plus interest computed as specified in subdivision 1.

Sec. 11. Minnesota Statutes 2002, section 352B.11, is amended by adding a subdivision to read:

Subd. 2d. COORDINATION WITH WORKERS' COMPENSATION BENEFITS. If the deceased member died under circumstances that entitle the surviving spouse and the dependent child or children to receive benefits under workers' compensation law, the workers' compensation benefits received by the deceased member's survivor or survivors must not be deducted from the benefits payable under this section.

Sec. 12. Minnesota Statutes 2002, section 352D.075, subdivision 2, is amended to read:

Subd. 2. SURVIVING SPOUSE BENEFIT. (a) Notwithstanding any designation of a beneficiary to the contrary, if a participant or a former participant dies leaving a spouse and there is no named beneficiary who survives to receive payment or the spouse is named beneficiary before an annuity or a disability benefit becomes payable, the surviving spouse may be entitled to receive:

(1) a lump sum payment of the value of the participant's total shares;

(2) The a lump sum payment of a portion of the value of one-half of the total shares and beginning at age 55 or thereafter, at any time after the participant's death, receive an annuity based on the remaining value of one-half of the total shares; provided that. If the spouse dies before receiving any annuity payments, the remaining value of said the shares shall be paid is payable to the spouse's children in equal shares, but and if no such children survive, then to the parents of the spouse in equal shares, but and if no such children or parents survive, then to the estate of the spouse; or

(3) Beginning at age 55 or thereafter at any time after the participant's death, receive an annuity based on the value of the total shares; provided that. If the spouse dies before receiving any annuity payments, the value of said the shares shall be paid is payable to the spouse's children in equal shares, but and if no such children survive, then to the parents of the spouse in equal shares, but and if no such children or parents

New language is indicated by underline, deletions by strikeout.

survive, then to the estate of the spouse; and ~~further provided, if said the spouse dies after receiving annuity payments but before receiving payments equal to the value of the employee shares, the value of the employee shares remaining shall be paid is payable to the spouse's children in equal shares, but and if no such children survive, then to the parents of the spouse in equal shares, but and if no such children or parents survive, then to the estate of the spouse.~~

(b) A participant or a former participant and the person's spouse may make a joint specification, in writing, on a form prescribed by the executive director, that the benefits provided in this section must be paid only to the designated beneficiary.

Sec. 13. Minnesota Statutes 2002, section 352D.075, is amended by adding a subdivision to read:

Subd. 2a. SURVIVING SPOUSE COVERAGE TERM CERTAIN. In lieu of the annuity under subdivision 2, clause (2) or (3), or in lieu of a distribution under subdivision 2, clause (1), the surviving spouse of a deceased participant may elect to receive survivor coverage in the form of a term certain annuity of five, six, 15, or 20 years, based on the value of the remaining shares. The monthly term certain annuity must be calculated under section 352D.06, subdivision 1.

Sec. 14. Minnesota Statutes 2002, section 352D.075, subdivision 3, is amended to read:

Subd. 3. REFUND TO BENEFICIARY. If a participant dies and has named a beneficiary no surviving spouse, the value of the total shares shall be paid is payable to such a designated beneficiary, but if such the beneficiary dies before receiving payment, or if no beneficiary has been named and there is no spouse, the value of said the shares shall be paid is payable to the children of the participant in equal shares, but or if no such children survive, then in equal shares to the parents of the participant, but or if no such children or parents survive, then to the estate of the participant.

Sec. 15. [352F.052] APPLICATION OF SURVIVING SPOUSE, DEPENDENT CHILD PROVISION.

Notwithstanding any provisions of law to the contrary, subdivisions within section 352.12 of the edition of Minnesota Statutes published in the year before the year in which a privatization occurred, applicable to the surviving spouse or dependent children of a former member, apply to the survivors of a terminated hospital employee of Fairview, University of Minnesota Physicians, or University Affiliated Family Physicians.

Sec. 16. [353F.052] APPLICATION OF SURVIVING SPOUSE, DEPENDENT CHILD PROVISION,

Notwithstanding any provisions of law to the contrary, subdivisions within section 353.32 of the edition of Minnesota Statutes published in the year before the year in which a privatization occurred, applicable to the surviving spouse or dependent children of a former member as defined in section 353.01, subdivision 7a, apply to the survivors of a terminated medical facility or other public employing unit employee.

New language is indicated by underline, deletions by strikeout.

Sec. 17. Minnesota Statutes 2002, section 354.05, subdivision 22, is amended to read:

Subd. 22. **DESIGNATED BENEFICIARY.** "Designated beneficiary" means the person, trust, or organization designated by a retiree or member to receive the 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 that is signed by the member ~~and two witnesses to the member's signature~~. The properly completed form must be received by the association on or before the date of death of the retiree or member. If a retiree or a member does not designate a person, trust, or organization, or if the person who was designated predeceases the retiree or the member, or if the trust or organization ceases to exist before the death of the retiree or the member, the designated beneficiary means is the estate of the deceased retiree or member.

Sec. 18. Minnesota Statutes 2002, section 354.46, subdivision 2, is amended to read:

Subd. 2. **DEATH WHILE ELIGIBLE DESIGNATED BENEFICIARY BENEFIT SURVIVING SPOUSE SURVIVOR COVERAGE.** (a) ~~The surviving spouse of any member or former member who has~~ If the active or deferred member was at least age 55 and had credit for at least three years of allowable service on the date of death, the surviving spouse is entitled to the second portion of a 100 percent joint and survivor annuity coverage in the event of death of the member prior to retirement. If the surviving spouse does not elect to receive a surviving spouse benefit under subdivision 1, if applicable, or does not elect to receive a refund of accumulated member contributions under section 354.47, subdivision 1, the surviving spouse is entitled to receive, upon written application on a form prescribed by the executive director, a benefit equal to the second portion of a 100 percent joint and survivor annuity specified under section 354.45, based on the age of the active or deferred member and surviving spouse at the time of death of the member, and computed under section 354.44, subdivision 2 or 6, whichever is applicable the age of the surviving spouse at the time the benefit accrues.

(b) If the active or deferred member was under age 55 and has had credit for at least 30 years of allowable service on the date of death, the surviving spouse may elect to receive the second portion of a 100 percent joint and survivor annuity based on the age of the active or deferred member and surviving spouse on the date of death and the age of the surviving spouse at the time the benefit accrues. If section 354.44, subdivision 6, applies, the annuity is payable using the full early retirement reduction under section 354.44, subdivision 6, paragraph clause (3)(ii), to age 55 and one-half of the early retirement reduction from age 55 to the age payment begins.

(c) If the active or deferred member was under age 55 and has had credit for at least three years of allowable service on the date of death, but did not yet qualify for retirement, the surviving spouse may elect to receive the second portion of a 100 percent joint and survivor annuity based on the age of the active or deferred member and the surviving spouse at the time of death and the age of the surviving spouse at the

New language is indicated by underline, deletions by strikeout.

time the benefit accrues. If section 354.44, subdivision 6, applies, the annuity is calculated using the full early retirement reduction under section 354.44, subdivision 6, to age 55 and one-half of the early retirement reduction from age 55 to the age the annuity begins. The surviving spouse eligible for a surviving spouse benefit under paragraph (a) may apply for the annuity at any time after the date on which the deceased employee would have attained the required age for retirement based on the employee's allowable service.

(d) The surviving spouse eligible for surviving spouse benefits under paragraph (b) or (c) this subdivision may apply for the annuity any time after the member's death. ~~This~~ The benefit ~~accrues~~ accrues from the day following the date of the member's death but may not begin to accrue more than six months before the date the application is filed with the executive director and may not accrue before the member's death. ~~Sections 354.55, subdivision 11, and 354.60 apply to a deferred annuity payable under this section.~~ The benefit is payable for life. Any benefit under this subdivision is in lieu of benefits under subdivision 1, if applicable, and in lieu of a refund of accumulated member contributions under section 354.47, subdivision 1.

(e) For purposes of this subdivision, a designated beneficiary must be a former spouse or a biological or adopted child of the member.

Sec. 19. Minnesota Statutes 2002, section 354.46, subdivision 2b, is amended to read:

Subd. 2b. DEPENDENT CHILD SURVIVOR COVERAGE. If there is no surviving spouse eligible for benefits under subdivision 2, a each dependent child ~~or children~~ as defined in section 354.05, subdivision 8a, is eligible for monthly payments surviving child benefits. ~~Payments~~ Surviving child benefits to a dependent child must be paid from the date of the member's death to the date the dependent child attains age 20 if the child is under age 15 on the date of the member's death. If the child is 15 years or older on the date of the member's death, payment must be made the surviving child benefit is payable for five years. The payment to a dependent surviving child benefit is an amount that is actuarially equivalent to the value of a 100 percent optional annuity under subdivision 2 calculated using the age of the member and age of the dependent child at as of the date of death in lieu of the age of the member and the spouse. If there is more than one dependent child, each dependent child shall is entitled to receive a proportionate share of the actuarial value of the member's account.

Sec. 20. Minnesota Statutes 2002, section 354.46, subdivision 5, is amended to read:

Subd. 5. PAYMENT TO DESIGNATED BENEFICIARY. A member ~~and who is single or, if the member is married, a member and~~ the spouse of the member jointly, may make a joint specification in writing on a form prescribed by the executive director that the benefits provided in subdivision 2, or in section 354.47, subdivision 1, must be paid only to a designated beneficiary or to designated beneficiaries. For purposes of subdivision 2, a designated beneficiary may only be either a former spouse or a biological or an adopted child of the member.

New language is indicated by underline, deletions by strikeout.

Sec. 21. Minnesota Statutes 2002, section 354.46, is amended by adding a subdivision to read:

Subd. 6. APPLICATION. (a) A beneficiary designation and an application for benefits under this section must be in writing on a form prescribed by the executive director.

(b) Sections 354.55, subdivision 11, and 354.60 apply to a deferred annuity payable under this section.

(c) Unless otherwise specified, the annuity must be computed under section 354.44, subdivision 2 or 6, whichever is applicable.

Sec. 22. Minnesota Statutes 2002, section 356.441, is amended to read:

356.441 REPAYMENT OF REFUNDS PAYMENT ACCEPTANCE ALLOWED.

Subdivision 1. PAYMENT AUTHORIZATION. The repayment of a refund and interest on that refund or the payment of equivalent contributions and interest for an eligible leave of absence, as permitted under laws governing any public pension plan in Minnesota, may be made:

(1) with funds distributed or transferred from a plan qualified under the federal Internal Revenue Code of 1986, section 401, subsection (a) or (k); 403; 408; or 457, subsection (b), as amended through December 31, 1988, or an annuity qualified under the federal Internal Revenue Code of 1986, section 403(a). Repayment may also be made from time to time; or

(2) with funds distributed from an individual retirement account used solely to receive a or individual retirement annuity, if done solely in a manner that is eligible for treatment as a nontaxable rollover from that type of a plan or annuity or transfer under the applicable federal law. The repaid refund

Subd. 2. SEPARATE ACCOUNTING REQUIREMENT. Nontaxable rollovers or transfer amounts under subdivision 1 received by a public pension fund must be separately accounted for as member contributions not previously taxed. Before accepting any rollovers or transfers to which this section applies, the executive director must shall require the member to provide written documentation to demonstrate that the amounts to be rolled over or transferred are eligible for a tax-free rollover or transfer and qualify for that treatment under the federal Internal Revenue Code of 1986, as amended.

Sec. 23. Minnesota Statutes 2002, section 490.124, subdivision 12, is amended to read:

Subd. 12. REFUND. (a) Any A 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 is entitled to a refund in an amount equal to all the person's member's employee 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 an annual

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

rate of five percent compounded annually under section 352.22, subdivision 2.

(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 the previously terminated service credits, rights, and benefits by repaying all refunds the total amount of the previously received refund. A The refund repayment must include interest on the total amount previously received at an annual rate of 8.5 percent compounded annually from the date on which the refund was received until the date on which the refund is repaid.

Sec. 24. TEACHERS RETIREMENT ASSOCIATION; BENEFICIARY DESIGNATION.

(a) An eligible person described in paragraph (b) is entitled to make a specification that the benefits provided in Minnesota Statutes, section 354.46, subdivision 2, or in Minnesota Statutes, section 354.47, subdivision 1, may be paid only to a designated beneficiary or beneficiaries.

(b) An eligible person is a person who:

(1) was born on July 9, 1956;

(2) is employed as a teacher by Independent School District No. 535, Rochester;

(3) is a member of the Teachers Retirement Association;

(4) has more than 19 years of allowable service credit in the Teachers Retirement Association;

(5) has two minor children;

(6) has no potential surviving spouse by virtue of a prior marriage dissolution; and

(7) has been diagnosed with a serious medical condition that is life threatening.

(c) The designated beneficiary or beneficiaries may only be a biological or adopted child, the biological or adopted children of the eligible person, or a trust established for the child or children if the trust is required to provide for the proper health, support, maintenance, and education of the dependent child or children. If two or more children are designated or if a trust established for more than one child is designated, the benefit payable to or on behalf of each child is an equal share of the total benefit.

(d) The specification must be made in writing on a form prescribed by the executive director of the Teachers Retirement Association.

Sec. 25. REPEALER.

Minnesota Statutes 2002, section 354A.107, is repealed.

Sec. 26. EFFECTIVE DATE.

(a) Sections 1 to 25 are effective on July 1, 2004.

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

(b) Sections 8 to 11 are not intended to increase, modify, impair, or diminish the benefit entitlements specified in Minnesota Statutes, chapter 352B. If the Minnesota State Retirement System executive director determines that any provision of those sections does increase, modify, impair, or diminish the benefit entitlements as reflected in applicable law just prior to the effective date of this section, the executive director shall certify that determination and a recommendation as to the required legislative correction to the chairs of the Legislative Commission on Pensions and Retirement, the house Governmental Operations Committee, the senate Governmental Operations Committee, and the executive director of the Legislative Commission on Pensions and Retirement.

(c) Consistent with Minnesota Statutes, section 645.21, and public pension policy in general, the increased interest rate provided on a refund under section 23 applies only to judges whose termination of service occurs on or after July 1, 2004.

ARTICLE 10

FEDERAL INTERNAL REVENUE

CODE COMPLIANCE

Section 1. Minnesota Statutes 2002, section 356.611, is amended by adding a subdivision to read:

Subd. 4. COMPENSATION. (a) For purposes of this section, compensation means a member's compensation actually paid or made available for any limitation year determined as provided by Treasury Regulation Section 1.415-2(d)(10).

(b) Compensation for any period includes:

(1) any elective deferral as defined in section 402(g)(3) of the Internal Revenue Code;

(2) any elective amounts that are not includable in a member's gross income by reason of sections 125 or 457 of the Internal Revenue Code; and

(3) any elective amounts that are not includable in a member's gross income by reason of section 132(f)(4) of the Internal Revenue Code.

Sec. 2. [356.635] INTERNAL REVENUE CODE COMPLIANCE.

Subdivision 1. RETIREMENT BENEFIT COMMENCEMENT. The retirement benefit of a member who has terminated employment must begin no later than the later of April 1 of the calendar year following the calendar year that the member attains the federal minimum distribution age under section 401(a)(9) of the Internal Revenue Code or April 1 of the calendar year following the calendar year in which the member terminated employment.

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

Subd. 2. DISTRIBUTIONS. Distributions shall be made as required under section 401(a)(9) of the Internal Revenue Code and the treasury regulations adopted under that section, including, but not limited to, the incidental death benefit provisions of section 401(a)(9)(G) of the Internal Revenue Code.

Subd. 3. DIRECT ROLLOVERS. A distributee may elect, at the time and in the manner prescribed by the plan administrator, to have all or any portion of an eligible rollover distribution paid directly to an eligible retirement plan as specified by the distributee.

Subd. 4. ELIGIBLE ROLLOVER DISTRIBUTION. An "eligible rollover distribution" is any distribution of all or any portion of the balance to the credit of the distributee.

Subd. 5. INELIGIBLE AMOUNTS. An eligible rollover distribution does not include:

(1) a distribution that is one of a series of substantially equal periodic payments, receivable annually or more frequently, that is made for the life or life expectancy of the distributee, the joint lives or joint life expectancies of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more;

(2) a distribution that is required under section 401(a)(9) of the Internal Revenue Code; or

(3) any other exception required by law or the Internal Revenue Code.

Subd. 6. ELIGIBLE RETIREMENT PLAN. (a) An "eligible retirement plan" is:

(1) an individual retirement account under section 408(a) of the Internal Revenue Code;

(2) an individual retirement annuity plan under section 408(b) of the Internal Revenue Code;

(3) an annuity plan under section 403(a) of the Internal Revenue Code;

(4) a qualified trust plan under section 401(a) of the Internal Revenue Code that accepts the distributee's eligible rollover distribution;

(5) an annuity contract under section 403(b) of the Internal Revenue Code; or

(6) an eligible deferred compensation plan under section 457(b) of the Internal Revenue Code, which is maintained by a state or local government and which agrees to separately account for the amounts transferred into the plan.

(b) For distributions of after-tax contributions which are not includable in gross income, the after-tax portion may be transferred only to an individual retirement account or annuity described in section 408(a) or (b) of the Internal Revenue Code, or to a qualified defined contribution plan under section 401(a), or section 403(a), of the Internal Revenue Code, that agrees to separately account for the amounts transferred, including separately accounting for the portion of the distribution which is

New language is indicated by underline, deletions by strikeout.

includable in gross income and the portion of the distribution which is not includable.

Subd. 7. DISTRIBUTEES. A "distributee" is:

(1) an employee or a former employee;

(2) the surviving spouse of an employee or former employee; or

(3) the former spouse of the employee or former employee who is the alternate payee under a qualified domestic relations order as defined in section 414(p) of the Internal Revenue Code, or who is a recipient of a court-ordered equitable distribution of marital property, as provided in section 518.58.

Subd. 8. FORFEITURES. For defined benefit plans, unless otherwise permitted by section 401(a)(8) of the Internal Revenue Code, forfeitures may not be applied to increase the benefits that any employee would otherwise receive under the plan.

Subd. 9. MILITARY SERVICE. Contributions, benefits, and service credit with respect to qualified military service must be provided according to section 414(u) of the Internal Revenue Code.

Sec. 3. TRANSITIONAL PROVISION.

(a) An eligible rollover distribution under Minnesota Statutes, section 356.635, does not include the portion of a distribution that is not included in gross income.

(b) For eligible rollover distributions to a surviving spouse, an eligible retirement plan under Minnesota Statutes, section 356.635, is limited to an individual retirement account under section 408(a) of the Internal Revenue Code or an individual retirement annuity plan under section 408(b) of the Internal Revenue Code.

Sec. 4. EFFECTIVE DATE.

(a) Section 1, paragraph (a), is effective on July 1, 2004. Section 1, paragraph (b), is effective retroactively as follows: clauses (1) and (2) are effective for limitation years beginning on and after January 1, 1998; and clause (3) is effective for limitation years beginning on and after January 1, 2001.

(b) Sections 2 and 3 are effective on the day following final enactment.

(c) Section 2 is effective retroactively as follows: subdivision 1 is effective on and after January 1, 1989; subdivision 2 is effective for distributions on and after December 31, 1989; subdivision 3 is effective for distributions on and after January 1, 1993; subdivision 6, paragraph (a), clauses (5) and (6), are effective for distributions made after December 31, 2001; subdivision 6, paragraph (b), is effective for distributions after December 31, 2001; and subdivision 9 is effective December 12, 1994.

(d) Section 3 is effective only for distributions made before January 1, 2002.

New language is indicated by underline, deletions by strikeout.

ARTICLE 11

HEALTH CARE SAVINGS

PLAN MODIFICATIONS

Section 1. Minnesota Statutes 2002, section 352.98, is amended to read:

352.98 ~~POSTRETIREMENT~~ HEALTH CARE SAVINGS PLAN.

Subdivision 1. **PLAN CREATED.** The Minnesota State Retirement System shall establish a plan or plans, known as ~~postretirement~~ health care savings plans, through which public employers and employees may save to cover ~~postretirement~~ health care costs. The Minnesota State Retirement System shall make available one or more trusts, including a governmental trust or governmental trusts, authorized under the Internal Revenue Code to be eligible for tax-preferred or tax-free treatment through which employers and employees can save to cover ~~postretirement~~ health care costs.

Subd. 2. **CONTRACTING AUTHORIZED.** The Minnesota State Retirement System is authorized to administer the plan and to contract with public and private entities to provide investment services, record keeping, benefit payments, and other functions necessary for the administration of the plan. If allowed by the Minnesota State Board of Investment, the Minnesota State Board of Investment supplemental investment funds may be offered as investment options under the ~~postretirement~~ health care savings plan or plans.

Subd. 3. **CONTRIBUTIONS.** (a) Contributions to the plan ~~shall~~ must be determined through a personnel policy or in a collective bargaining agreement of a public employer with the exclusive representative of the covered employees in an appropriate unit. The Minnesota State Retirement System may offer different types of trusts permitted under the Internal Revenue Code to best meet the needs of different employee units.

(b) Contributions to the plan by or on behalf of the employee ~~shall~~ must be held in trust for reimbursement of employee and dependent health-related expenses following retirement from public employment or during active employment. The Minnesota State Retirement System shall maintain a separate account of the contributions made by or on behalf of each participant and the earnings thereon. The Minnesota State Retirement System shall make available a limited range of investment options, and each employee may direct the investment of the accumulations in the employee's account among the investment options made available by the Minnesota State Retirement System. At the request of a participating employer and employee group, the Minnesota State Retirement System may determine how the assets of the affected employer and employee group should be invested.

(c) This section does not obligate a public employer to meet and negotiate in good faith with the exclusive bargaining representative of any public employee group regarding an employer contribution to a postretirement or active employee health care

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

savings plan authorized by this section and section 356.24, subdivision 1, clause (7). It is not the intent of the legislature to authorize the state to incur new funding obligations for the costs of retiree health care or the costs of administering retiree health care plans or accounts.

Subd. 4. **REIMBURSEMENT FOR HEALTH-RELATED EXPENSES.** ~~Following termination of public service,~~ The Minnesota State Retirement System shall reimburse employees at least quarterly for submitted health-related expenses, as required by federal and state law, until the employee exhausts the accumulation in the employee's account. If an employee dies prior to exhausting the employee's account balance, the employee's spouse or dependents ~~shall be~~ are eligible to be reimbursed for health care expenses from the account until the account balance is exhausted. If an account balance remains after the death of a participant and all of the participant's legal dependents, the remainder of the account ~~shall~~ must be paid to the employee's beneficiaries or, if none, to the employee's estate.

Subd. 5. **FEES.** The Minnesota state retirement plan is authorized to charge uniform fees to participants to cover the ongoing cost of operating the plan. Any fees not needed ~~shall~~ must revert to participant accounts or be used to reduce plan fees the following year. ~~The Minnesota State Retirement System is authorized to charge participating employers a fee, not to exceed one-sixth of the Federal Insurance Contribution Act savings realized by the employer as a result of participating in the plan, until the initial costs of establishing the plan or plans authorized by this section are recovered, or \$75,000, whichever is less.~~

Subd. 6. **ADVISORY COMMITTEE.** (a) The Minnesota State Retirement System shall establish a participant advisory committee for the health care savings plan, made up of one representative appointed by each employee unit participating in the plan. Each participating unit shall be responsible for the expenses of its own representative.

(b) The advisory committee shall meet at least twice per year and shall be consulted on plan offerings and vendor selection. By October 1 of each year, the Minnesota State Retirement System shall give the advisory committee a statement of fees collected and the use of the fees.

Subd. 7. **CONTRACTING WITH PRIVATE ENTITIES.** Nothing in this section ~~shall prohibit~~ prohibits employers from contracting with private entities to provide for ~~postretirement~~ health care reimbursement plans.

Sec. 2. **EFFECTIVE DATE.**

Section 1 is effective on the day following final enactment.

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

ARTICLE 12

RETIREMENT COVERAGE FOLLOWING

A PRIVATIZATION

Section 1. Minnesota Statutes 2003 Supplement, section 353F.02, subdivision 4, is amended to read:

Subd. 4. **MEDICAL FACILITY.** "Medical facility" means:

- (1) the Fair Oaks Lodge, Wadena;
- (2) the Glencoe Area Health Center;
- ~~(2)~~ (3) the Kanabec Hospital;
- (4) the Luverne Public Hospital;
- (5) the RenVilla Nursing Home;
- ~~(3)~~ (6) the St. Peter Community Healthcare Center; and
- (7) the Waconia-Ridgeview Medical Center; and
- ~~(4)~~ the Kanabee Hospital.

Sec. 2. PERA-GENERAL RETENTION OF PUBLIC EMPLOYEE STATUS FOR ANOKA ACHIEVE PROGRAM EMPLOYEES.

Subdivision 1. APPLICATION. This section applies to a person who was:

(1) employed by Anoka County in connection with the Achieve Program for adults with developmental disabilities on the day before operation of the program is transferred to Achieve Services, Inc; and

(2) a member of the Public Employees Retirement Association on December 31, 2003.

Subd. 2. CONTINUATION OF COVERAGE. For purposes of participation in the coordinated plan of the Public Employees Retirement Association, a person to whom this section applies is a "public employee" under chapter 353, while employed by Achieve Services, Inc., which is a governmental subdivision under section 353.01, subdivision 6(a) for the purposes of reporting contributions for those persons to whom this section applies only.

Sec. 3. PERA-GENERAL; RETENTION OF PUBLIC EMPLOYEE COVERAGE FOR GOVERNMENT TRAINING SERVICES EMPLOYEES.

Subdivision 1. APPLICATION. Notwithstanding any provision of Minnesota Statutes, chapter 353, this section applies to a person who:

(1) was employed by the state and local government joint powers organization, the Government Training Service, on the day before the operation was transferred to

New language is indicated by underline, deletions by strikethrough.

a nonprofit organization, Government Training Services;

(2) was a member of the general employees retirement plan of the Public Employees Retirement Association; and

(3) is employed by Government Training Services.

Subd. 2. **COVERAGE CONTINUATION.** (a) A person described in subdivision 1 is a public employee for purposes of Minnesota Statutes, section 353.01, subdivision 2, and is eligible to continue participation in the coordinated program of the general employees retirement plan of the Public Employees Retirement Association.

(b) While employing a person described in subdivision 1, Government Training Services is a governmental subdivision for purposes of Minnesota Statutes, section 353.01, subdivision 6, paragraph (a).

Sec. 4. EFFECTIVE DATE.

(a) Section 1, relating to the Fair Oaks Lodge, Wadena, is effective upon the latter of:

(1) the day after the governing body of Todd County and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3; and

(2) the day after the governing body of Wadena County and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3.

(b) Section 1, relating to the RenVilla Nursing Home, is effective upon the latter of:

(1) the day after the governing body of the city of Renville and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3; and

(2) the first day of the month next following certification to the governing body of the city of Renville by the executive director of the Public Employees Retirement Association that the actuarial accrued liability of the special benefit coverage proposed for extension to the privatized RenVilla Nursing Home employees under section 1 does not exceed the actuarial gain otherwise to be accrued by the Public Employees Retirement Association, as calculated by the consulting actuary retained by the Legislative Commission on Pensions and Retirement.

(c) The cost of the actuarial calculations must be borne by the city of Renville or the purchaser of the RenVilla Nursing Home.

(d) Section 1, relating to the St. Peter Community Healthcare Center, is effective upon the latter of:

(1) the day after the governing body of the city of St. Peter and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3; and

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

(2) the first day of the month next following certification to the governing body of the city of St. Peter by the executive director of the Public Employees Retirement Association that the actuarial accrued liability of the special benefit coverage proposed for extension to the privatized St. Peter Community Healthcare Center employees under section 1 does not exceed the actuarial gain otherwise to be accrued by the Public Employees Retirement Association, as calculated by the consulting actuary retained by the Legislative Commission on Pensions and Retirement.

(e) The cost of the actuarial calculations must be borne by the city of St. Peter or the purchaser of the St. Peter Community Healthcare Center.

(f) If the required actions under paragraphs (b) and (c) occur, section 1 applies retroactively to the RenVilla Nursing Home as of the date of privatization.

(g) If the required actions under paragraph (a) occur, section 1 applies retroactively to Fair Oaks Lodge, Wadena, as of January 1, 2004.

(h) Sections 2 and 3 are effective on the day following final enactment.

ARTICLE 13

MINNEAPOLIS FIREFIGHTERS RELIEF ASSOCIATION

Section 1. Minnesota Statutes 2003 Supplement, section 423C.03, subdivision 3, is amended to read:

Subd. 3. **COMPENSATION OF OFFICERS AND BOARD MEMBERS.** (a) Notwithstanding any other law to the contrary, the association may provide for payment of the following salaries to its officers and board members: as specified in this subdivision.

(1) (b) If the executive secretary is not an active member, the executive secretary may receive a salary to be set by the board, subject to the limitations stated in paragraph (d). If the executive secretary is an active member, the executive secretary may receive a salary not exceeding 50 percent of the maximum salary of a first grade firefighter.

(2) (c) The president may receive a salary not exceeding ten percent of the maximum salary of a first grade firefighter, and

(3) all other elected members of the board, other than the executive secretary, may receive a salary not exceeding 2.5 percent of the maximum salary of a first grade firefighter.

(d) If the executive secretary is not an active member, the executive secretary's salary may not exceed the highest salary currently received by the executive director of the Minnesota State Retirement System, the Public Employees Retirement Asso-

New language is indicated by underline, deletions by strikeout.

ciation, or the Teachers Retirement Association.

Sec. 2. **EFFECTIVE DATE.**

Section 1 is effective on the day on which the Minneapolis City Council and the chief clerical officer of the city of Minneapolis complete in a timely manner the requirements of Minnesota Statutes, section 645.021, subdivisions 2 and 3.

ARTICLE 14

VOLUNTEER FIREFIGHTER RELIEF

ASSOCIATION CHANGES

Section 1. Minnesota Statutes 2002, section 424A.02, subdivision 2, is amended to read:

Subd. 2. **NONFORFEITABLE PORTION OF SERVICE PENSION.** If the articles of incorporation or bylaws of a relief association so provide, a relief association may pay a reduced service pension to a retiring member who has completed fewer than 20 years of service. The reduced service pension may be paid when the retiring member meets the minimum age and service requirements of subdivision 1.

The amount of the reduced service pension may not exceed the amount calculated by multiplying the service pension appropriate for the completed years of service as specified in the bylaws times the applicable nonforfeitable percentage of pension.

For a volunteer firefighter relief association that pays a lump sum service pension, a monthly benefit service pension, or a lump sum service pension or a monthly benefit service pension as alternative benefit forms, the nonforfeitable percentage of pension amounts are as follows:

Completed Years of Service	Nonforfeitable Percentage of Pension Amount
5	40 percent
6	44 percent
7	48 percent
8	52 percent
9	56 percent
10	60 percent
11	64 percent
12	68 percent
13	72 percent
14	76 percent
15	80 percent

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

16	84 percent
17	88 percent
18	92 percent
19	96 percent
20 and thereafter	100 percent

For a volunteer firefighter relief association that pays a defined contribution service pension, the nonforfeitable percentage of pension amounts are as follows:

<u>Completed Years of Service</u>	<u>Nonforfeitable Percentage of Pension Amount</u>
<u>5</u>	<u>40 percent</u>
<u>6</u>	<u>52 percent</u>
<u>7</u>	<u>64 percent</u>
<u>8</u>	<u>76 percent</u>
<u>9</u>	<u>88 percent</u>
<u>10 and thereafter</u>	<u>100 percent</u>

Sec. 2. Minnesota Statutes 2002, section 424A.02, subdivision 7, is amended to read:

Subd. 7. **DEFERRED SERVICE PENSIONS.** (a) A member of a relief association to which this section applies is entitled to a deferred service pension if the member:

(1) has completed the lesser of the minimum period of active service with the fire department specified in the bylaws or 20 years of active service with the fire department;

(2) has completed at least five years of active membership in the relief association; and

(3) separates from active service and membership before reaching age 50 or the minimum age for retirement and commencement of a service pension specified in the bylaws governing the relief association if that age is greater than age 50.

(b) The deferred service pension starts when the former member reaches age 50 or the minimum age specified in the bylaws governing the relief association if that age is greater than age 50 and when the former member makes a valid written application.

(c) A relief association that provides a lump sum service pension may, when its governing bylaws so provide, pay interest on the deferred lump sum service pension during the period of deferral. If provided for in the bylaws, interest must be paid in one of the following manners:

(1) at the investment performance rate actually earned on that portion of the assets if the deferred benefit amount is invested by the relief association in a separate account established and maintained by the relief association or if the deferred benefit amount is invested in a separate investment vehicle held by the relief association or, if not;

(2) at the interest rate of five percent, compounded annually; or

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

(3) at a rate equal to the actual time weighted total rate of return investment performance of the special fund as reported by the office of the state auditor under section 356.219, up to five percent, compounded annually, and applied consistently for all deferred service pensioners.

(d) A relief association may not use the method provided for in paragraph (c), clause (3), until it has modified its bylaws to be consistent with that clause.

(e) For a deferred service pension that is transferred to a separate account established and maintained by the relief association or separate investment vehicle held by the relief association, the deferred member bears the full investment risk subsequent to transfer and in calculating the accrued liability of the volunteer firefighters relief association that pays a lump sum service pension, the accrued liability for deferred service pensions is equal to the separate relief association account balance or the fair market value of the separate investment vehicle held by the relief association.

(e) (f) The deferred service pension is governed by and must be calculated under the general statute, special law, relief association articles of incorporation, and relief association bylaw provisions applicable on the date on which the member separated from active service with the fire department and active membership in the relief association.

Sec. 3. MARINE ON ST. CROIX VOLUNTEER FIREFIGHTERS RELIEF ASSOCIATION; EARLY VESTING.

(a) Notwithstanding Minnesota Statutes, section 424A.02, subdivision 2, to the contrary, the Marine on St. Croix Volunteer Firefighters Relief Association may utilize an early vesting schedule as provided in paragraphs (b) and (c).

(b) If the articles of incorporation or bylaws of the Marine on St. Croix Volunteer Firefighters Relief Association so provide, the relief association may pay a reduced service pension to a retiring member who has completed fewer than ten years of service. The reduced service pension may be paid when the retiring member meets the minimum age and service requirements of Minnesota Statutes, section 424A.02, subdivision 1.

(c) The amount of the reduced service pension may not exceed the amount calculated by multiplying the service pension appropriate for the completed years of service as specified in the articles of incorporation or bylaws by the applicable nonforfeitable percentage of the service pension amount. The nonforfeitable percentage of service pension amounts are as follows:

<u>Completed years of service</u>	<u>Nonforfeitable percentage of service pension amount</u>
<u>5</u>	<u>40 percent</u>
<u>6</u>	<u>52 percent</u>
<u>7</u>	<u>64 percent</u>
<u>8</u>	<u>76 percent</u>
<u>9</u>	<u>88 percent</u>
<u>10 and thereafter</u>	<u>100 percent</u>

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

Sec. 4. BELLINGHAM FIREFIGHTER RELIEF ASSOCIATION; RATIFICATION OF PRIOR ANNUITY INVESTMENTS.

Notwithstanding Minnesota Statutes, section 356A.06, subdivision 7, any annuity purchases by the Bellingham Firefighters Relief Association prior to the effective date of this section are ratified as permissible investments.

Sec. 5. EFFECTIVE DATE.

(a) Sections 1 and 2 are effective on July 1, 2004.

(b) Section 3 is effective on the day after the date on which the city council of the city of Marine on St. Croix and the chief clerical officer of the city of Marine on St. Croix comply with Minnesota Statutes, section 645.02, subdivisions 2 and 3.

(c) Section 4 is effective on the day following final enactment.

(d) The deferred service pension interest crediting procedure of Minnesota Statutes, section 424A.02, subdivision 7, paragraph (c), clause (3), expires on December 31, 2008.

ARTICLE 15

PERA POLICE AND FIRE PLAN

MEMBERSHIP INCLUSIONS

Section 1. Minnesota Statutes 2003 Supplement, section 353.01, subdivision 6, is amended to read:

Subd. 6. **GOVERNMENTAL SUBDIVISION.** (a) "Governmental subdivision" means a county, city, town, school district within this state, or a department or unit of state government, or any public body whose revenues are derived from taxation, fees, assessments or from other sources.

(b) Governmental subdivision also means the Public Employees Retirement Association, the League of Minnesota Cities, the Association of Metropolitan Municipalities, public hospitals owned or operated by, or an integral part of, a governmental subdivision or governmental subdivisions, the Association of Minnesota Counties, the Metropolitan Intercounty Association, the Minnesota Municipal Utilities Association, the Metropolitan Airports Commission, the Minneapolis Employees Retirement Fund for employment initially commenced after June 30, 1979, the Range Association of Municipalities and Schools, soil and water conservation districts, economic development authorities created or operating under sections 469.090 to

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

469.108, the Port Authority of the city of St. Paul, the Spring Lake Park Fire Department, incorporated, the Lake Johanna Volunteer Fire Department, incorporated, the Red Wing Environmental Learning Center, and the Dakota County Agricultural Society.

(c) Governmental subdivision does not mean any municipal housing and redevelopment authority organized under the provisions of sections 469.001 to 469.047; or any port authority organized under sections 469.048 to 469.089 other than the Port Authority of the city of St. Paul; or any hospital district organized or reorganized prior to July 1, 1975, under sections 447.31 to 447.37 or the successor of the district, nor the Minneapolis Community Development Agency.

Sec. 2. **EFFECTIVE DATE.**

Section 1 is effective on the day following final enactment.

ARTICLE 16

ONE PERSON AND SMALL GROUP

PENSION CHANGES

Section 1. **PERA-GENERAL; PURCHASE OF PRIOR SERVICE CREDIT.**

(a) An eligible person described in paragraph (b) is entitled to purchase up to 33 months of allowable service credit from the general employees retirement plan of the Public Employees Retirement Association. The service credit purchase under this section must be made in accordance with Minnesota Statutes, section 356.55 or 356.551, whichever applies.

(b) An eligible person is a person who:

(1) is currently a member of the Teachers Retirement Association;

(2) was employed by Independent School District No. 621, Mounds View, from May 1968 to December 1971, but was not covered by the general employees retirement plan of the Public Employees Retirement Association;

(3) was employed by Independent School District No. 31, Bemidji, but was not covered by the general employees retirement plan of the Public Employees Retirement Association;

(4) was employed as a special education teacher by Independent School District No. 12, Centennial, for the 1974-1975 school year and for the 1977-1978, 1978-1979, and 1979-1980 school years;

(5) was employed as a special education teacher by Independent School District No. 16, Spring Lake Park, for the 1975-1976 school year;

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

(6) was employed as a special education teacher by Independent School District No. 138, North Branch, for the 1980-1981, 1981-1982, 1982-1983, 1983-1984, 1984-1985, and 1985-1986 school years; and

(7) has been employed by Independent School District No. 11, Anoka-Hennepin, since the 1986-1987 school year.

(c) An eligible person described in paragraph (b) must apply with the executive director of the Public Employees Retirement Association to make the service credit purchase under this section. The application must be in writing and must include all necessary documentation of the applicability of this section, documentation of the eligible person's eligibility for retirement coverage by the general employees retirement plan of the Public Employees Retirement Association if the employment had been properly reported to the association at the time the employment was rendered, and any other relevant information that the executive director may require.

Sec. 2. PERA-GENERAL EMPLOYEES RETIREMENT PLAN COVERAGE TERMINATION AUTHORIZATION.

Subdivision 1. ELIGIBILITY. (a) An eligible person specified in paragraph (b) is authorized to apply for a retirement annuity from the public employees police and fire retirement plan, provided that the necessary age and service requirements are met, under Minnesota Statutes, section 353.651, as further specified under subdivision 2.

(b) An eligible person is a person who:

(1) was born on October 10, 1956;

(2) was employed as a police officer by the city of Red Wing;

(3) was elected to the Goodhue County Board of Commissioners in November 1998; and

(4) elected under the law then applicable to have retirement coverage by the general employees retirement plan of the Public Employees Retirement Association for the county board service.

Subd. 2. RETIREMENT ANNUITY. (a) Notwithstanding an irrevocable election to participate in the general employees retirement plan of the Public Employees Retirement Association as an elected official and the person's continuation of elected service, an eligible person under subdivision 1, paragraph (b), is deemed to have terminated retirement plan membership under Minnesota Statutes, section 353.01, subdivision 11b, on the first day of the first pay period next following the date of enactment.

(b) Upon the change in retirement coverage status under paragraph (a), the eligible person may apply for a retirement annuity under Minnesota Statutes, section 353.651. In computing that annuity, the Public Employees Retirement Association must exclude the salary that was attributable to the Goodhue County board service. The deferred annuity augmentation under Minnesota Statutes, section 353.71, applies to the annuity under this subdivision.

New language is indicated by underline, deletions by strikeout.

Subd. 3. **TREATMENT OF GOODHUE COUNTY BOARD CONTRIBUTIONS TO PERA.** (a) All member contributions by the eligible person to the coordinated program of the general employee retirement plan of the Public Employees Retirement Association attributable to the Goodhue County board elected service, and all corresponding employer contributions, must be determined.

(b) An eligible person described in subdivision 1, paragraph (b), must elect, within 90 days of the change in retirement coverage status under paragraph (a), between receiving a refund under Minnesota Statutes, section 353.34, subdivision 2, of the member contributions determined under paragraph (a) or having coverage by the public employees defined contribution plan under Minnesota Statutes, chapter 353D, as further specified in paragraph (c).

(c) If coverage by the public employees defined contribution plan is elected under paragraph (b), contributions to that plan commence as of the first day of the first pay period following the election, and the accumulated member and employer contributions determined under paragraph (a) must be transferred with annual compound interest at the rate of six percent to an account established for the eligible person in its public employees defined contribution plan.

(d) If no election is made by an eligible person by the required date in paragraph (b), the individual is assumed to have elected the refund indicated in paragraph (b).

(e) Upon an election under paragraph (b), or upon a mandatory refund under paragraph (d), all rights in the Public Employees Retirement Association coordinated plan due to elected Goodhue County board service are forfeited and may not be reestablished.

Sec. 3. MSRS-UNCLASSIFIED PROGRAM; ELECTION BY SURVIVOR.

(a) Notwithstanding any provision of Minnesota Statutes, chapter 352 or 352D, to the contrary, a person described in paragraph (b) may make the posthumous coverage election specified in paragraph (c) and be eligible for the survivor benefit specified in paragraph (d).

(b) An eligible person is the personal representative of the estate of a person who:

(1) was born on March 26, 1942;

(2) was employed by the house of representatives for several years prior to being laid off;

(3) was covered by the unclassified state employees retirement program of the Minnesota State Retirement System as a house employee until electing alternative coverage by the general employee retirement plan at or prior to the termination of house employment;

(4) was employed by the senate prior to death, but did not make the election to transfer prior service contributions to the unclassified state employees retirement program under Minnesota Statutes, section 352D.12; and

(5) died on February 19, 2004.

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

(c) The posthumous coverage election is the transfer election under Minnesota Statutes, section 352D.12, and the personal representative of the estate of a person described in paragraph (b) may make the election as if the representative was a participant in the unclassified program.

(d) If the posthumous coverage election is made under paragraph (c), the estate is entitled to a death benefit under Minnesota Statutes, section 352D.075.

(e) The posthumous coverage election under this section expires July 1, 2005.

Sec. 4. **EFFECTIVE DATE.**

Sections 1 to 3 are effective on the day following final enactment.

ARTICLE 17

PRIOR SERVICE CREDIT PURCHASES

Section 1. Minnesota Statutes 2002, section 352.275, subdivision 1, is amended to read:

Subdivision 1. **SERVICE CREDIT PURCHASE AUTHORIZED.** A state employee who has at least three years of allowable service with the Minnesota State Retirement System and who performed service in the United States armed forces before becoming a state employee, or who failed to obtain service credit for a military leave of absence under section 352.27, is entitled to purchase allowable service credit for the initial period of enlistment, induction, or call to active duty without any voluntary extension by making payment under section 356.55 if the employee is ~~not~~ ~~entitled to receive a current or deferred retirement annuity from a United States armed forces pension plan and has not purchased service credit from any other Minnesota defined benefit public employee pension plan for the same period of service.~~

Sec. 2. Minnesota Statutes 2002, section 352B.01, subdivision 3a, is amended to read:

Subd. 3a. **UNCREDITED MILITARY SERVICE CREDIT PURCHASE.** (a) A member who has at least three years of allowable service with the State Patrol retirement plan under subdivision 3 and who performed service in the United States armed forces before becoming a member is entitled to purchase allowable service credit for the initial period of enlistment, induction, or call to active duty without any voluntary extension by making payment under section 356.55; if the employee is ~~not~~ ~~entitled to receive a current or deferred retirement annuity from a United States armed forces pension plan and has not purchased service credit from any other Minnesota defined benefit public employee pension plan for the same period of service.~~

(b) A member who desires to purchase service credit under paragraph (a) must apply with the executive director to make the purchase. The application must include

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

all necessary documentation of the member's qualifications to make the purchase, signed written permission to allow the executive director to request and receive necessary verification of applicable facts and eligibility requirements, and any other relevant information that the executive director may require.

(c) Allowable service credit for the purchase period must be granted by the State Patrol retirement plan to the purchasing employee upon receipt of the purchase payment amount. Payment must be made before the effective date of retirement of the member.

Sec. 3. Minnesota Statutes 2002, section 353.01, subdivision 16a, is amended to read:

Subd. 16a. UNCREDITED MILITARY SERVICE CREDIT PURCHASE. (a) A public employee who has at least three years of allowable service with the Public Employees Retirement Association or the public employees police and fire plan and who performed service in the United States armed forces before becoming a public employee, or who failed to obtain service credit for a military leave of absence under subdivision 16, paragraph (h), is entitled to purchase allowable service credit for the initial period of enlistment, induction, or call to active duty without any voluntary extension by making payment under section 356.55 if the public employee is ~~not entitled to receive a current or deferred retirement annuity from a United States armed forces pension plan and has not purchased service credit from any other Minnesota defined benefit public employee pension plan for the same period of service.~~

(b) A public employee who desires to purchase service credit under paragraph (a) must apply with the executive director to make the purchase. The application must include all necessary documentation of the public employee's qualifications to make the purchase, signed written permission to allow the executive director to request and receive necessary verification of applicable facts and eligibility requirements, and any other relevant information that the executive director may require.

(c) Allowable service credit for the purchase period must be granted by the public employees association or the public employees police and fire plan, whichever applies, to the purchasing public employee upon receipt of the purchase payment amount. Payment must be made before the effective date of retirement of the public employee.

Sec. 4. Minnesota Statutes 2002, section 354.533, subdivision 1, is amended to read:

Subdivision 1. SERVICE CREDIT PURCHASE AUTHORIZED. A teacher who has at least three years of allowable service credit with the Teachers Retirement Association and who performed service in the United States armed forces before becoming a teacher as defined in section 354.05, subdivision 2, or who failed to obtain service credit for a military leave of absence under the provisions of section 354.53, is entitled to purchase allowable and formula service credit for the initial period of enlistment, induction, or call to active duty without any voluntary extension by making payment under section 356.55 provided the teacher ~~is not entitled to receive a current or deferred retirement annuity from a United States armed forces pension plan and has~~

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

not purchased service credit from any other Minnesota defined benefit public employee pension plan for the same period of service.

Sec. 5. Minnesota Statutes 2002, section 354A.097, subdivision 1, is amended to read:

Subdivision 1. **SERVICE CREDIT PURCHASE AUTHORIZED.** A teacher who has at least three years of allowable service credit with the teachers retirement fund association and who performed service in the United States armed forces before becoming a teacher as defined in section 354A.011, subdivision 27, or who failed to obtain service credit for a military leave of absence period under section 354A.093, is entitled to purchase allowable service credit for the initial period of enlistment, induction, or call to active duty without any voluntary extension by making payment under section 356.55, provided the teacher is not entitled to receive a current or deferred retirement annuity from a United States armed forces pension plan and has not purchased service credit from another Minnesota defined benefit public employee pension plan for the same period of service.

Sec. 6. Laws 1999, chapter 222, article 16, section 16, as amended by Laws 2002, chapter 392, article 7, section 1, and Laws 2003, First Special Session chapter 12, article 6, section 2, is amended to read:

Sec. 16. **REPEALER.**

(a) Sections ~~4~~ 2 to 6 and 8 to 13 are repealed on May 16, 2004.

(b) Sections 1 and 7 are repealed on May 16, 2006.

Sec. 7. Laws 2000, chapter 461, article 4, section 4, as amended by Laws 2003, First Special Session chapter 12, article 6, section 3, is amended to read:

Sec. 4. **EFFECTIVE DATE; SUNSET REPEALER.**

(a) Sections 1, 2, and 3 are effective on the day following final enactment.

(b) Sections 1, 2, and 3, are repealed on May 16, ~~2004~~ 2006.

Sec. 8. **EFFECTIVE DATE.**

Sections 1 to 7 are effective on the day following final enactment.

ARTICLE 18

MINNEAPOLIS POLICE RELIEF ASSOCIATION

Section 1. Minnesota Statutes 2002, section 69.77, subdivision 4, is amended to read:

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

Subd. 4. **RELIEF ASSOCIATION FINANCIAL REQUIREMENTS; MINIMUM MUNICIPAL OBLIGATION.** (a) The officers of the relief association shall determine the financial requirements of the relief association and minimum obligation of the municipality for the following calendar year in accordance with the requirements of this subdivision. The financial requirements of the relief association and the minimum obligation of the municipality must be determined on or before the submission date established by the municipality under subdivision 5.

(b) The financial requirements of the relief association for the following calendar year must be based on the most recent actuarial valuation or survey of the special fund of the association if more than one fund is maintained by the association, or of the association, if only one fund is maintained, prepared in accordance with sections 356.215, subdivisions 4 to 15, and 356.216, as required under subdivision 10. If an actuarial estimate is prepared by the actuary of the relief association as part of obtaining a modification of the benefit plan of the relief association and the modification is implemented, the actuarial estimate must be used in calculating the subsequent financial requirements of the relief association.

(c) If the relief association has an unfunded actuarial accrued liability as reported in the most recent actuarial valuation or survey, the total of the amounts calculated under clauses (1), (2), and (3), constitute the financial requirements of the relief association for the following year. If the relief association does not have an unfunded actuarial accrued liability as reported in the most recent actuarial valuation or survey, the amount calculated under clauses (1) and (2) constitute the financial requirements of the relief association for the following year. The financial requirement elements are:

(1) the normal level cost requirement for the following year, expressed as a dollar amount, which must be determined by applying the normal level cost of the relief association as reported in the actuarial valuation or survey and expressed as a percentage of covered payroll to the estimated covered payroll of the active membership of the relief association, including any projected change in the active membership, for the following year;

(2) for the Bloomington Fire Department Relief Association, the Fairmont Police Relief Association, and the Virginia Fire Department Relief Association, to the dollar amount of normal cost determined under clause (1) must be added an amount equal to the dollar amount of the administrative expenses of the special fund of the association if more than one fund is maintained by the association, or of the association if only one fund is maintained, for the most recent year, multiplied by the factor of 1.035. The administrative expenses are those authorized under section 69.80. No amount of administrative expenses under this clause are to be included in the financial requirements of the Minneapolis Firefighters Relief Association or the Minneapolis Police Relief Association; and

(3) to the dollar amount of normal cost and expenses determined under clauses (1) and (2) must be added an amount equal to the level annual dollar amount which is sufficient to amortize the unfunded actuarial accrued liability by December 31, 2010, for the Bloomington Fire Department Relief Association, the Fairmont Police Relief

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

Association, the Minneapolis Firefighters Relief Association, and the Virginia Fire Department Relief Association, and by December 31, 2020, for the Minneapolis Police Relief Association, as determined from the actuarial valuation or survey of the fund, using an interest assumption set at the applicable rate specified in section 356.215, subdivision 8. The amortization date specified in this clause applies to all local police or salaried firefighters' relief associations and that date supersedes any amortization date specified in any applicable special law.

(d) The minimum obligation of the municipality is an amount equal to the financial requirements of the relief association reduced by the estimated amount of member contributions from covered salary anticipated for the following calendar year and the estimated amounts anticipated for the following calendar year from the applicable state aid program established under sections 69.011 to 69.051 receivable by the relief association after any allocation made under section 69.031, subdivision 5, paragraph (b), clause (2), or 423A.01, subdivision 2, clause (6), from the local police and salaried firefighters' relief association amortization aid program established under section 423A.02, subdivision 1, from the supplementary amortization state-aid program established under section 423A.02, subdivision 1a, and from the additional amortization state aid under section 423A.02, subdivision 1b.

Sec. 2. Minnesota Statutes 2002, section 356.216, is amended to read:

356.216 CONTENTS OF ACTUARIAL VALUATIONS FOR LOCAL POLICE AND FIRE FUNDS.

(a) The provisions of section 356.215 that govern the contents of actuarial valuations must apply to any local police or fire pension fund or relief association required to make an actuarial report under this section, except as follows:

(1) in calculating normal cost and other requirements, if required to be expressed as a level percentage of covered payroll, the salaries used in computing covered payroll must be the maximum rate of salary on which retirement and survivorship credits and amounts of benefits are determined and from which any member contributions are calculated and deducted;

(2) in lieu of the amortization date specified in section 356.215, subdivision 11, the appropriate amortization target date specified in section 69.77, subdivision 4, or 69.773, subdivision 4, clause (c), must be used in calculating any required amortization contribution except that the amortization date for the Minneapolis Police Relief Association is December 31, 2020;

(3) in addition to the tabulation of active members and annuitants provided for in section 356.215, subdivision 13, the member contributions for active members for the calendar year and the prospective annual retirement annuities under the benefit plan for active members must be reported;

(4) actuarial valuations required under section 69.773, subdivision 2, must be made at least every four years and actuarial valuations required under section 69.77 shall be made annually;

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

(5) the actuarial balance sheet showing accrued assets valued at market value if the actuarial valuation is required to be prepared at least every four years or valued as current assets under section 356.215, subdivision 1, clause (6), or paragraph (b), whichever applies, if the actuarial valuation is required to be prepared annually, actuarial accrued liabilities, and the unfunded actuarial accrued liability must include the following required reserves:

(i) For active members

1. Retirement benefits
2. Disability benefits
3. Refund liability due to death or withdrawal
4. Survivors' benefits

(ii) For deferred annuitants' benefits

(iii) For former members without vested rights

(iv) For annuitants

1. Retirement annuities
2. Disability annuities
3. Surviving spouses' annuities
4. Surviving children's annuities

In addition to those required reserves, separate items must be shown for additional benefits, if any, which may not be appropriately included in the reserves listed above; and

(6) actuarial valuations are due by the first day of the seventh month after the end of the fiscal year which the actuarial valuation covers.

(b) For the Minneapolis Firefighters Relief Association or the Minneapolis Police Relief Association, the following provisions additionally apply:

(1) in calculating the actuarial balance sheet, unfunded actuarial accrued liability, and amortization contribution of the relief association, "current assets" means the value of all assets at cost, including realized capital gains and losses, plus or minus, whichever applies, the average value of total unrealized capital gains or losses for the most recent three-year period ending with the end of the plan year immediately preceding the actuarial valuation report transmission date; and

(2) in calculating the applicable portions of the actuarial valuation, an annual preretirement interest assumption of six percent, an annual postretirement interest assumption of six percent, and an annual salary increase assumption of four percent must be used.

Sec. 3. Minnesota Statutes 2002, section 423B.01, subdivision 12, is amended to read:

Subd. 12. **EXCESS INVESTMENT INCOME.** "Excess investment income" means the amount, if any, by which the average time weighted total rate of return earned by the fund in the most recent prior ~~five~~ two fiscal years has exceeded the actual average percentage increase in the current monthly salary of a first grade patrol officer

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

in the most recent prior five two fiscal years plus two percent, and must be expressed as a dollar amount. The amount may not exceed one percent of the total assets of the fund, except when the actuarial value of assets of the fund according to the most recent annual actuarial valuation prepared in accordance with sections 356.215 and 356.216 is greater than 102 percent of its actuarial accrued liabilities, in which case the amount must not exceed 1-1/2 percent of the total assets of the fund, and does not exist unless the yearly average percentage increase of the time weighted total rate of return of the fund for the previous five two years exceeds by two percent the yearly average percentage increase in monthly salary of a first grade patrol officer during the previous five two calendar years.

Sec. 4. Minnesota Statutes 2002, section 423B.09, subdivision 1, is amended to read:

Subdivision 1. **MINNEAPOLIS POLICE; PERSONS ENTITLED TO RECEIVE PENSIONS.** The association shall grant pensions payable from the police pension fund in monthly installments to persons entitled to pensions in the manner and for the following purposes.

(a) ~~When the actuarial value of assets of the fund according to the most recent annual actuarial valuation performed in accordance with sections 356.215 and 356.216 is less than 90 percent of the actuarial accrued liabilities, an active member or a deferred pensioner who has performed duty as a member of the police department of the city for five years or more, upon written application after retiring from duty and reaching at least age 50, is entitled to be paid monthly for life a service pension equal to eight units. For full years of service beyond five years, the service pension increases by 1.6 units for each full year, to a maximum of 40 units. When the actuarial value of assets of the fund according to the most recent annual actuarial valuation prepared in accordance with sections 356.215 and 356.216 is greater than 90 percent of actuarial accrued liabilities, Active members, deferred members, and service pensioners are entitled to a service pension according to the following schedule:~~

5 years	8.0 units
6 years	9.6 units
7 years	11.2 units
8 years	12.8 units
9 years	14.4 units
10 years	16.0 units
11 years	17.6 units
12 years	19.2 units
13 years	20.8 units
14 years	22.4 units
15 years	24.0 units
16 years	25.6 units
17 years	27.2 units
18 years	28.8 units
19 years	30.4 units

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

20 years	34.0 35.0 units
21 years	35.6 36.6 units
22 years	37.2 38.2 units
23 years	38.8 39.8 units
24 years	40.4 41.4 units
25 years	42.0 43.0 units

Fractional years of service may not be used in computing pensions.

(b) An active member who after five years' service but less than 20 years' service with the police department of the city, becomes superannuated so as to be permanently unable to perform the person's assigned duties, is entitled to be paid monthly for life a superannuation pension equal to four units for five years of service and an additional two units for each full year of service over five years and less than 20 years.

(c) An active member who is not eligible for a service pension and who, while a member of the police department of the city, becomes diseased or sustains an injury while in the service that permanently unfits the member for the performance of police duties is entitled to be paid monthly for life a pension equal to 34 units while so disabled.

Sec. 5. Minnesota Statutes 2002, section 423B.09, is amended by adding a subdivision to read:

Subd. 7. ADDITIONAL UNIT. The additional unit provided to members by subdivision 1 must also be provided to members who selected a joint annuity option under subdivision 6 and must be in an amount that is actuarially equivalent to the service pension and the automatic survivor coverage for that additional unit.

Sec. 6. Minnesota Statutes 2002, section 423B.10, subdivision 1, is amended to read:

Subdivision 1. **ENTITLEMENT; BENEFIT AMOUNT.** (a) The surviving spouse of a deceased service pensioner, disability pensioner, deferred pensioner, superannuation pensioner, or active member, who was the legally married spouse of the decedent, residing with the decedent, and who was married while or before the time the decedent was on the payroll of the police department, and who, if the deceased member was a service or deferred pensioner, was legally married to the member for a period of at least one year before retirement from the police department, is entitled to a surviving spouse benefit. The surviving spouse benefit is equal to ~~22~~ 23 units per month if the person is the surviving spouse of a deceased active member or disabilitant. The surviving spouse benefit is equal to six units per month, plus an additional one unit for each year of service to the credit of the decedent in excess of five years, to a maximum of ~~22~~ 23 units per month, if the person is the surviving spouse of a deceased service pensioner, deferred pensioner, or superannuation pensioner. The surviving spouse benefit is payable for the life of the surviving spouse.

(b) A surviving child of a deceased service pensioner, disability pensioner, deferred pensioner, superannuation pensioner, or active member, who was living while the decedent was an active member of the police department or was born within nine

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

months after the decedent terminated active service in the police department, is entitled to a surviving child benefit. The surviving child benefit is equal to eight units per month if the person is the surviving child of a deceased active member or disabled. The surviving child benefit is equal to two units per month, plus an additional four-tenths of one unit per month for each year of service to the credit of the decedent in excess of five years, to a maximum of eight units, if the person is the surviving child of a deceased service pensioner, deferred pensioner, or superannuation pensioner. The surviving child benefit is payable until the person attains age 18, or, if in full-time attendance during the normal school year, in a school approved by the board of directors, until the person receives a bachelor's degree or attains the age of 22 years, whichever occurs first. In the event of the death of both parents leaving a surviving child or children entitled to a surviving child benefit as determined in this paragraph, the surviving child is, or the surviving children are, entitled to a surviving child benefit in such sums as determined by the board of directors to be necessary for the care and education of such surviving child or children, but not to exceed the family maximum benefit per month, to the children of any one family.

(c) The surviving spouse and surviving child benefits are subject to a family maximum benefit. The family maximum benefit is 41 units per month.

(d) A surviving spouse who is otherwise not qualified may receive a benefit if the surviving spouse was married to the decedent for a period of five years and was residing with the decedent at the time of death. The surviving spouse benefit is the same as that provided in paragraph (a), except that if the surviving spouse is younger than the decedent, the surviving spouse benefit must be actuarially equivalent to a surviving spouse benefit that would have been paid to the member's spouse had the member been married to a person of the same age or a greater age than the member's age before retirement.

Sec. 7. Minnesota Statutes 2002, section 423B.15, subdivision 3, is amended to read:

Subd. 3. **AMOUNT OF ANNUAL POSTRETIREMENT PAYMENT.** The amount determined under subdivision 2 must be applied in accordance with this subdivision. When the actuarial value of assets of the fund according to the most recent annual actuarial valuation prepared in accordance with sections 356.215 and 356.216 is less than 102 percent of its total actuarial liabilities, the relief association shall apply the first one-half of excess investment income to the payment of an annual postretirement payment as specified in this subdivision and the second one-half of excess investment income up to one-half of one percent of the assets of the fund must be applied to reduce the state amortization state aid or supplementary amortization state aid payments otherwise due to the relief association under section 423A.02 for the current calendar year. When the actuarial value of assets of the fund according to the most recent annual actuarial valuation prepared in accordance with sections 356.215 and 356.216 is less than 102 percent funded and other conditions are met, the relief association shall pay an annual postretirement payment to all eligible members in an amount not to exceed one-half of one percent of the assets of the fund. When the actuarial value of assets of the fund according to the most recent annual actuarial

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

valuation prepared in accordance with sections 356.215 and 356.216 is greater than 102 percent of its actuarial accrued liabilities, the relief association shall pay an annual postretirement payment to all eligible members in an amount not to exceed 1-1/2 percent of the assets of the fund. Payment of the annual postretirement payment must be in a lump sum amount on June 1 following the determination date in any year. Payment of the annual postretirement payment may be made only if the average time weighted total rate of return for the most recent prior five two years exceeds by two percent the actual average percentage increase in the current monthly salary of a top grade patrol officer in the most recent prior five two fiscal years. The total amount of all payments to members may not exceed the amount determined under this subdivision. Payment to each eligible member must be calculated by dividing the total number of pension units to which eligible members are entitled into the excess investment income available for distribution to members, and then multiplying that result by the number of units to which each eligible member is entitled to determine each eligible member's annual postretirement payment. When the actuarial value of assets of the fund according to the most recent annual actuarial valuation prepared in accordance with sections 356.215 and 356.216 is less than 102 percent of its actuarial accrued liabilities, payment to each eligible member may not exceed an amount equal to the total monthly benefit that the eligible member was entitled to in the prior year under the terms of the benefit plan of the relief association or each eligible member's proportionate share of the excess investment income, whichever is less. When the actuarial value of assets of the fund according to the most recent annual actuarial valuation prepared in accordance with sections 356.215 and 356.216 is greater than 102 percent of its actuarial accrued liabilities, payment to each eligible member must not exceed the member's proportionate share of 1-1/2 percent of the assets of the fund.

A person who received a pension or benefit for the entire 12 months before the determination date is eligible for a full annual postretirement payment. A person who received a pension or benefit for less than 12 months before the determination date is eligible for a prorated annual postretirement payment.

Sec. 8. [423B.22] GUARANTEED PENSION PROVISION.

Once a pension benefit is properly paid in accordance with this law to any member, the dollar amount of that pension benefit shall not be reduced.

Sec. 9. LOCAL APPROVAL; NONSEVERABILITY.

Sections 1 to 8 are not severable and are effective on the day after the date of the approval by the city council of the city of Minneapolis and the timely completion by the chief clerical officer of the city of Minneapolis of compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3.

Presented to the governor May 18, 2004

Signed by the governor May 29, 2004, 3:55 p.m.

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