

(6) Is not, while receiving assistance under these sections, soliciting alms;

(7) Is not, while receiving assistance under these sections, receiving old age assistance, aid to dependent children or aid to the permanently and totally disabled.

Approved March 29, 1955.

CHAPTER 239—S. F. No. 516

An act relating to the state employees retirement fund; amending Minnesota Statutes 1953, Section 352.01, Subdivisions 2, 8 and 9; Section 352.02, Subdivisions 2, 3 and 4, Section 352.04, Subdivisions 1 and 5; Section 352.09, Subdivisions 1 and 2; Section 352.103, Subdivisions 1 and 2; Section 352.11, Subdivisions 1 and 3; Section 352.113, and Section 352.12, Subdivisions 3 and 4, and by adding a new Subdivision thereto.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Minnesota Statutes 1953, Section 352.01, Subdivision 2, is amended to read:

Subd. 2. **State employee.** "State Employee" means employees and officers in the classified and unclassified services of the State of Minnesota as defined in the State Civil Service Act, and employees of the Minnesota Historical Society, the State Horticultural Society, the Disabled American Veterans, Department of Minnesota, Veterans of Foreign Wars, Department of Minnesota, the Minnesota Crop Improvement Association, employees of the Adjutant General who are paid from federal funds and who are not eligible to benefits from any federal civilian retirement fund, employees of the State Teachers Colleges employed under the College Activities Program, and currently contributing members of the association who are temporarily employed by the legislature during a legislative session or any currently contributing member employed for any special service as defined in paragraph (8) of this subdivision; but does not include the following:

(1) Elective state officers, except as provided in section 352.02;

(2) Students employed by the University of Minnesota and the State Teachers colleges unless approved for membership by the Board of Regents or the Teachers College Board, as the case may be;

(3) Employees who are eligible to membership in the *state teachers retirement fund* except employees of the department of education who have elected or may elect to become members of the state employees retirement association instead of the teachers retirement fund;

(4) Employees of the University of Minnesota who are excluded from membership by action of the Board of Regents;

(5) Officers and enlisted men in the national guard and the naval militia except such as are assigned to permanent peacetime duty;

(6) Election officers;

(7) Persons engaged in public work for the state but employed by contractors when the performance of such contract is authorized by the legislature or other competent authority;

(8) Officers and employees of the Senate and House of Representatives and persons temporarily employed or designated by the legislature or by a legislative committee or commission or other competent authority to make or conduct a special inquiry, investigation, examination or installation, except permanent employees of the Legislative Research Committee who may become members upon notifying the secretary in writing within six months from the date of their respective employment of their election to become a member;

(9) All courts and all employees thereof, referees, receivers, jurors, and notaries public, except employees of the supreme court and referees and adjusters employed by the industrial commission;

(10) Patient and inmate help in state charitable, penal and correctional institutions including the Minnesota Soldiers Home;

(11) *Persons employed for professional services where such service is incidental to regular professional duties and whose compensation is paid on a per diem basis;*

(12) Employees of the Sibley House Association;

(13) Employees of the Grand Army of the Republic and employees of the Ladies of the G. A. R.;

(14) Operators and drivers employed pursuant to Laws 1941, Chapter 478;

(15) Members of the Board of tax appeals, the civil

service board, and the members of any other state board or commission who serve the state intermittently and are paid on a per diem basis; and the secretary, secretary-treasurer, and treasurer of such boards if their compensation is \$500 or less per year;

(16) State Highway Patrolmen;

(17) Temporary employees of the Minnesota State Fair employed during the State Fair;

(18) Emergency employees in the classified service whose status shall be noted by symbol on all payroll abstracts.

Sec. 2. Minnesota Statutes 1953, Section 352.01, Subdivision 8, is amended to read:

Subd. 8. **Allowable service.** Except as provided in subdivision 9 "allowable service" for retirement purposes means:

(1) For persons who were required to pay a membership fee under Laws 1929, Chapter 191, prior service and all service subsequent to June 30, 1929, while members of the retirement association and for which the required deductions from salaries or payments in lieu of deductions have been deposited in the retirement fund, including the time during which membership was maintained by the payment of assessments between July 1, 1929, and July 1, 1939.

(2) For persons entering the state service after July 1, 1929, and required to become members of the retirement association, prior service and all service subsequent to July 1, 1929, while members of the retirement association and for which the required deductions or payments in lieu of deductions have been deposited in the retirement fund, including the time during which membership was maintained by the payment of assessments prior to July 1, 1939, except that for persons becoming members after June 30, 1951, credit for prior service is conditioned upon payments as provided in Section 352.02.

(3) For persons who entered the state service on or before July 1, 1929, but did not exercise the option to become members of the retirement association on or before July 1, 1931, who were required to become members as of July 1, 1941, all service subsequent to June 30, 1941, while members of the retirement association and for which required deductions have been deposited in the retirement fund, and all service for which payments in lieu of salary deductions have been or will be deposited in the retirement fund as provided in section 352.02.

(4) For all persons listed in paragraphs (1), (2) and (3), service while on leave of absence for employment in essential war work for which payments have been or will be deposited in the retirement fund as provided by Laws 1943, Chapter 622, Section 3, or any amendment thereof.

(5) For all members of the association who were employed by the commissioner of banks in the liquidation of closed banks during the period July 1, 1929, to July 1, 1943, or any portions of such period, and for all members of the association whose compensation was paid in whole or in part from federal funds under the State Relief Agency or State Emergency Relief Agency who elect to make the payments provided for in section 352.02, subdivision 2, clause (1), the period for which payment is made in addition to the service which they are entitled to under paragraphs (1), (2), (3), and (4), of this subdivision and subdivision 9 (4).

(6) For all persons becoming members of the retirement association under the provisions of Laws 1945, Chapter 284, and all persons becoming members under Laws 1947, Chapter 631, and Laws 1951, Chapter 441, all service for which payments are required and all service for which payments are permitted provided payments are made in the manner and within the time provided in this section.

(7) Periods for which payments are made as provided in section 352.04, subdivision 5 (1).

(8) For all temporary and provisional employees who had completed six months continuous employment at the time of leaving the state service to enter military service and who return to state service upon discharge from military service and all employees who left the state service to enter military service who make payments so as to obtain credit for temporary, provisional and probationary service as provided in section 352.02, and all persons included in this subdivision, paragraphs (1), (2) and (3), who were members of the retirement association at the time of leaving the state service to serve in the military forces of the United States or of the State of Minnesota, the period of such military service if such service began between July 1, 1940, and December 31, 1946.

(9) For all persons whose service with the state has terminated and who have been paid for any unused portion of their annual leave allowance under authority of Minnesota Statutes 1945, Section 351.12, credit for the unused portion of their annual leave for which they were so paid, provided no refundment is taken. If application for refundment is made, the last working day, for the purposes of this chapter, is the

date state service terminates, and credit for service ceases on that day.

(10) For members of the retirement association who were officers or employees of the legislature for five or more consecutive sessions thereof prior to July 1, 1929, credit for their service during these legislative sessions.

(11) For members of the retirement association who were officers or employees of the legislature *after* January 1, 1931, who elect to make the payments provided for in section 352.02, subdivision 2 (2), credit for service for which payments are made.

Sec. 3. Minnesota Statutes 1953, Section 352.01, Subdivision 9, is amended to read:

Subd. 9. **Exclusions from allowable service.** (1) "Allowable service" from and after June 30, 1947, includes only those calendar months in which the member received salary or wages from which deductions are made and deposited to the member's credit in the retirement fund, or for which payments are made as provided in sections 352.02 and 352.04.

(2) "Allowable service" does not include credit for service for any periods members may have been on leave of absence or lay-off from July 1, 1933, to July 1, 1939, unless payments equal to the deductions that would have been made from salary had it been received were deposited in the retirement fund within 90 days from the date members returned to the state service, or payments are made as provided in sections 352.02 and 352.04.

(3) "Year of allowable service" means any 12 calendar months not necessarily consecutive, in which a member received compensation from the state, or was eligible to credit for service as provided in this section, and employees in the state teachers colleges and state institutions who are paid on a yearly basis and who may or may not receive compensation in every calendar month in the year, credit for 12 months service each year. Salaries paid for a fractional part of any calendar month shall be considered the compensation for the entire calendar month unless state service has terminated.

(4) No employee or member who after August 14, 1945, re-enters military service or who first enters military service after December 31, 1946, shall be entitled to credit for such military service except as provided by section 192.262.

(5) Any member receiving a leave of absence under section 192.261 subsequent to July 1, 1950, shall upon reinstatement

ment in his office or position be entitled to credit for the period of his active military service in computing the retirement allowance or annuity to which he may be entitled. *No payments in lieu of salary deductions shall be required for such military service prior to July 1, 1955.* If such member has not contributed to retirement fund by deductions from salary for a period of five years after becoming a member as required by section 352.14, he may elect to make payments in lieu of salary deductions for the period of his active military service. If such payment and the deductions taken from his salary by payroll deductions equal the amount of salary deductions for a period of at least five years, it will comply with the requirements of section 352.14, provided the payments in lieu of salary deductions are made before state service terminates. If such payments in lieu of salary deductions are made, they shall be based upon the salary the member was receiving at the time his leave of absence under section 192.261 began and shall bear interest at the rate of four percent per annum compounded annually from the date of reinstatement in his office or position. Provided that if the normal employment of a member on military leave is less than full time, he shall be entitled to pro rata credit for service on the basis of his normal employment only.

Sec. 4. Minnesota Statutes 1953, Section 352.02, Subdivision 2, is amended to read:

Subd. 2. **Employees who may be members.** (1) Any person employed by the State on July 1, 1941, who was a state employe on July 1, 1929, and did not exercise his option to become a member of the association on or before July 1, 1939, shall become a member as of July 1, 1941, the same as though he had on that day become a new state employee. Such persons and any person who has prior to the effective date of this act become a member by reason of being a new state employee shall have the option of electing to become a member as of July 1, 1929, or July 1 of any year between July 1, 1929, and July 1, 1941, beginning with the year between July 1, 1940, and July 1, 1941, and extending retroactively for as many years as the member elects, by making payments in lieu of salary deductions from July 1, 1929, or July 1 of the year elected, at the rate of five percent plus interest at four percent per annum compounded annually, such payments to be based upon the salary, wages or compensation actually received, subject to the \$300 maximum provision, including any allowance for maintenance or housing not in excess of \$50 a month. Nothing in this subdivision shall give any person required to become a member on July 1, 1941, or any person electing to become a member as of July 1, 1929, or a subse-

quent year prior to July 1, 1941, credit for any service prior to July 1, 1929, except as permitted in this subdivision, nor shall any person becoming a member as provided herein have the right to make any payments in lieu of salary deductions, or receive credit for service for any period he was out of the state service or when he was on leave of absence or lay-off from July 1, 1929, to the date of becoming a member. A member who does not elect to obtain credit for the entire period July 1, 1929 to July 1, 1951, in his first election to obtain service credit may make additional elections at any time provided that such elections must be made *before the termination of state service and* prior to applying for a retirement allowance or annuity.

(2) (a) Members of the association employed by the Commissioner of Banks for the liquidating of closed banks during the period July 1, 1929 to July 1, 1943, or any portion of such period; members who became members pursuant to Laws 1945, chapters 38 or 284; members whose compensation was paid in part from federal or county funds during the period July 1, 1929 to July 1, 1947; members whose compensation was paid in whole or in part from federal funds under the State Relief Agency or State Emergency Relief Agency, and members who were officers or employees of the legislature during a legislative session held *after* January 1, 1931, may elect to obtain credit for such service by paying into the retirement fund in lieu of salary deductions at a deduction rate of five percent limited to a salary of \$300 a month, *prior to July 1, 1949 and to \$4800 in the fiscal years ending June 30, 1950 and 1951, respectively, and thereafter at a deduction rate of six percent limited to a salary of \$4800 in any calendar year*, plus interest at four percent per annum compounded annually.

(b) Members who have been temporary or provisional employees subsequent to June 30, 1929, *including periods when receiving workmen's compensation*; members who have been excluded from membership by laws formerly in effect, but who are not now so excluded, and members employed by the United States Employment Service between January 1, 1942 and June 17, 1947, who were returned to state service June 17, 1947, or at any time between January 1, 1942 and June 17, 1947, whether or not they were on leave of absence from state service while so employed; members without credit for service during periods when on leave of absence or receiving workmen's compensation between July 1, 1929, and July 1, 1939, because payments in lieu of salary deductions as the law in effect permitted have not been made, and members not entitled to credit for service while on leave of absence between

July 1, 1939, and July 1, 1947, because of failure of the department to give notice of the leave as the law provided, may obtain credit therefor by paying into the retirement fund at a deduction rate of five percent, limited to a salary of \$300 a month, *prior to July 1, 1949 and to \$4800 in the fiscal years ending June 30, 1950 and 1951, respectively, and thereafter at a deduction rate of six percent limited to a salary of \$4800 in any fiscal year*, based on the salary, wages or compensation received during such employment or, in case of leave when no compensation was received other than workmen's compensation, on the rate of salary, wages or compensation received at the time such leave began, *except that members employed by the United States Employment Service between January 1, 1942, and June 17, 1947, shall have their payments based on salary not including overtime as disclosed by the records of the Division of Employment and Security, all plus interest at four percent per annum compounded annually.*

(c) Members who make payments so as to obtain credit for all service for which they received compensation after June 30, 1929, and persons becoming members after June 30, 1951, may, after five years service as members of the association after last becoming members, obtain credit for all service prior to July 1, 1929, by making payments, in lieu of salary deductions at a deduction rate of five percent based upon the average salary upon which deductions for the retirement fund were based for the three year period beginning with the date of first becoming members of the association. Members who have obtained credit for service between July 1, 1929, and July 1, 1941, but have not taken a refundment shall have their payments based upon the average salary for the three year period beginning July 1, 1929. Interest at the rate of four percent per annum compounded annually shall be paid on such payments beginning July 1, 1951, in the case of present members, and beginning at the expiration of the completion of five years membership for persons becoming members on or after July 1, 1951. Credit for service prior to July 1, 1929, shall not be given a member who has taken one or more refundments until such refundments have been repaid as provided in this chapter.

(d) If records of salary, wages or compensation received are incomplete or unavailable, all members electing to make payments so as to obtain service credit after June 30, 1929, as permitted herein, shall have such payments based upon the average salary upon which deductions for the retirement fund were based for the three year period beginning with the date of first becoming members of the association.

(3) The method of making payments permitted by this subdivision shall be determined at the time of election to make such payment subject to the approval of the Retirement Board. Payments elected to be made must be completed in increments or full *months* in order for the member to be entitled to credit for service between July 1, 1929, and July 1, 1941, or before he may receive a retirement allowance. No such election or payments may be made after the termination of state service. A member whose state service terminates before he has completed the payments he has elected to make shall be given credit for each *month* for which payment has been completed.

Sec. 5. Minnesota Statutes 1953, Section 352.02, Subdivision 3, is amended to read:

Subd. 3. **Employment by municipality, credit for military service.** (1) Any "state employee" who was formerly employed by a political subdivision of the state *after he has obtained credit for all state service which he is permitted to obtain credit for*, may at his option obtain credit for such public service by paying into the state employees retirement fund a sum equal to deductions at a rate of five percent on the basis of the salary received from such political subdivision limited to \$300 a month on earnings prior to July 1, 1949, and to \$4800 in the fiscal years ending June 30, 1949, 1950 and 1951, respectively, and thereafter at a deduction rate of six percent limited to a salary of \$4800 in any fiscal year, plus interest at four percent per annum compounded annually. Subject to approval of the retirement board, payment shall be made in such manner and at such times as determined at the time of election to make payment. Such former public employee may also obtain credit for military service in World War II provided he was on leave from public service and reinstated in his office or position all as provided in section 192.261, by making payments into the state employees retirement fund at a deduction rate of five percent based upon the salary he was receiving as a public employee at the beginning of leave for military service, limited to the applicable maximum, plus interest at four percent per annum compounded annually. Payment must be completed prior to the termination of state service and prior to applying for a retirement benefit. The words "formerly employed by a political subdivision of the state" include teachers in the public schools of Minnesota if credit for such teaching service is not available under a teachers retirement system. *Credit for teaching service applies only to the months of actual teaching service and not to the full calendar year. Credit for teaching service for less than a month may not be obtained.*

(2) Any "state employee" who is entitled to less than five years allowable service *credit and to credit for service* in the Public Employees Retirement Association, and whose combined allowable service as a "state" and as a "public" employee equals five or more years, may obtain credit for his public service as provided in clause (1) of this subdivision, and such combined service will comply with the requirements of section 352.14.

(3) Any "state employee" who is entitled to an annuity or pension from the Public Employees Retirement Fund shall be entitled to a retirement allowance or annuity from the State Employees Retirement Fund provided no portion of the allowable service upon which the retirement allowance or annuity is based is also a requisite in establishing eligibility for benefits or pension from the Public Employees Retirement Fund. If the combined benefits from both retirement funds exceed the benefit which it would have been possible for the employee to obtain from either fund had all service been either as a "state" or a "public" employee, the amount of the benefit from both funds shall be reduced to the highest amount which could have been obtained from either fund. The reduction from each fund shall be in the same proportion as the period of service as a "state employee" and as a "public employee" is to the total period of service upon which both benefits are based.

Sec. 6. Minnesota Statutes 1953, Section 352.02, Subdivision 4, is amended to read:

Subd. 4. **Membership; termination, rejoining, refundment repayment.** Upon acceptance of a refundment of the accumulated deductions standing to the credit of a member in the retirement fund, all existing service credits and all rights and benefits to which the member was entitled prior to the acceptance of such refundment shall terminate and shall not again be restored until the former member acquires not less than five years allowable service credit subsequent to taking his last refundment when he may repay such refundment plus interest at four percent per annum compounded annually. If more than one refundment has been taken, all refundments must be repaid with interest at four percent per annum compounded annually. Such repayment will entitle the member to credit for service covered by salary deductions only. If refundments are repaid, credit for forfeited service prior to July 1, 1929, and for forfeited military service credit may be obtained by making payments at a deduction rate of five percent based on the average salary upon which deductions for the retirement fund were based for the three year period be-

ginning with the date of first becoming a member of the association for service credit prior to July 1, 1929, and on the rate of salary received at the time of entering military service for military service credit *all with interest at four percent per annum compounded annually.*

Sec. 7. Minnesota Statutes 1953, Section 352.04, Subdivision 1, is amended to read:

352.04 Payments into retirement fund. Subdivision 1. **Special fund.** (1) There is hereby created a special fund to be known as the "State Employees Retirement Fund" to be used for the purposes herein specified.

(2) From and after July 1, 1951, members shall pay into the retirement fund six percent of the compensation paid them including compensation for overtime and any allowance for maintenance or housing. Such payments shall be made by deduction thereof from salary. No deductions shall be made from salaries on any amount thereof in excess of \$4800 in any *calendar* year. Any member whose salary or a portion of whose salary is paid from other than state funds shall pay into the retirement fund on the basis of the entire salary received limited to \$4800 in any *calendar* year. The head of each department is hereby required to cause such deductions to be made from the salary of each member of the retirement association on every payroll abstract and to approve one voucher payable to the state treasurer for the aggregate amount so deducted from the salaries covered by the payroll abstract. Deductions from salaries of employees paid direct by any department, institution, or agency of the state shall be made by the officer or employee authorized by law to pay such salaries, and the head of any department or agency having authority to appoint employees who receive fees as their compensation or who receive their compensation on federal payrolls shall collect as the required contribution a sum equal to six percent of the total amount of such fees, and all such deductions from salary and amounts collected shall be remitted by him to the secretary of the association with a statement showing the amount of earnings or fees, and in the case of fees, the number of transactions, and the amount of each of such deductions and collections and the names of the employees on whose account the same have been made.

(3) The state of Minnesota shall make contributions to the retirement fund of such amounts as, together with (a) the contributions made by the members, (b) income on investments, and (c) other income of the fund, shall be sufficient to provide a fund equal to the accumulated contributions of all ac-

tive members, including interest, plus an amount which, after giving effect to annuitants' accumulated deductions, is sufficient to pay the annuities and benefits payable at the end of any year for a period of ten years from the end of such year, provided that any amounts in the fund in excess thereof shall be returned to the general revenue fund and departments according to a method determined by the board as would result in an equitable distribution of such excess as between the general revenue fund and the departments.

(4) Every department, bureau, division, commission, committee, or board which functions as a unit of the state government which pays salaries to its employees from income or revenue derived from its own activities, federal grants, or any other sources and not from an appropriation from the general revenue fund, is hereby authorized, required, and directed to pay into the state employees retirement fund on each payroll abstract and charge as an administrative cost, an amount equal to 60 percent of the total amount deducted from the salaries of such employees for the state employees retirement fund. The moneys necessary to provide for the administrative cost as herein provided are hereby appropriated for such purpose out of any funds derived by such units of government as income or revenue from their own activities, federal grants, or any other sources. For the employees of the State Horticultural Society, the Disabled American Veterans, Department of Minnesota, Veterans of Foreign Wars, Department of Minnesota, and the Minnesota Crop Improvement Association, these units of government shall also pay into the retirement fund a sum equal to 60 percent of the deductions taken from the salaries paid employees from funds other than those appropriated by the state from the general revenue fund.

(5) All such salary deductions and all contributions to the retirement fund and all interest and other income of the association shall be credited to this fund.

(6) The retirement fund shall be disbursed only for the purposes herein provided. The expenses of the association and the retirement allowances and annuities herein provided upon retirement shall be paid only from such fund.

(7) Under the direction of the retirement board the head of each department shall furnish such information and keep such records as the board may require for the discharge of its duties.

(8) The state auditor shall cause to be levied for the year 1949 and each year thereafter upon all taxable property in the state, in the manner in which other taxes are levied, six-

tenths of a mill. The proceeds of such tax are hereby appropriated to the state employees retirement fund.

Sec. 8. Minnesota Statutes 1953, Section 352.04, Subdivision 5, is amended to read:

Subd. 5. Payments in lieu of deductions, limitation.

(1) From and after July 1, 1939, members shall not be entitled to make payments in lieu of salary deductions for periods no salary or wages are received, except as hereinafter provided:

(a) Beginning January 1, 1947, members who are granted a leave of absence from the state service for employment by other units of government, whether federal, state or local, which leaves are incident to the functions of Minnesota state government or any political subdivision thereof, or who are absent to teach preparatory courses for highway engineers, shall continue to pay into the retirement fund during the period of such leave of absence.

(b) Members who were granted leaves of absence for employment by other units of government subsequent to June 30, 1939, and prior to January 1, 1947, may at their option make payments in lieu of salary deductions for the period of such leave or leaves. *Any payments made under (a) and (b) hereof subsequent to April 1, 1955 shall be based upon the salary received from such other unit of government*, subject to the maximum limitation. The payments provided in (a) hereof may be made either currently while on leave or within one year from the date of returning to the state service. The payments provided for in (b) hereof subject to the approval of the retirement board shall be made in such manner and at such times as determined at the time of electing to make payment. Upon making the payments provided for in (a) or (b) hereof members shall have credit for service on the records of the Retirement Association the same as though they had continued to receive compensation from the state. Any payments provided for in this subdivision which are not paid monthly shall be paid with interest at four percent per annum compounded annually and any payments which are not made before the expiration of state service cannot be made thereafter and no credit for service shall be allowed for any part of such leave for which payment has not been made as herein provided.

Sec. 9. Minnesota Statutes 1953, Section 352.09, Subdivision 1, is amended to read:

352.09 Refundments. Subdivision 1. Member sepa-

rating from state service, application for annuity. Any person, *who ceases to be a "state employee" whether by resignation, lay-off or otherwise* and before applying for a retirement allowance or annuity, *may not less than ninety days thereafter provided he has not again become a "state employee" within such period* make application on a form furnished by the retirement board for the return of the full amount of his accumulated deductions. *The form furnished by the retirement board shall include certification of the fact of his separation from state service by the head of the department where the former member was last employed, or, proof of separation from state service may be accepted on a report of personnel changes form when signed by the head of the department or a person authorized by him so to do, and such application and certification or such report of personnel changes shall be conclusive proof of the fact of the member's separation from the state service.* Any such person who has been a member of the association for not less than five years may, in lieu of a refundment, leave the sum to his credit in the retirement fund and when eligible, receive a retirement allowance in accordance with the law in effect at the date state service terminated, *except that he may not elect to receive a revised annuity prior to the time of actual retirement.* Such allowance shall begin on the first day of the calendar month in which the application for it is acted upon by the retirement board which shall act within 60 days from the filing of the application for the allowance.

Sec. 10 Minnesota Statutes 1953, Section 352.09, Subdivision 2, is amended to read:

Subd. 2. **Certificates of deferred annuity, surrender.**

(1) Former members who hold numbered certificates of deferred annuity and who again become members of the retirement association shall surrender such certificates and shall be entitled to full credit for the service covered by the surrender certificates. Former members who hold numbered certificates of deferred annuity may surrender them at any time prior to receiving an annuity and receive a refundment of their accumulated deductions upon application.

(2) *Membership in the retirement association of any person shall terminate upon his ceasing to be a "state employee" whether by resignation, lay-off or otherwise.*

Sec. 11. Minnesota Statutes 1953, Section 352.103, Subdivision 1, is amended to read:

352.103 **Ex-member, returns to state employment.**
Subdivision 1. Whenever a *former member who has with-*

drawn his accumulated deductions shall re-enter employment entitling him to membership in the state employees retirement association, he shall become a member of the association on the same basis as a new employee and shall not be entitled to credit for any former service, nor shall the annuity rights forfeited at the time of taking a refundment be restored, except as provided in this chapter.

Sec. 12. Minnesota Statutes 1953, Section 352.103, Subdivision 2, is amended to read:

Subd. 2. Should any former member who has received an annuity or retirement allowance again *be employed in any position in either the classified or unclassified services of the state for a period of more than 120 days in any calendar year* his annuity or retirement allowance shall cease during the period of employment but no deductions shall be made from his earnings for the retirement fund. Upon the termination of his employment the annuity or retirement allowance shall be resumed and there shall be no change in the amount of such annuity or retirement allowance because of such employment.

Sec. 13. Minnesota Statutes 1953, Section 352.11, Subdivision 1, is amended to read:

352.11 Retirement annuity. Subdivision 1. (1) After separation from state service any person who has attained the age of at least 65 years and who is entitled to credit for not less than five years allowable service as a member of the association, or any person who has attained the age of at least 58 years and who is entitled to credit for not less than 35 years allowable service of which at least ten years are as a member of the association, is entitled upon application to a retirement allowance but retirement is not compulsory prior to attaining the age of 70.

(2) After five but less than ten years of allowable service credit as a member of the association the amount of the retirement allowance hereunder shall be equal to one-sixtieth of the average salary upon which deductions for the retirement fund have been based for each full year of allowable service as a member of the association *and pro rata for each additional full calendar month of such service.*

(3) After not less than ten years allowable service credit as a member of the association the amount of the retirement allowance hereunder shall be equal to one-sixtieth of the average salary upon which deductions for the retirement fund have been based during any five consecutive salary years when salary was highest, for each full year of allowable serv-

ice and pro rata for each additional full calendar month, plus a service allowance of five dollars per year for each full year of allowable service. The total monthly retirement allowance for any member shall not exceed eighty percent of the average monthly salary upon which salary deductions were based during any five consecutive salary years when salary was highest, nor shall any monthly retirement allowance exceed \$200 a month.

(4) Any member having credit for at least 20 years allowable service is eligible to apply for a retirement allowance at any time after attaining the age of 58 years, but in the event of retirement before attaining the age of 65, the retirement allowance shall be computed as in clause (3) of this subdivision, but shall not exceed \$200 a month, and then reduced at the rate of one-quarter of one percent for each month that the member is under the age of 65 years. The retirement allowance for any member entitled to 35 years allowable service credit shall not be subject to such reduction.

(5) With the condition that this option shall not become effective in the event a member dies within 30 days after filing an application for a retirement allowance or before the first payment of his retirement allowance is due, or within 30 days after filing his election to take a revised annuity as herein provided, a member may elect at the time of retirement or at any time after a member qualifies for a retirement allowance by fulfilling the prescribed age and service conditions, to take a lesser retirement allowance payable during his lifetime with the provision that upon his death his surviving spouse shall receive a reversionary annuity as may be provided, according to the actuarial tables in use by the fund, from the remainder of his equity as determined at the time of retirement or at the time of election to take a revised annuity. The reversionary annuity resulting from such election shall be not less than \$120 per year, nor more than the amount of the reduced retirement allowance to which the member may be entitled under his election. The amount of the reversionary annuity shall be determined by the board in accordance with the written direction of the member. Any such reversionary annuity shall begin as of the day following the date of death of the former member receiving a retirement allowance or, in the case of a member in active service who has elected to take a revised annuity, on the first day of the calendar month following the date of the member's death, provided that if the spouse does not survive the member at the date of his death, no reversionary annuity shall be payable under the provisions hereof, nor shall any change be permitted by the board in the written direction filed with the board after the retirement allow-

ance has been granted and has become effective. *A member who makes an election to take a revised annuity before he retires may at the time of retirement make another election as to whether he will or will not take a revised annuity.* If the member and surviving spouse or either or both have not received in the form of an annuity prior to the death of the last survivor thereof a total equal to or in excess of the amount of the accumulated contributions to the credit of the member at the date of *death occurring prior to retirement, or at the date of retirement if death occurs after retirement,* a refund of the remainder of such accumulated contributions shall be payable to the estate of the member or to such person as he shall have nominated by written direction and filed with the *retirement board.*

(6) In lieu of the retirement allowances otherwise provided for in this section any member who on June 30, 1949, is entitled to credit for not less than ten years allowable service as a member of the retirement association, may elect to receive, when otherwise eligible, an annuity as provided for by Minnesota Statutes 1945, Chapter 352, as amended by Laws 1947, Chapter 631. "Allowable Service" under this paragraph shall include periods of service for which payments have been or may be made under Minnesota Statutes 1945, Section 352.02, as amended by Laws 1947, Chapter 631, Section 8.

(7) All retirement allowances granted hereunder shall be for the remainder of the person's life.

Sec. 14. Minnesota Statutes 1953, Section 352.11, Subdivision 3, is amended to read:

Subd. 3. Provided application for the retirement allowance is *received at the office of the association* within 30 days from the date salary ceases, the first payment shall be prorated for any fraction of a calendar month elapsing after the date salary ceases, but no retirement allowance shall commence prior to the date through which the member is paid for any accumulated leave, whether payment is made in a lump sum or otherwise. In no event shall any retirement allowance be retroactive for more than three months from the date the application for such allowance is filed with the retirement board as provided herein. A retirement allowance shall *be paid to the date of death unless* the retired employee in his lifetime had elected that his surviving spouse should receive a reversionary annuity, such reversionary annuity to cease with the last payment received by the surviving spouse in his or her lifetime.

352.113 Disability retirement annuity. *Subdivision 1.*

Any member who is less than 65 years of age, who shall become totally and permanently disabled for service, either mentally or physically, regardless of how or where the disability shall have occurred, shall be entitled to a disability retirement annuity provided such member shall have rendered at least ten years of service after becoming a member of the retirement association. *Provided further that if his state service has terminated and he has again become a member, at least five years of the required ten years of membership service credit must have been rendered after last becoming a member of the association.* A total and permanent disability for the purposes of this act is one which results from some impairment of mind or body that substantially precludes a person from performing with reasonable regularity the substantial and material parts of any gainful work or occupation that he would be competent to perform were it not for that impairment, whose impairment is founded upon conditions which render it reasonably certain that it will continue indefinitely.

Subd. 2 Such annuity shall begin to accrue upon the expiration of 90 days following the commencement of disability unless the member is receiving salary for either annual or sick leave for a period of more than 90 days in which event payment shall accrue from the date salary ceases, provided that if written application for such annuity shall not have been filed with the board prior to the expiration of 90 days and within the last 30 days of such period, the annuity shall begin to accrue as of the day 30 days prior to the receipt of such application, unless salary is being received for either annual or sick leave in which event payment shall accrue from the date salary ceases.

Subd. 3. A member shall be considered totally and permanently disabled after the board shall have received written certification by at least two licensed and practicing physicians selected by the board, that the member is totally and likely to be permanently disabled for the further performance of the duties of any assigned position in the service of the employer, and upon consideration of the report of such physicians and such other evidence as shall have been presented to it by the member or others interested therein, the board finds the member to be totally and permanently disabled, it shall grant him a disability allowance upon written certification from the employer that the member has been separated from the service of the employer because of total disability of such nature as to reasonably prevent further service for the employer, and as a consequence is not entitled to compensation from the employer. The fact an employee is placed on leave of

absence without compensation because of disability shall not bar him from receiving a disability allowance.

Subd. 4. The amount of disability retirement annuity shall be equal to one-sixtieth of the average salary upon which deductions for the retirement fund have been based during any five consecutive salary years when salary was highest, for each full year of allowable service, subject to a minimum of twenty-five percent of such average salary and a maximum of fifty percent of such average salary or \$125 a month whichever shall be the lesser.

Subd. 5. The disability annuity herein provided shall be subject to reduction by any amounts received or receivable by a member from the employer under applicable Workmen's Compensation Laws.

Subd. 6. At least once each year during the first five years following the allowance of a disability annuity to any member, and at least once in every three-year period thereafter, the board shall require any disability annuitant to undergo a medical examination to be made at the place of residence of said annuitant, or at any other place mutually agreed upon, by a physician or physicians engaged by the board. If any examination indicates that the annuitant is no longer physically or mentally incapacitated for service, or that he is engaged or is able to engage in a gainful occupation, payments of the disability annuity by the fund shall be discontinued as soon as he is reinstated to the payroll following sick leave, but in no case shall payment be made for more than 60 days after physicians engaged by the board find the annuitant is no longer incapacitated for service.

Subd. 7. Should such annuitant become able to resume a gainful occupation and his earnings therefrom be less than his salary at the date of retirement or the salary currently paid for similar positions, whichever is lower, the board shall continue the disability allowance in an amount which when added to his earnings from a gainful occupation shall not exceed his salary at the date of retirement or the salary currently paid for similar positions whichever is lower.

Subd. 8. Should any disability annuitant refuse to submit to a medical examination as herein provided, payments by the fund shall be discontinued until his withdrawal of such refusal, and should his refusal continue for one year, all rights of the member in any disability annuity shall be revoked by the board.

Subd. 9. Any disability annuitant who is restored to

active service shall have deductions taken for the retirement fund and upon subsequent retirement have his retirement allowance based upon all allowable service including that upon which the disability allowance was based.

Subd. 10. Any member who is entitled to not less than 35 years allowable service credit who had attained the age of 53 years at the date of retirement on a disability allowance, who continues to receive such disability allowance through the calendar month in which he attains the age of 58 years, shall be entitled to a retirement allowance beginning on the first day of the calendar month following that in which he attained the age of 58 years, provided any leave of absence from state employment has been terminated. No person shall be entitled to receive a disability allowance and a retirement allowance at the same time. Such retirement allowance shall be computed in the same manner as a retirement allowance would have been computed after not less than 35 years allowable service if he had been otherwise eligible for a retirement allowance.

Sec. 16. Minnesota Statutes 1953, Section 352.12, Subdivision 3, is amended to read:

Subd. 3. Upon the death of a *former* member who is receiving an annuity or a retirement allowance, unless a reversionary annuity is payable under the provisions of section 352.11, subdivision 1, clause (5), there shall be paid to his estate or to such person as he shall have nominated by written direction and filed with the board, consisting of the excess, if any, of the accumulated deductions of the *former* member at the time of retirement over the total amount of all annuities or retirement allowance payments received by the retired member prior to his death.

Sec. 17. Minnesota Statutes 1953, Section 352.12, Subdivision 4, is amended to read:

Subd. 4. If a member or *former member* dies without having designated a beneficiary or if the beneficiary should die before making application for refundment, and if there is no surviving spouse, and if the legal representative of such member or *former member* does not apply for refundment within five years from the date of death of the member or former member, the accumulated deductions to his credit at the time of death shall be credited to and become a part of the retirement fund.

Sec. 18. Minnesota Statutes 1953, Section 352.12, is amended by adding a new subdivision to read:

Subd. 6. The beneficiary or surviving spouse of any

deceased member or former member entitled to receive a refundment as provided in this section shall have the option of having the amount due him paid in monthly instalments in such amounts as may be agreed upon with the State Employees Retirement Board.

Approved March 29, 1955.

CHAPTER 240—S. F. 581

An act relating to the sale of seeds; amending Minnesota Statutes 1953, Sections 21.47, 21.48.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Minnesota Statutes 1953, Section 21.47, is amended by adding a subdivision to read:

[Subd. 20] **Treated.** *“Treated” means a process where any seed has received an application of a substance which is designed to reduce, control or repel certain disease organisms, insects or other pests attacking such seeds or seedlings growing therefrom.*

Sec. 2. Minnesota Statutes 1953, Section 21.48, is amended to read:

21.48 **Labels, agricultural seed containers.** Each container of agricultural seed which is sold, offered for sale, or exposed for sale, or transported within this state for sowing purposes shall bear thereon or have attached thereto in a conspicuous place a plainly written or printed label or tag in the English language, giving the following information, which statement shall not be modified or denied in the labeling or on another label attached to the container:

(a) *For all seeds named and treated as defined in this Act for which a separate label may be used:*

(1) *A word or statement indicating that the seed has been treated.*

(2) *The commonly accepted, coined, chemical or abbreviated chemical (generic) name of the applied substance.*

(3) *If the substance in the amount present with the seed is harmful to human or other vertebrate animals a caution statement such as “Do not use for food or feed or oil purposes.” The caution for mercurials and similarly toxic substances shall be a poison statement or label.*