

## CHAPTER 355 \*

## SOCIAL SECURITY COVERAGE

Sec.		Sec.	
	STATE AND LOCAL GOVERNMENT EMPLOYEES	355.42	Referendum
355.01	Definitions	355.43	Notice of referendum
355.02	Agreements	355.44	Certification by governor
355.03	Employees, contributions	355.45	State agency to make agreement with secretary of health, education and welfare
355.04	Contribution fund	355.46	Retroactive effect
355.05	Rules and regulations	355.47	Retroactive effect
355.06	Revolving fund	355.48	Employee contributions, deductions from wages
355.07	Declaration of policy	355.49	Reimbursement of administrative costs of state agency
355.08	Application of social security act	355.50	State employees, appropriation
	MUNICIPAL HOUSING AND REDEVELOPMENT AUTHORITY EMPLOYEES	355.51	Delinquent payments, collection
355.11	Definitions	355.52	Obligations of political subdivision, payment
355.12	Agreements	355.53	Limitation on referenda
355.13	Employees, contributions	355.54	Amendment of federal social security act, effect
355.14	Reimbursements by employing units	355.55	Restoration to membership in retirement association fund
355.15	Reports	355.56	Division of teachers retirement association
355.16	Costs defrayed from proceeds of special benefit taxes	355.57	Transfer of members
355.17	Modification of agreement, retroactive effect	355.58	Persons in positions covered by retirement system
	CERTAIN TEACHERS EMPLOYED IN CERTAIN CITIES OF THE FIRST CLASS	355.59	Certification by governor
355.21	Definitions	355.60	Agreements with federal agency
355.22	Teachers to be deemed separate unit		PUBLIC HOSPITAL EMPLOYEES
355.23	Duluth referendum	355.71	Definitions
355.24	Retroactive procedure	355.72	Separate system for hospital employees
355.25	Costs of administration	355.73	Referendum
355.26	Reports to state agency	355.74	Notice of referendum
355.27	Revenues, may be used, tax levy	355.75	Certification by governor
	STATE AND LOCAL GOVERNMENT EMPLOYEES NOT COVERED BY ANY STATE RETIREMENT SYSTEM	355.76	State-federal agreement
355.31	Definitions	355.77	Retroactive employer-employee contributions
355.32	Duties of state agency	355.78	Current employer-employee contributions
355.33	Payments into contribution fund	355.79	Administrative costs of state agency
355.34	Reports	355.80	Obligations of political subdivision
355.35	Tax levies to pay obligations	355.81	Delinquent payments
355.36	Payments into contribution fund and state agency revolving fund	355.82	Scope and application
355.37	Reimbursement of costs of administering state agency	355.83	Contributions by employer and employees
355.38	Declaration of policy	355.84	Retirement benefits
355.39	Effective date	355.85	Optional retirement annuities
	REFERENDA RELATING TO SOCIAL SECURITY COVERAGE	355.86	Retirement before becoming eligible for social security
355.41	Definitions	355.87	Payments after death
		355.88	Disability benefits
		355.89	Military service credit

## STATE AND LOCAL GOVERNMENT EMPLOYEES

355.01 M.S. 1957 [Renumbered 3.29, subdivision 1]

355.01 **DEFINITIONS.** Subdivision 1. For the purposes of chapter 355, as amended, the terms defined in this section have the meanings ascribed to them herein.

Subd. 2. The term "wages" means all remuneration for employment as defined herein, including the cash value of all remuneration paid in any medium other than cash, except that such term shall not include that part of such remuneration which, even if it were for "employment" within the meaning of the Federal Insurance Contributions Act, would not constitute "wages" within the meaning of that act.

Subd. 3. The term "employment" means any service performed by an employee in the employ of the state, or any political subdivision thereof, for such employer, except (1) service which in the absence of an agreement entered into under chapter 355, as amended, would constitute "employment" as defined in the social security act; or (2) service which under the social security act may not be included in an agreement between the state and the secretary of health, education, and welfare entered into under chapter 355, as amended. Service which under the social security act may be included in an agreement only upon certification by the governor in accordance with section 218(d) (3) of that act shall be included in

\*Minnesota Statutes 1957, Chapter 355, COMMISSION ON INTERSTATE COOPERATION, renumbered Section 3.29.

the term "employment" if and when the governor issues, with respect to such service, a certificate to the secretary of health, education, and welfare.

Subd. 4. The term "employee" includes an officer of a state or political subdivision thereof.

Subd. 5. The term "state agency" means the Commissioner of Administration.

Subd. 6. The term "Secretary of Health, Education, and Welfare" includes any individual to whom the Secretary of Health, Education, and Welfare has delegated any functions under the Social Security Act with respect to coverage under such act of employees of states and their political subdivisions.

Subd. 7. The term "political subdivision" includes an instrumentality of a state, of one or more of its political subdivisions, or of a state and one or more of its political subdivisions, but only if such instrumentality is a juristic entity which is legally separate and distinct from the state or subdivision and only if its employees are not by virtue of their relation to such juristic entity employees of the state or subdivision.

Subd. 8. The term "Social Security Act" means the Act of Congress approved August 14, 1935, chapter 531, 49 Stat. 620, officially cited as the "Social Security Act," as such act has been and may from time to time be amended (including regulations and requirements issued pursuant thereto).

Subd. 9. The term "Federal Insurance Contributions Act" means subchapters A and B of chapter 21 of the Federal Internal Revenue Code of 1954, as such Code has been and may from time to time be amended; and the term "employee tax" means the tax imposed by section 3101 of such Code of 1954.

[1955 c 665 s 2; 1959 c 558 s 1, 2]

**355.02 M.S. 1957 [Renumbered 3.29, subd. 2]**

**355.02 AGREEMENTS.** Subdivision 1. The state agency, with the approval of the governor, is hereby authorized to enter into an agreement on behalf of the state with the secretary of health, education, and welfare, consistent with the terms and provisions of chapter 355, as amended, for the purpose of extending the benefits of the federal old age and survivors insurance system to employees of the state or any political subdivision thereof with respect to services specified in such agreement which constitute "employment," whenever so specifically authorized by the statutory provisions of this state pertaining to any coverage group of such employees to which the agreement may become applicable under the social security act. Pursuant to such specific authorization the agreement may contain such provisions relating to coverage, benefits, contributions, effective date, modification and termination of the agreement, administration, and other appropriate provisions as the state agency and the secretary of health, education, and welfare shall agree upon, but, except as may be otherwise required by or under the social security act as to the services to be covered, such agreement shall provide in effect that

(1) Benefits will be provided for employees whose services are covered by the agreement (and their dependents and survivors) on the same basis as though such services constituted employment within the meaning of Title II of the social security act;

(2) The state will pay to the secretary of the treasury, at such time or times as may be prescribed under the social security act, contributions with respect to wages, equal to the sum of taxes which would be imposed by the federal insurance contributions act if the services covered by the agreement constituted employment within the meaning of that act;

(3) Such agreement shall be effective with respect to services in employment covered by the agreement performed after a date specified therein but in no event may it be effective with respect to any such services performed prior to the first day of the calendar year in which such agreement is entered into or in which the modification of the agreement making it applicable to such services, is entered into except that an agreement or modification entered into prior to January 1, 1960, may be effective with respect to services performed after December 31, 1955, or after a later date specified in such agreement or modification;

(4) All services which constitute employment and are performed in the employ of the state or any of its political subdivisions by employees thereof, may be covered by such agreement whenever so specifically authorized by the statutory provisions of this state pertaining to any coverage group of such employees to which the agreement may become applicable under the social security act.

Subd. 2. Any instrumentality jointly created by this state and any other state or states is hereby authorized, upon the granting of like authority by such other state or states, (1) to enter into an agreement with the secretary of health, education, and welfare whereby the benefits of the federal old age and survivors insurance system shall be extended to employees of such instrumentality, (2) to require its employees to pay (and for that purpose to deduct from their wages) contributions equal to the amounts which they would be required to pay under section 355.03, subdivision 1, if they were covered by an agreement made pursuant to subdivision 1, and (3) to make payments to the secretary of the treasury in accordance with such agreement, including payments from its own funds, and otherwise to comply with such agreements. Such agreements shall, to the extent practicable, be consistent with the terms and provisions of subdivision 1 and other provisions of chapter 355, as amended.

[1955 c 665 s 3; 1959 c 558 s 3, 4]

**355.03 M.S. 1957** [Renumbered 3.29, subd. 3]

**355.03 EMPLOYEES, CONTRIBUTIONS.** Subdivision 1. Every employee of the state, or any of its political subdivisions, whose services are covered by the agreement entered into under section 355.02 shall be required to pay for the period of such coverage, into the contribution fund established by section 355.04, contributions, with respect to wages, equal to the amount of the employee's tax which would be imposed by the federal insurance contributions act if such services constituted employment within the meaning of that act. Such liability shall arise in consideration of the employee's retention in the service of the state, or any of its political subdivisions, or his entry upon such service, after the enactment of chapter 355, as amended.

Subd. 2. The contribution imposed by this section shall be collected by deducting the amount of the contribution from wages as and when paid, but failure to make such deduction shall not relieve the employee from liability for such contribution.

Subd. 3. If more or less than the correct amount of the contribution imposed by this section is paid or deducted with respect to any remuneration, proper adjustments, or refund if adjustment is impracticable, shall be made, without interest, in such manner and at such times as the state agency shall prescribe.

[1955 c 665 s 4; 1959 c 558 s 5]

**355.04 M.S. 1957** [Renumbered 3.29, subd. 4]

**355.04 CONTRIBUTION FUND.** Subdivision 1. There is hereby established a special fund to be known as the contribution fund. Such fund shall consist of and there shall be deposited in such fund: (1) all contributions, interest, and penalties collected; (2) all moneys appropriated thereto; (3) any property or securities and earnings thereof acquired through the use of moneys belonging to the fund; (4) interest earned upon any moneys in the fund; and (5) all sums recovered upon the bond of the custodian or otherwise for losses sustained by the fund and all other moneys received for the fund from any other source. All moneys in the fund shall be mingled and undivided. Subject to the provisions of chapter 355, as amended, the state agency is vested with full power, authority and jurisdiction over the fund, including all moneys and property or securities belonging thereto, and may perform any and all acts whether or not specifically designated, which are necessary to the administration thereof and are consistent with the provisions of chapter 355, as amended.

Subd. 2. The contribution fund shall be established and held separate and apart from any other funds or moneys of the state and shall be used and administered exclusively for the purpose of chapter 355, as amended. Withdrawals from such fund shall be made for, and solely for (A) payment of amounts required to be paid to the secretary of the treasury pursuant to an agreement entered into under section 355.02; (B) payment of refunds provided for in section 355.03, subdivision 3, (C) refunds or overpayments, not otherwise adjustable, made by the state or any political subdivision or instrumentality thereof, and (D) for investment as provided in subdivision 4.

Subd. 3. From the contribution fund the custodian of the fund shall pay to the secretary of the treasury such amounts and at such time or times as may be directed by the state agency in accordance with any agreement entered into under section 355.02 and the Social Security Act, which amounts are hereby appropriated from the contribution fund for the purpose of making such payments.

Subd. 4. The state agency shall, from time to time, certify to the state board of investment for investment such portions of the contribution fund as in its judgment may not be required for such immediate use. The state board of investment shall thereupon invest the sum so certified in such securities as are duly authorized legal investments for savings banks and trust companies, and shall sell any such securities upon request of the state agency.

Subd. 5. The treasurer of the state shall be ex-officio treasurer and custodian of the contribution fund and shall administer such fund in accordance with the provisions of chapter 355, as amended, and the directions of the state agency and shall pay all warrants drawn upon it in accordance with the provisions of this section and with such regulations as the state agency may prescribe pursuant thereto.

[1955 c 665 s 5; 1959 c 558 s 6-8]

**355.05** M.S. 1957 [Renumbered 3.29, subd. 5]

**355.05 RULES AND REGULATIONS.** The state agency shall make and publish such rules and regulations, not inconsistent with the provisions of chapter 355, as amended, as it finds necessary or appropriate to the efficient administration of the functions with which it is charged under chapter 355, as amended.

[1955 c 665 s 6; 1959 c 558 s 9]

**355.06** M.S. 1957 [Renumbered 3.29, subd. 6]

**355.06 REVOLVING FUND.** A revolving fund is hereby created to be known as the state agency revolving fund for the purpose of paying the costs of the administration of the state agency and to be used by it solely for that purpose. There shall be paid into such fund all amounts received in reimbursement of the state agency's costs of administration in carrying out the provisions of chapter 355, as amended, and such reimbursements are hereby appropriated to said revolving fund.

[1955 c 665 s 7; 1959 c 558 s 10]

**355.07** M.S. 1957 [Renumbered 3.29, subd. 7]

**355.07 DECLARATION OF POLICY.** In order to extend to employees of the state and its political subdivisions and to the dependents and survivors of such employees, the basic protection accorded to others by the old age and survivors insurance system embodied in the social security act, it is hereby declared to be the policy of the legislature, subject to the limitations of chapter 355, as amended, that such steps be taken as to provide such protection to employees of the state and its political subdivisions on as broad a basis as is authorized by the legislature in the future and is permitted under the social security act. It is also the policy of the legislature that the protection afforded employees in positions covered by a retirement system on the date an agreement under chapter 355, as amended, is made applicable to service performed in such positions, or receiving periodic benefits under such retirement system at such time, will not be impaired as a result of making the agreement so applicable or as a result of legislative enactment in anticipation thereof when combined with the benefits accorded such employee by the social security act. To this end the agreement referred to in section 355.02 shall not be made applicable to any service performed in any position covered by a retirement system unless a referendum is first held by secret ballot in which a majority of "eligible employees," as defined in section 218(d) (3) of the social security act vote in favor thereof, or unless a retirement system is divided in two divisions or parts, one of which is composed of positions of members of such system who desire coverage under section 218(d) (3) of the social security act, in accordance with subsections (6) and (7) thereof. Nothing in any provision of chapter 355, as amended, shall authorize the extension of the insurance system established by chapter 355, as amended, to service in any policeman's or fireman's position or in any position covered by a retirement system applicable exclusively to positions in one or more law enforcement or fire fighting units, agencies or departments. Nothing in this section shall authorize the public employees retirement association to be divided.

[1955 c 665 s 1; 1959 c 558 s 11]

**355.08** M.S. 1957 [Renumbered 3.29, subd. 8]

**355.08 APPLICATION OF SOCIAL SECURITY ACT.** The provisions of the social security act, and all acts amendatory thereof, shall govern relative to employees of the state and political subdivisions subject to Minnesota Statutes, Chapter 355, as amended, anything in said chapter to the contrary notwithstanding.

[1959 c 558 s 12]

**355.09** [Renumbered 3.29, subd. 9]

**355.10** [Renumbered 3.29, subd. 10]

## MUNICIPAL HOUSING AND REDEVELOPMENT AUTHORITY EMPLOYEES

**355.11** M.S. 1957 [Renumbered 3.29, subd. 11]

**355.11 DEFINITIONS.** Subdivision 1. For the purposes of sections 355.11 to 355.16 the terms defined in this section shall have the meanings ascribed to them.

Subd. 2. The term "enabling act" means the act entitled "An act to provide for the coverage of certain officers and employees of the state and local governments under the old age and survivors insurance provisions of Title II of the Federal Social Security Act, as amended, and appropriating money therefor."

Subd. 3. The terms "social security act," "state agency," "wages," "contribution fund," and "Federal Insurance Contributions Act" mean as defined in said "enabling act."

Subd. 4. The term "employee" means any employee, other than elected officials, of municipal housing and redevelopment authorities or of any soil conservation district or any port authority organized pursuant to Minnesota Statutes, Chapter 458, or any hospital district organized or reorganized pursuant to legislation enacted by the 1959 legislature.

Subd. 5. "Employing unit" means any municipal housing and redevelopment authorities organized pursuant to Minnesota Statutes, Sections 462.415 to 462.711 and any soil conservation district organized pursuant to Minnesota Statutes, Chapter 40 or any port authority organized pursuant to Minnesota Statutes, Chapter 458, or any hospital district organized or reorganized pursuant to legislation enacted by the 1959 legislature.

[1955 c 684 s 1; 1959 c 633 s 1, 2]

**355.12 AGREEMENTS.** The state agency, with the approval of the governor, is hereby authorized to enter into an agreement with the secretary of health, education, and welfare, or to modify any such agreement previously made to obtain the benefits of the federal old age survivors insurance system in respect to services performed by employees of any employing unit.

[1955 c 684 s 2; 1959 c 633 s 3]

**355.13 EMPLOYEES, CONTRIBUTIONS.** Subdivision 1. Effective retroactively with respect to services performed after December 31, 1954, by its employees who are such on the date of the agreement or modification, each and every employing unit shall pay into the contribution fund contributions with respect to wages equal to the sum of the taxes which would be imposed by the federal insurance contribution act if the services covered by the agreement constituted employment within the meaning of that act.

Subd. 2. Effective retroactively with respect to services performed after December 31, 1954, by its employees who are such on the date of the agreement or modification, each and every employing unit is authorized, in consideration of the employee's retention in, or entry upon, employment after enactment of sections 355.11 to 355.16, to impose upon each such employee a contribution with respect to his wages not exceeding the amount of the employee tax which would be imposed by the federal insurance contribution act if such services constituted employment within the meaning of that act, and to deduct the amount of such contribution from his wages as and when paid. Contributions so collected shall be paid into the contribution fund in partial discharge of the liability of each and every employing unit in respect thereto. Failure to deduct such contribution shall not relieve the employee or the employing unit of liability therefor.

Subd. 3. Delinquent payments due under this section, with interest at the rate of six percent per annum, may be recovered by action in a court of competent jurisdiction against each and every employing unit liable therefor or may, at the request of the state agency, be deducted from any other moneys payable to such employing unit by any department or agency of the state.

[1955 c 684 s 3; 1959 c 633 s 4]

**355.14 REIMBURSEMENTS BY EMPLOYING UNITS.** Each and every employing unit shall reimburse the state agency for its pro rata share of the cost of the administration of said agency in accordance with the rules and regulations of the state agency pertaining thereto. Such reimbursements shall be paid into the state agency revolving fund.

[1955 c 684 s 4; 1959 c 633 s 5]

**355.15 REPORTS.** Each and every employing unit shall make such reports in such form and containing such information as the state agency may from time to time require, and comply with such provisions as the state agency or the secretary of health, education and welfare may from time to time find necessary to assure the correctness and verification of such reports.

[1955 c 684 s 5; 1959 c 633 s 6]

**355.16 COSTS DEFRAIDED FROM PROCEEDS OF SPECIAL BENEFIT TAXES.** The proceeds of the special benefit taxes authorized to be levied for redevelopment purposes under section 462.545, subdivision 6, may be used to defray all or part of the costs incurred by any housing and redevelopment authority under the provisions of sections 355.11 to 355.16.

[1955 c 684 s 6]

**355.17 MODIFICATION OF AGREEMENT, RETROACTIVE EFFECT.** The state agency, upon consultation with individual employing units and with the approval of the governor, may modify the agreement between the state and the secretary of health, education and welfare with respect to employees of any such employing unit, separately, so as to provide social security coverage therefor retroactive to any date subsequent to December 31, 1955.

[1959 c 633 s 7]

CERTAIN TEACHERS EMPLOYED IN CERTAIN CITIES OF THE FIRST CLASS

**355.21 DEFINITIONS.** Subdivision 1. For the purposes of sections 355.21 to 355.27 the terms defined in this section shall have the meanings ascribed to them.

Subd. 2. The term "enabling act" means Laws 1955, Chapter 665, entitled "An act to provide for the coverage of certain officers and employees of the state and local governments under the old age and survivors insurance provisions of Title II of the Federal Social Security Act, as amended, and appropriating moneys therefor."

Subd. 3. The terms "social security act," "state agency," "employment," "wages," "contribution fund," "Federal Insurance Contributions Act," "political subdivision," and "state agency," mean as defined in said "enabling act."

Subd. 4. The term "teacher" means all employees of political subdivisions who hold positions covered by the teachers retirement fund associations established under the provisions of Minnesota Statutes, Sections 354.15 to 354.23, as amended, in cities of the first class situated in counties having an area of over 5,000 square miles.

Subd. 5. The term "part time position" means a position which ordinarily does not require the actual performance of duty more than 90 days in each year.

[1957 c 650 s 1]

**355.22 TEACHERS TO BE DEEMED SEPARATE UNIT.** Pursuant to section 218(d) (6) of the Social Security Act, every teachers retirement fund association established under the provisions of Minnesota Statutes, Sections 354.15 to 354.23, as amended, shall be deemed to constitute a separate retirement system.

[1957 c 650 s 2]

**355.23 DULUTH REFERENDUM.** Subdivision 1. Upon the request of the governing body of any teachers retirement fund association and the board of education or upon the petition of at least ten percent of the active members of any such association and the board of education in a city of the first class situated in counties having an area of over 5,000 square miles, the governor shall be empowered to authorize a referendum to be held at a date to be set by him, and to designate any agency or individual to supervise its conduct, in accordance with the requirements of section 218(d) (3) of the Social Security Act, on the question of whether service by teachers in positions covered by such teachers retirement fund association should be excluded from or included in an agreement under the enabling act. The notice of referendum required by section 218(d) (3) (C) of the Social Security Act to be given to teachers shall contain or shall be accompanied by a statement, in such form and such detail as the agency or individual designated to supervise the referendum shall deem necessary and sufficient, to inform the teachers of the rights which will accrue to them and their dependents and survivors, and the liabilities to which they will be subject, if their services are included in an agreement under the enabling act, and the statement shall contain in such form and such detail as deemed necessary the plan proposed for the integration, supplementation or combination

of the teachers retirement fund association and social security. The cost of any referendum hereby authorized shall be paid by the teachers retirement fund association in reference to which the referendum is held.

Subd. 2. Upon receiving evidence satisfactory to him that with respect to any such referendum the conditions specified in section 218(d) (3) of the Social Security Act have been met, the governor shall so certify to the secretary of health, education and welfare.

Subd. 3. Upon such certification, the state agency, with the approval of the governor, shall become authorized to modify the agreement with the secretary of health, education and welfare, previously made as provided in the enabling act, to obtain the benefits of the federal old age and survivors insurance system in respect to services performed by teachers as defined in sections 355.21 to 355.27. Such modification may take effect retroactively to January 1 of the year in which the modification of the agreement is accepted by the secretary of health, education and welfare, and apply to all such services performed after the effective date by teachers who are such on the date the modification is entered into or thereafter, excepting any service of an emergency nature, any service performed by a student, and all services in any class or classes of part-time positions, or positions the compensation for which is on a fee basis.

[1957 c 650 s 3]

**355.24 RETROACTIVE PROCEDURE.** Subdivision 1. Effective retroactively with respect to services performed after the effective date specified in the modifications of the agreement, by teachers who are such on the date the modification is entered into or thereafter, each and every political subdivision affected by the modification is hereby authorized, required and directed to pay into the contribution fund contributions with respect to wages equal to the sum of the taxes which would be imposed by the Federal Insurance Contributions Act if the services covered by such modification constituted employment within the meaning of that act. With respect to wages for services performed after the effective date as specified in the modification, but prior to the date of such modification, the payments shall be made on account of all services performed in positions covered by such teachers retirement fund associations by the employer who is such on the date of the modification irrespective of for whom the services were performed during such prior period.

Subd. 2. Effective retroactively with respect to services performed after the effective date as specified in the modification, by teachers who are such on the date the modification is entered into or thereafter, each and every political subdivision is hereby authorized, required, and directed, in consideration of sections 355.21 to 355.27, to impose upon each such teacher a contribution with respect to his wages, not exceeding the amount of the employee tax which would be imposed by the Federal Insurance Contribution Act if such services constituted employment within the meaning of that act, and to deduct the amount of such contribution from his wages as and when paid. With respect to deductions from wages for services performed in positions covered by such teachers retirement fund association, the deductions shall be made by the employer who is such on the date of the modification irrespective of for whom the services were performed during such prior period. Contributions so collected shall be paid into the contribution fund in partial discharge of the liability of each and every political subdivision in respect thereto.

Subd. 3. Delinquent payments under this section, with interest at the rate of six percent per annum, may be recovered by action in a court of competent jurisdiction against each and every political subdivision liable therefor, or may, at the request of the state agency, be deducted from any other moneys payable to such political subdivision by any department or agency of the state.

[1957 c 650 s 4]

**355.25 COSTS OF ADMINISTRATION.** Each and every political subdivision affected by the modification shall reimburse the state agency for its pro rata share of the cost of administration of said agency in accordance with the rules and regulations of the state agency pertaining thereto. Such reimbursement shall be paid into the state agency revolving fund.

[1957 c 650 s 5]

**355.26 REPORTS TO STATE AGENCY.** Each and every political subdivision affected by the modification shall make such reports in such form and containing such information as the state agency may from time to time require, and comply

with such provisions as the state agency or the secretary of health, education and welfare may from time to time find necessary to assure the correctness and verification of such reports.

[1957 c 650 s 6]

**355.27 REVENUES, MAY BE USED, TAX LEVY.** Each and every political subdivision is hereby authorized and directed to pay its obligations under sections 355.21 to 355.27 from moneys collected from taxes or other revenues. Each and every political subdivision may include in its tax levy the amount necessary to pay such obligations. If the taxes authorized to be levied under this section cause the total amount of taxes to exceed any limitation whatsoever upon the power of a political subdivision to levy taxes, such political subdivision may levy taxes in excess of the limitation in such amount as is necessary to meet the obligations under sections 355.21 to 355.27. The governing body of a political subdivision, for the purpose of meeting its liabilities under sections 355.21 to 355.27 in the event of a deficit, may issue its obligations payable in not more than two years, in an amount which may cause its indebtedness to exceed any limitation without an election and may levy taxes to pay therefor.

[1957 c 650 s 7]

#### STATE AND LOCAL GOVERNMENT EMPLOYEES NOT COVERED BY ANY STATE RETIREMENT SYSTEM

**355.31 DEFINITIONS.** Subdivision 1. For the purposes of sections 355.31 to 355.39 the terms defined in this section have the meanings ascribed to them.

Subd. 2. "Enabling act" means the act entitled "An Act to provide for the coverage of certain officers and employees of the state and local governments under the old age and survivors insurance provisions of Title II of the Federal Social Security Act, as amended, and appropriating moneys therefor," being Laws 1955, Chapter 665.

Subd. 3. "Wages" means all remuneration for employment as defined herein, including the cash value of all remuneration paid in any medium other than cash, except that such term shall not include that part of such remuneration which, even if it were for "employment" within the meaning of the Federal Insurance Contributions Act, would not constitute "wages" within the meaning of that act.

Subd. 4. "Employment" means any service performed by an employee in the employ of the state, or any political subdivision thereof, for such employer, who by reason of state legislative action taken prior to January 1, 1958, is or will be without coverage of any state retirement system, except (1) service which in the absence of an agreement entered into under the enabling act would constitute "employment" as defined in the Social Security Act; or (2) service which under the Social Security Act may not be included in an agreement between the state and the secretary of health, education, and welfare entered into under the enabling act. Service which under the Social Security Act may be included in an agreement only upon certification by the governor in accordance with Section 218(d) (3) of that act shall be included in the term "employment" if and when the governor issues, with respect to such service, a certificate to the secretary of health, education and welfare.

Subd. 5. "State Retirement System" means the State Employees Retirement Fund (Association), Public Employees Retirement Fund (Association), and Teachers Retirement Fund, as the case may be, established by Minnesota Statutes, Chapters 352, 353, and 354, respectively.

Subd. 6. (a) "Employee" has the same meaning ascribed thereto by sections 355.01 to 355.07.

(b) "Noncoverage employee" means any employee of the state and its political subdivisions who by reason of state legislative action prior to January 1, 1958, is or will be without coverage of any state retirement system.

Subd. 7. "State agency" means the commissioner of administration.

Subd. 8. "Secretary of health, education, and welfare" includes any individual to whom the secretary of health, education, and welfare has delegated any functions under the Social Security Act with respect to coverage under such act of employees of states and their political subdivisions.

Subd. 9. "Political subdivision" includes an instrumentality of the state, of one or more of its political subdivisions, or of the state and one or more of its political subdivisions, but only if such instrumentality is a juristic entity which is legally separate and distinct from the state or subdivision and only if its employees are



not by virtue of their relation to such juristic entity employees of the state or subdivision.

Subd. 10. "Social Security Act" means the Act of Congress approved August 14, 1935, Chapter 531, Stat. 620, officially cited as the "Social Security Act," as such act has been and may from time to time be amended (including regulations and requirements issued pursuant thereto).

Subd. 11. "Federal Insurance Contributions Act" means Sub-chapters A and B of Chapter 21 of the Federal Internal Revenue Code of 1954, as such Code has been and may from time to time be amended; and the term "employee tax" means the tax imposed by Section 3101 of such Code of 1954.

Subd. 12. "Contribution fund" means the fund established under section 5 of the enabling act.

[1957 c 919 s 1]

**355.32 DUTIES OF STATE AGENCY.** Subdivision 1. With the approval of the governor, the state agency may modify the agreement with the secretary of health, education, and welfare, made under the enabling act, to obtain the benefits of the federal old age and survivors insurance system in respect to the employment of noncoverage employees within the meaning of section 355.31, subdivision 5. Such modification shall be effective retroactively with respect to employment after December 31, 1955. The modification shall not be applicable to any employment in positions the compensation for which is on a fee basis.

Subd. 2. In accordance with Section 218(d) (6) of the Social Security Act, the State Employees Retirement Fund (Association), the Public Employees Retirement Fund (Association), and the Teachers Retirement Fund shall each be deemed a separate retirement system for the purpose of sections 355.31 to 355.39 with respect to noncoverage employees, as defined in section 355.31, subdivision 6, such noncoverage employees in each of said retirement systems shall be deemed a separate coverage group.

[1957 c 919 s 2]

**355.33 PAYMENTS INTO CONTRIBUTION FUND.** Subdivision 1. Effective retroactively with respect to services rendered after December 31, 1955, by noncoverage employees as herein defined who are such on the date the modification is entered into or thereafter, each state department, college, and institution, and each political subdivision affected by the modification, is hereby authorized, required and directed to pay into the contribution fund contributions with respect to wages equal to the sum of the employer taxes which would be imposed by the Federal Insurance Contributions Act if the services covered by such modification constituted employment within the meaning of that act. With respect to wages for services performed after December 31, 1955, but prior to the date of such modification, the payments shall be made on account of all services performed in positions covered by the State Employees Retirement Fund (Association), Public Employees Retirement Fund (Association), and the Teachers Retirement Fund, as the case may be, by the employer who is such on the date of the modification, irrespective of for whom the services were performed during such prior period. The state department, college, institution or political subdivision in which the noncoverage employee is currently employed shall pay such tax to the contribution fund and shall then be reimbursed by the state department, college, institution, or political subdivision in which such noncoverage employee was formerly employed for any amounts attributable to such former employment.

Subd. 2. Effective retroactively with respect to services performed after December 31, 1955, by noncoverage employees as herein defined who are such on the date the modification is entered into or thereafter, each state department, college, and institution, and each and every political subdivision affected by the modification is hereby authorized, required, and directed, in consideration of the noncoverage employee's retention in, or entry upon, employment after enactment of sections 355.31 to 355.39, to impose upon each such noncoverage employee a contribution with respect to his wages not exceeding the amount of the employee tax which would be imposed by the Federal Insurance Contributions Act if such services constituted employment within the meaning of that act, and to deduct the amount of such contribution from his wages as and when paid. With respect to deductions from wages for services performed in positions covered by the State Employees Retirement Fund (Association), Public Employees Retirement Fund (Association), and the Teachers Retirement Fund, the deductions as to each noncoverage employee

shall be made by the employer who is such on the date of the modification, irrespective of for whom the services were performed during such prior period. Contributions so collected shall be paid into the contribution fund in partial discharge of the liability of each and every political subdivision in respect thereto. Failure to deduct such contribution shall not relieve the noncoverage employee or the state or political subdivision of liability therefor. In lieu of deductions from wages received for such service during the period prior to the date of modification, the noncoverage employee may elect to make the payments into the contribution fund in cash. Any noncoverage employee who is a member of the State Employees Retirement Fund (Association), Public Employees Retirement Fund (Association), or the Teachers Retirement Fund, may authorize the governing board of said fund to pay the contribution fund from his retirement account maintained in accordance with state law applicable thereto, the amount of such payment. Any noncoverage employee making said election may repay the amount to the fund within a period of three years with four percent interest or he may elect not to make any repayment, in which event the cash refund or the annuity provided by state law applicable thereto shall be reduced accordingly.

Subd. 3. The deduction from wages provided in subdivision 2 shall commence as of the date of the modification agreement with the secretary of health, education and welfare. Delinquent payments under this section, with interest at the rate of six percent per annum, may be recovered by action in a court of competent jurisdiction against each political subdivision liable therefor, or may, at the request of the state agency, be deducted from any other moneys payable to such political subdivision by any department or agency of the state.

[1957 c 576 s 2; 1957 c 919 s 3]

**355.34 REPORTS.** Each state department, college, and institution, and each political subdivision affected by the modification, shall make such reports in such form and containing such information as the state agency may from time to time require, and comply with such provisions as the state agency or the secretary of health, education, and welfare may from time to time find necessary to assure the correctness and verification of such reports.

[1957 c 576 s 2; 1957 c 919 s 4]

**355.35 TAX LEVIES TO PAY OBLIGATIONS.** Each political subdivision affected by the modification is hereby authorized and directed to pay its obligations under sections 355.31 to 355.39 from moneys collected from taxes or other revenues. Each political subdivision may include in its tax levy the amount necessary to pay such obligations. If the taxes authorized to be levied under this section cause the total amount of taxes levied to exceed any limitation whatsoever over the power of a political subdivision to levy taxes, such political subdivision may levy taxes in excess of the limitation in such amount as is necessary to meet the obligations under sections 355.31 to 355.39. The governing body of a political subdivision, for the purpose of meeting its liabilities under sections 355.31 to 355.39 in the event of a deficit, may issue its obligations payable in not more than two years, in an amount which may cause its indebtedness to exceed any limitation without an election and may levy taxes to pay therefor.

[1957 c 919 s 5]

**355.36 PAYMENTS INTO CONTRIBUTION FUND AND STATE AGENCY REVOLVING FUND.** The moneys directed to be paid by section 355.33, subdivision 1, and section 355.34 by each of the state departments, colleges and institutions affected by the modification shall be paid from such accounts and funds from which each such employer receives its revenue, including appropriations from the general revenue fund or from any other fund, now or hereafter existing, for the payment of salaries and in the same proportion as it pays therefrom the amounts of such salaries. The moneys necessary for the payments into the contribution fund and the state agency revolving fund, as provided herein, are hereby appropriated out of such revenue sources, including the general revenue fund or any other fund, now or hereafter existing, to each such employer in such sums as are required to make the payments herein directed. The amounts of each appropriation made by these provisions shall be certified by the state agency to the state auditor at such times as he shall require. If there are insufficient moneys in any such account or fund or source of revenue to make the payments to the contribution fund or state agency revolving fund as required by sections 355.31 to 355.39 by such employers, there is hereby appropriated to each such employer from any moneys in the state treasury

not otherwise appropriated such moneys as are required to meet such deficiencies.

[1957 c 576 s 2; 1957 c 919 s 6]

**355.37 REIMBURSEMENT OF COSTS OF ADMINISTERING STATE AGENCY.** Subdivision 1. Each and every state department, college, and institution, and each political subdivision affected by the modification shall reimburse the state agency for its pro rata share of the cost of administration of said agency in accordance with the rules and regulations of the state agency pertaining thereto, and such reimbursement shall be paid into the state agency revolving fund created by sections 355.01 to 355.07.

Subd. 2. The moneys necessary for the payment into the contribution fund and the state agency revolving fund, as provided herein, are hereby appropriated out of such revenue sources to each department and agency in such sums as are required to make the payments herein directed, and such payments shall be charged as an administrative cost by such units of state government.

Subd. 3. If there are insufficient moneys in any such accounts or fund or source of revenue to make the payments to the contribution fund required by sections 355.31 to 355.39 by such departments or agencies, there is hereby appropriated to such department or agency from any moneys in the state treasury not otherwise appropriated such moneys as are required to meet such deficiencies. The amount of each appropriation made by these provisions shall be certified by the commissioner of administration to the state auditor at such times as the state auditor shall require.

[1957 c 919 s 7]

**355.38 DECLARATION OF POLICY.** In conformity with the policy of the Congress of the United States as set forth in Section 218(e) (2) and (q) of the Social Security Act, and to implement the policy of the State of Minnesota as set forth in section 355.07, it is hereby declared that the protection afforded noncoverage employees, as herein defined, in positions covered by the State Employees Retirement Fund (Association), the Public Employees Retirement Fund (Association), or the Teachers Retirement Fund, as the case may be, on the date the state agreement is made applicable to services performed in such positions, or receiving periodic benefits under such retirement system at such time, shall not be impaired as a result of making the agreement so applicable or as a result of legislative or executive action taken in anticipation or in consequence thereof.

[1957 c 919 s 9]

**355.39 EFFECTIVE DATE.** Sections 355.31 to 355.39 shall become effective coincident with the effective date of federal legislation amending the Social Security Act authorizing a modification of the agreement between the State and the secretary of health, education, and welfare so as to provide Social Security coverage for employees who by reason of state legislative action taken prior to January 1, 1958, are or will be excluded from coverage by a state retirement system.

[1957 c 919 s 10]

#### REFERENDA RELATING TO SOCIAL SECURITY COVERAGE

**355.41 DEFINITIONS.** Subdivision 1. Unless the context indicates otherwise, the terms used in this section have the meanings ascribed to them by sections 355.01 to 355.07, and the meanings ascribed to them in this section.

Subd. 2. The term "state employee" means any employee of the state or a political subdivision who performs services in any position covered by the retirement system provided for in Minnesota Statutes, Chapter 352, relating to the state employees retirement association, excepting any position the compensation for which is on a fee basis.

Subd. 3. The term "public employee" includes all employees of the state and its political subdivisions as defined in section 2, subdivision 7 of the enabling act, who hold positions which are covered by the retirement system provided for in Minnesota Statutes, Chapter 353, relating to the public employees retirement association excepting any position performing service which under the Social Security Act may not be included in an agreement between the state and secretary of health, education and welfare entered into under sections 355.41 to 355.55.

Subd. 4. The term "educational employee" means any employee of the state and its political subdivisions who performs services in any position covered by the teachers retirement fund provided for in Minnesota Statutes, Sections 354.05 to 354.10, as amended.

Subd. 5. The term "employee" includes an officer of the state or political subdivision thereof.

Subd. 6. The term "political subdivision" includes an instrumentality of the state, of one or more of its political subdivisions, or of the state and one or more of its political subdivisions, but only if such instrumentality is a juristic entity which is legally separate and distinct from the state or subdivision and only if its employees are not by virtue of their relation to such juristic entity employees of the state or subdivision.

Subd. 7. The term "enabling act" means Laws 1955, Chapter 665, entitled "An act to provide for the coverage of certain officers and employees of the state and local governments under the old age and survivors insurance provisions of Title II of the federal social security act, as amended, and appropriating moneys therefor."

[*Ex1957 c 18 s 1; Ex1959 c 50 s 37*]

**355.42 REFERENDUM.** Pursuant to the provisions of sections 355.01 to 355.07, the governor shall designate an agency to supervise a referendum for each of the following groups:

(a) The public employees retirement association shall be deemed a single retirement system with respect to the political subdivisions and the state having positions covered thereby.

(b) The state employees retirement association shall be deemed a single retirement system except as provided in paragraph (c).

(c) The employees of the University of Minnesota covered by the state employees retirement association shall be deemed a single retirement system.

(d) The teachers retirement fund shall be deemed a single retirement system with respect to the state departments, institutions, and political subdivisions having positions covered thereby except as provided in paragraph (e).

(e) The educational employees of the state colleges covered by the teachers retirement fund.

[*1957 c 576 s 2; Ex1957 c 18 s 2*]

**355.43 NOTICE OF REFERENDUM.** The notice of referendum required by section 218 (d) (3) (c) of the Social Security Act which is to be given to the employees shall contain a statement, in such form as the agency designated to supervise the referendum shall deem necessary and sufficient, to inform the employees of the rights which accrue to them under the Social Security Act. The statement shall also inform the employees of the effect that coverage under the Social Security Act will have on their state retirement program.

[*Ex1957 c 18 s 3*]

**355.44 CERTIFICATION BY GOVERNOR.** If the governor receives satisfactory evidence that the conditions specified in section 218 (d) (3) of the Social Security Act have been met and the outcome of the referendum indicates that the majority of the employees desire to be covered by the Social Security Act, the governor shall so certify to the secretary of health, education and welfare.

[*Ex1957 c 18 s 4*]

**355.45 STATE AGENCY TO MAKE AGREEMENT WITH SECRETARY OF HEALTH, EDUCATION AND WELFARE.** Upon such certification the state agency, with the approval of the governor, shall be authorized to enter into an agreement with the secretary of health, education and welfare, or modify any such agreement previously made with respect to employment by state employees, public employees, and educational employees. The agreement or modifications shall take effect retroactively and apply to all such employment performed after December 31, 1955, by the employees who are such on that date, and shall include within its application effective with the date of entry into state, public or educational service, all employment by such employees on the date of and subsequent to the approval of the agreement or modification as well as those who are such on the approval date thereof.

[*Ex1957 c 18 s 5*]

**355.46 RETROACTIVE EFFECT.** Subdivision 1. Except as provided in this section, effective retroactively with respect to employment after December 31, 1955, by state employees, public employees, and educational employees, who are employees on the date the agreement or modification is entered into or thereafter, each department or agency of the state and each political subdivision employing such employees shall pay into the contribution fund contributions with respect to wages paid to each employee in an amount equal to the sum of the taxes which would be

imposed by the federal insurance contribution act for the services covered by such agreement of modification.

Subd. 2. The retroactive employer taxes due with respect to employment after December 31, 1955, by educational employees who have made their selection pursuant to section 218(d) (6) (C) of the social security act, shall be paid by the teachers retirement board from its fund from the employer contributions paid to said fund.

Subd. 3. The employer taxes due with respect to employment by educational employees who have made their selection pursuant to section 218(d) (6) (C) of the social security act, shall be paid in the following manner:

(a) Contributions required for retroactive coverage shall be made in the manner provided in subdivision 2.

(b) Contributions required to be made for current service by political subdivisions employing such educational employees and payments required by section 355.49 shall be paid by the state. The state's obligation for services performed subsequent to the date of the agreement or modification shall be paid from the retirement fund, at such times and in such amounts as may be determined by the state agency to be necessary. The amounts herein required are hereby appropriated from the teachers retirement fund and the trustees are hereby authorized to make the necessary disbursements and transfers therefor.

(c) Contributions required to be made with respect to such educational employees of state departments and institutions and payments required by section 355.49 shall be paid by such departments and institutions in accordance with the provisions of sections 355.49 and 355.50.

Subd. 4. On November 1 of each year the state auditor shall determine the amounts that have been paid from the teachers retirement fund pursuant to subdivision 3(b) during the 12 month period immediately preceding such date. The auditor is hereby directed to include such amounts in each annual tax levy, which amounts are hereby annually levied upon all the taxable property of the state located outside of the cities of the first class. The proceeds of such levies shall be credited to the teachers retirement fund. No levy shall be certified under this subdivision in 1959 provided the certification required under Minnesota Statutes, Section 354.43, Subdivision 1, has been made by the board on the assumption that the matching state contribution for members has been calculated at six percent except for those teachers who are covered under federal social security pursuant to Minnesota Statutes, Section 355.42, paragraph (e). If the certification under Minnesota Statutes, Section 354.43, Subdivision 1, is not based on such an assumption, the state auditor shall levy in 1959 such additional sums under this subdivision so that the total amount to be raised by mill levy under Minnesota Statutes, Section 354.43 and this subdivision shall equal six percent of the member's salary subject to teachers retirement deductions, except members covered under federal social security pursuant to Minnesota Statutes, Section 355.42, Paragraph (e) where the amount shall be calculated at three percent of the member's salary subject to teachers retirement deductions.

[*Ex1957 c 18 s 6; Ex1959 c 50 s 40*]

**355.47 RETROACTIVE EFFECT.** Subdivision 1. Effective retroactively with respect to employment after December 31, 1955, by employees who are employed on the date the agreement or modification is entered into or thereafter, each retirement board shall pay out of their respective funds an amount for each member which is equal to the amount of employee tax which would have been imposed by the federal insurance contribution act, if such service constituted service within the meaning of the act. This amount shall be deducted from the accumulated deductions of each such member. If the accumulated deductions of any member is not sufficient to pay for his retroactive contribution, such member shall pay the difference to the fund.

Subd. 2. Effective retroactively with respect to employment after December 31, 1955, by the respective employees of either the Minnesota historical society; the state horticultural society; the disabled American veterans, department of Minnesota; the veterans of foreign wars, department of Minnesota; or the Minnesota crop improvement association who are in employment when the old age and survivors insurance provisions of the federal social security act applies to them, subsequent to December 31, 1955, limited to the amount credited by employee contributions to each such employee's account in the state employees retirement fund,

the board thereof shall pay out of its retirement fund to the Minnesota historical society; the state horticultural society; the disabled American veterans, department of Minnesota; the veterans of foreign wars, department of Minnesota; or the Minnesota crop improvement association, respectively, for each such member an amount equal to the amount of employee tax which is imposed by federal insurance contributions act, pursuant to a waiver under section 3121(k) (1) of the internal revenue code. Provided, however, that if the amount to the credit of a member in the fund shall be insufficient therefor, he shall himself pay the required additional amount to his employer for the full retroactive period.

[*Ex1957 c 18 s 7; 1959 c 513 s 1; Ex1959 c 50 s 41*]

**355.48 EMPLOYEE CONTRIBUTIONS, DEDUCTION FROM WAGES.** After the date the agreement or modification is entered into, there shall be paid as a deduction from wages an employee contribution in an amount equal to the tax that would be imposed by the Federal Insurance Contribution Act if such service constitutes employment within the meaning of that act. Contributions so made shall be paid into the contribution fund in partial discharge of the liability of the state and each political subdivision in respect thereto. Failure to deduct such contribution shall not relieve the employee or the state or the political subdivision of liability therefor.

[*Ex1957 c 18 s 8*]

**355.49 REIMBURSEMENT OF ADMINISTRATIVE COSTS OF STATE AGENCY.** Each department or agency of state and each political subdivision employing members of the association shall reimburse the state agency for its pro rata share of the cost of administration of said agency in accordance with rules and regulations of the state agency, except as provided in Minnesota Statutes, Section 355.46. Such reimbursements shall be paid into the state agency's revolving fund.

[*Ex1957 c 18 s 9; Ex1959 c 50 s 42*]

**355.50 STATE EMPLOYEES, APPROPRIATION.** With respect to state employees, each department and agency shall pay the amounts required by sections 355.41 to 355.60 from such accounts and funds from which each department or agency receives its revenue, including appropriations from the general revenue fund and from any other fund, now or hereafter existing, for the payment of salaries and in the same proportion as it pays therefrom the amounts of such salaries. The moneys necessary for the payments into the contribution fund and the state agency revolving fund, as provided herein, are hereby appropriated out of such revenue sources, including from the general revenue fund and from any other fund now or hereafter existing, to each department and agency in such sums as are required to make the payments herein directed, and such payments shall be charged as an administrative cost by such units of state government.

If there are insufficient moneys in any such accounts or fund or source of revenue to make the payments to the contribution fund required by sections 355.41 to 355.60 by such departments or agencies, there is hereby appropriated to such department or agency from any moneys in the state treasury not otherwise appropriated such moneys as are required to meet such deficiencies. The amount of each appropriation made by these provisions shall be certified by the commissioner of administration to the state auditor at such times as the state auditor shall require.

For those employees of the state or its instrumentalities who as eligible members in the state employees retirement association are employed by the state horticultural society, the disabled American veterans, department of Minnesota, veterans of foreign wars, department of Minnesota, the Minnesota crop improvement association, the Minnesota historical society, the armory building commission and the Minnesota-Wisconsin-Minneapolis-St. Paul survival plan project, these units of government shall also pay into the contribution fund contributions with respect to wages equal to the sum of taxes which would be imposed by the federal insurance contributions act if the services covered by such agreement or modification constituted employment within the meaning of that act.

[*Ex1957 c 18 s 10; Ex1959 c 50 s 44*]

NOTE: Laws 1965, Chapter 901, Section 73, reads:

"Sec. 73. Any moneys made available to any state department or agency by this act by appropriation, transfer or otherwise for the payment of salaries is a source of revenue to such department or agency under the provisions of Minnesota Statutes 1961, Sections 355.50 and 352.04, Subdivision 5."

**355.51 DELINQUENT PAYMENTS, COLLECTION.** Delinquent payments under sections 355.41 to 355.60 with interest at the rate of six percent per annum

may be recovered by action in a court of competent jurisdiction against each and every political subdivision liable therefor or may, at the request of the state agency, be deducted from any other moneys payable to such political subdivision by any department or agency of the state.

[*Ex1957 c 18 s 11; Ex1959 c 50 s 38*]

**355.52 OBLIGATIONS OF POLITICAL SUBDIVISION, PAYMENT.** Each and every political subdivision is hereby authorized and directed to pay its obligations under sections 355.41 to 355.60 for moneys collected from taxes or other revenues. Each and every political subdivision authorized to levy taxes may include in its tax levy the amount necessary to pay such obligations. If the taxes authorized to be levied under this section cause the total amount of taxes levied to exceed any limitation whatsoever upon the power of a political subdivision, as defined in section 355.41, to levy taxes, such political subdivision may levy taxes in excess of the limitation in such amounts as is necessary to meet its obligations under sections 355.41 to 355.60. The expenditures authorized to be made under sections 355.41 to 355.60 shall not be included in computing the cost of government as defined in any home rule charter of any city affected thereby. The governing body of a municipality, for the purpose of meeting its liabilities under sections 355.41 to 355.60 in the event of a deficit, may issue its obligations payable in not more than two years, in an amount which may cause its indebtedness to exceed any statutory or charter limitations, without an election, and may levy taxes to pay therefor in the manner provided in Minnesota Statutes, Section 475.61.

[*Ex1957 c 18 s 12; Ex1959 c 50 s 39*]

**355.53 LIMITATION ON REFERENDA.** Sections 355.41 to 355.55 allows a referendum for any separate retirement system provided in section 355.42 only if this session of the legislature authorizes a program of coordination for such system which provides a change in benefits and contributions to such state retirement system effective upon the making of any agreement with the secretary of health, education and welfare.

[*Ex1957 c 18 s 13*]

**355.54 AMENDMENT OF FEDERAL SOCIAL SECURITY ACT, EFFECT.** If the Federal Social Security Act or any rule or regulation made thereunder is amended prior to any agreement or modification provided in sections 355.41 to 355.55, and such amendment permits retroactive coverage of governmental employees at some date after December 31, 1955, with the allowance of fully insured status with 18 months of service as a governmental employee, the retroactive coverage shall begin on such date notwithstanding any provision in sections 355.41 to 355.55 to the contrary. In the event of such amendment, the agreements and contributions provided herein shall be retroactive to such date.

[*Ex1957 c 18 s 14*]

**355.55 RESTORATION TO MEMBERSHIP IN RETIREMENT ASSOCIATION FUND.** Provided that all persons whose membership in a retirement fund or association is terminated July 1, 1957 by reason of state legislative action shall be restored as of July 1, 1957 to membership in the association or fund prior to any modification of the agreement between the state and the secretary of health, education, and welfare in the event that they are not before such date brought within the coverage of the Federal Social Security Act pursuant to authorizing federal legislation. Such restoration to membership shall be conditioned upon payment by affected members of required contributions to the fund accruing subsequent to July 1, 1957 to the date of restoration; such payment to be made at the time and in the manner as the board shall determine.

[*Ex1957 c 18 s 15*]

**355.56 DIVISION OF TEACHERS RETIREMENT ASSOCIATION.** In accordance with section 218(d) (6) (C) of the social security act, the state agency shall divide into two divisions or parts, the teachers retirement association established by Minnesota Statutes, Sections 354.05 to 354.14 and 354.31 to 354.55. One division or part of such retirement system shall be composed of positions of members of such system who desire coverage under an agreement under section 218(d) of the social security act. The other division or part of such retirement system shall be composed of positions of members of such system who do not desire coverage under such an agreement. Each division or part shall be deemed to be a separate retirement system for the purposes of section 218(d) of the social security act. There shall be included in such division or part composed of members desiring such cov-

erage the positions of individuals who become members of the teachers retirement association, after such coverage is extended.

[*Ex1959 c 50 s 32*]

**355.57 TRANSFER OF MEMBERS.** In accordance with section 218(d) (6) (F) of the social security act, and when such a retirement system is so divided into two parts, as hereinbefore provided, the position of any member of the division or part composed of positions of members who do not desire coverage may be transferred to the separate retirement system composed of members who desire such coverage; and a modification of agreement between the state and the secretary of health, education, and welfare may so provide, but only if prior to such modification or such later modification, as the case may be, the individual occupying such position files with the state agency a written request for such transfer.

[*Ex1959 c 50 s 33*]

**355.58 PERSONS IN POSITIONS COVERED BY RETIREMENT SYSTEM.** Any individual who is in a position covered by a retirement system referred to in section 355.56 and who is not a member of such system but is eligible to become a member thereof shall, for the purposes of Extra Session Laws 1959, Chapter 50, be regarded as a member of such system and any such individual shall be treated, after the division of the retirement system, the same as individuals in positions referred to in section 355.57.

[*Ex1959 c 50 s 34*]

**355.59 CERTIFICATION BY GOVERNOR.** If the governor receives satisfactory evidence that the conditions specified in section 218(d) (7) of the social security act have been met with respect to the teachers retirement association, he shall so certify to the secretary of health, education, and welfare.

[*Ex1959 c 50 s 35*]

**355.60 AGREEMENTS WITH FEDERAL AGENCY.** Upon such certification the state agency, with the approval of the governor, shall be authorized to enter into an agreement with the secretary of health, education, and welfare, or modify any such agreement previously made with respect to employment by educational employees. The agreement or modification shall contain such terms and provisions authorized by the social security act and the enabling act as the state agency finds proper.

[*Ex1959 c 50 s 36*]

## PUBLIC HOSPITAL EMPLOYEES

**355.71 DEFINITIONS.** Subdivision 1. For the purposes of sections 355.71 to 355.89, the terms defined in this section have the meaning ascribed to them.

Subd. 2. "Hospital employee" means any officer or employee of a public hospital who performs services in any position covered by the public employees retirement association.

Subd. 3. "Public hospital" means any hospital owned or operated by, or which is an integral part of, any political subdivision, or political subdivisions.

Subd. 4. "Political subdivision" means any political subdivision as defined in section 218 of the social security act, and includes any city, village, borough, county, town, hospital district, or other body, politic and corporate.

Subd. 5. "State agency" means the commissioner of administration.

Subd. 6. "Enabling act" means the act of this state entitled, "An act to provide for the coverage of certain officers and employees of the state and local governments under the old age and survivors insurance provisions of Title II of the federal social security act, as amended, and appropriating moneys therefor" which is codified in sections 355.01 to 355.07 and acts amendatory thereof.

[*1963 c 793 s 1*]

**355.72 SEPARATE SYSTEM FOR HOSPITAL EMPLOYEES.** In accordance with section 218(d) (6) (A) or section 218(d) (6) (B) of the social security act, the hospital employees of each public hospital are deemed to be covered by a separate retirement system for the employees of such hospital, notwithstanding the provisions of Minnesota Statutes, Section 355.42, Clause (a).

[*1963 c 793 s 2*]

**355.73 REFERENDUM.** Subdivision 1. Pursuant to the provisions of the enabling act, the governor shall designate an agency or an individual to supervise a referendum in accordance with the provisions of section 218(d) (6) (C) of the so-



cial security act for the employees of such public hospital after a petition is received as provided in subdivision 2 or 3.

Subd. 2. At least 35 percent of the employees of any public hospital may petition the governor to conduct a referendum pursuant to section 218(d) (6) (C) of the social security act to be held on the date to be set by him in accordance with the requirements of said act.

Subd. 3. The governing body of any public hospital may petition the governor to conduct a referendum pursuant to section 218(d) (6) (C) of the social security act to be held at a date to be set by him in accordance with the requirements of said act.

Subd. 4. No more than one referendum shall be held in each 12 month period for the hospital employees of any one public hospital.

Subd. 5. After a referendum is conducted as herein provided and the positions in such public hospital are included in the agreement with the secretary of health, education, and welfare, any hospital employee so covered may terminate his membership in the public employees retirement association. Any hospital employee employed in such hospital after the date of execution of such agreement may also terminate his membership in the public employees retirement association. In the event of such termination of membership, the hospital employee may leave his accumulated deductions with the public employees retirement fund and receive a deferred annuity when qualified and otherwise eligible pursuant to Minnesota Statutes 1961, Chapter 353, and acts amendatory thereof, or he may receive a refundment of his accumulated deductions, if any.

[1963 c 793 s 3]

**355.74 NOTICE OF REFERENDUM.** Subdivision 1. The notice of referendum required by section 218(d) of the social security act which is to be given to the hospital employees shall contain a statement in such form as the agency or individual designated to supervise the referendum shall deem necessary and sufficient to inform the hospital employees of the rights which accrue to them under the social security act. The statement shall also inform the hospital employees of the effect that coverage under the social security act will have on their public retirement program.

Subd. 2. In accordance with section 218(d) (6) (C) of the social security act, the state agency shall divide into two divisions or parts each deemed retirement system consisting of employees of hospitals as herein provided whose employees are covered by the public employees retirement association established by Minnesota Statutes 1961, Chapter 353, and acts amendatory thereof. One division or part of such deemed retirement system shall be composed of positions of members of such system who desire coverage under an agreement pursuant to sections 355.73 and 355.76. The other division or part of such retirement system shall be composed of positions of members of such system who do not desire coverage under such agreement. Each division or part shall be deemed to be a separate retirement system for the purposes of section 218(d) of the social security act. There shall be included in such division or part composed of members desiring such coverage, the positions of individuals who become employees of any public hospital in which a referendum was conducted after such coverage is extended, with the exception of positions of individuals which under the social security act may not be included in an agreement between the state and secretary of health, education, and welfare.

Subd. 3. In accordance with section 218(d) (6) (F) of the social security act, as amended, and in case such a deemed retirement system is so divided into two parts, as hereinbefore provided, the position of any member of the division or part composed of positions of members who do not desire coverage may be transferred to the separate retirement system composed of members who desire such coverage; and a modification of agreement between the state and the secretary of health, education, and welfare may so provide, but only if prior to such modification or such later modification, as the case may be, the individual occupying such position files with the state agency a written request for such transfer.

[1963 c 793 s 4]

**355.75 CERTIFICATION BY GOVERNOR.** If the governor receives satisfactory evidence that the conditions specified in section 218(d) (7) of the social security act have been met he shall so certify to the secretary of health, education, and welfare.

[1963 c 793 s 5]

**355.76 STATE-FEDERAL AGREEMENT.** Upon such certification the state agency or individual so designated, with the approval of the governor, shall be authorized to enter into an agreement with the secretary of health, education, and welfare or modify any such agreement previously made with respect to the employment by state employees, public employees, and educational employees. The agreement or modification authorized hereunder shall take effect retroactively and apply to all employment performed after December 31 of the year prior to the date of the agreement or modification, by the employees who are such on that date and shall include within its application, effective with the date of entry into service as a hospital employee, all employment by such hospital employees on the date of and subsequent to the approval of the agreement or modification as well as those who are such on the approval date thereof. The agreement under sections 355.71 to 355.89 shall not apply to services in positions the compensation for which is on a fee basis.

[1963 c 793 s 6]

**355.77 RETROACTIVE EMPLOYER-EMPLOYEE CONTRIBUTIONS.** Subdivision 1. Effective retroactively with respect to employment after the date of retroactive coverage by hospital employees who are employed on the date of the agreement or modification and who are included within such agreement or modification, the board of trustees of the public employees retirement association shall pay out of its fund an amount for each hospital employee so included which is equal to the amount of employee tax which would have been imposed by the federal insurance contribution act, if such service constituted employment within the meaning of that act. This payment shall be computed from the date of retroactive coverage to the date that deductions are taken from the wages of each such hospital employee as provided in section 355.78. The amount so paid by the trustees shall be deducted from the accumulated deductions of each such member of the public employees retirement association. If the accumulated deductions of any member are not sufficient to pay for his retroactive contribution, such member shall pay the difference to the fund.

Subd. 2. Effective retroactively with respect to employment after the date of retroactive coverage by hospital employees who are employed on the date of the agreement or modification and who are included within such agreement or modification, the board of trustees of the public employees retirement association shall pay out of the fund an amount for each member which is equal to the amount of employer tax which would have been imposed by the federal insurance contributions act if such service constituted employment within the meaning of that act. This amount shall be computed from the date of retroactive coverage to the date deductions are taken from wages as provided in section 355.78.

Subd. 3. The amounts herein required by this section are hereby appropriated from the public employees retirement fund and the trustees are hereby authorized to make the necessary disbursements and transfers therefor. The amounts so required shall be paid to the contribution fund provided for in the enabling act.

[1963 c 793 s 7]

**355.78 CURRENT EMPLOYER-EMPLOYEE CONTRIBUTIONS.** Subdivision 1. With respect to services performed after the date of execution of the agreement or modification, each public hospital shall be obligated to pay employer contributions with respect to wages earned by hospital employees included in the agreement or modification in an amount equal to the employer taxes which would be imposed by the federal insurance contributions act if the services covered by the agreement or modification constituted employment within the meaning of the act. This amount shall be paid by the public hospital directly if it is a political subdivision with the powers under law to raise revenue by taxes or it shall be paid by the political subdivision operating the public hospital if such hospital does not have the power under law to raise revenue by taxes. Contributions so made shall be paid into the contribution fund provided for in the enabling act.

Subd. 2. With respect to services performed after the date of execution of the agreement or modification, each hospital employee included in the agreement or modification shall pay contributions with respect to wages and the same shall be deducted from his wages as and when paid in an amount equal to the employee tax which would be imposed by the federal insurance contributions act if the services covered by the agreement or modification constituted employment within the meaning of that act. Contributions so made shall be paid into the contribution

fund provided for in the enabling act in partial discharge of the liability of the state and each political subdivision in respect thereto. Failure to deduct such contribution shall not relieve the hospital employee, or the state or the political subdivision, from liability therefor.

[1963 c 793 s 8]

**355.79 ADMINISTRATIVE COSTS OF STATE AGENCY.** Each political subdivision employing hospital employees included in the agreement or modification or employing hospital employees who participated in a referendum shall reimburse the state agency for its pro rata share of the cost of administration of said agency in accordance with rules and regulations of the state agency. Such reimbursements shall be paid into the state agency's revolving fund.

[1963 c 793 s 9]

**355.80 OBLIGATIONS OF POLITICAL SUBDIVISION.** Each political subdivision is hereby authorized and directed to pay its obligations under sections 355.71 to 355.89 from moneys collected from taxes or other revenue. Each political subdivision authorized to levy taxes may include in its tax levy the amount necessary to pay such obligations. If the taxes authorized to be levied under this section cause the total amount of taxes levied to exceed any limitation whatsoever upon the power of the political subdivision to levy taxes, such political subdivision may levy taxes in excess of the limitation in such amounts as is necessary to meet its obligation under sections 355.71 to 355.89. The expenditures authorized to be made shall not be included in computing the cost of government as defined in any home rule charter or charter of any city affected thereby. The governing body of a municipality, for the purposes of meeting its obligations hereunder in the event of a deficit, may issue its obligations payable in not more than two years, in an amount which may cause its indebtedness to exceed any statutory or charter limitations without an election and may levy taxes to pay therefor in the manner provided in Minnesota Statutes, Section 475.61, and acts amendatory thereto.

[1963 c 793 s 10]

**355.81 DELINQUENT PAYMENTS.** Delinquent payments under sections 355.71 to 355.81 with interest at the rate of six percent per annum may be recovered by action in a court of competent jurisdiction against each and every political subdivision liable therefor or may at the request of the state agency be deducted from any other moneys payable to such political subdivision by any department or agency of the state.

[1963 c 793 s 11]

**355.82 SCOPE AND APPLICATION.** Sections 355.82 to 355.89 apply to any hospital employee who is a member of the public employees retirement association included in any agreement or modification made between the state and the secretary of health, education, and welfare, making the provisions of Title II of the federal social security act applicable to such hospital employee. Sections 355.82 to 355.89 also apply to any political subdivision employing such member. Except as otherwise specifically provided in sections 355.82 to 355.89, the provisions of Minnesota Statutes, Chapter 353, shall apply.

[1963 c 793 s 12]

**355.83 CONTRIBUTIONS BY EMPLOYER AND EMPLOYEES.** Subdivision 1. **Employee contributions.** The hospital employee contribution to the public employees retirement fund shall be an amount equal to three percent of the salary of every member. This contribution shall be made by deduction from salary. Prior to July 1, 1965 no deduction shall be made from any salary in excess of \$4,800 in any calendar year. From and after July 1, 1965 deductions shall be made on total salary not in excess of \$6,000 in any calendar year. Where any portion of a hospital employee member's salary is paid from other than public funds, such member's employee contribution shall be based on the salary received limited to \$6,000 in any calendar year.

Subd. 2. **Employer contributions.** The employer contribution to the fund shall be an amount equal to three percent of the salary of each hospital employee member not exceeding \$4,800 in any calendar year through June 30, 1965; and thereafter three percent of the total salary not in excess of \$6,000 in any calendar year.

Subd. 3. **Additional employer contributions.** An additional contribution shall be made to the fund based on the salary of each such member not to exceed \$4,800 in any calendar year through June 30, 1965; and thereafter the additional employer contribution shall be based on the total salary of each such member not

**355.84 SOCIAL SECURITY COVERAGE**

3664

in excess of \$6,000 in any calendar year, for the purpose of amortizing the deficit in the fund. This contribution shall be made from funds available to the employing political subdivision. The amount of this additional contribution shall be the amounts specified below for the years noted:

- |                    |            |
|--------------------|------------|
| (a) 1963-65        | 2 percent  |
| (b) 1966 and after | 1½ percent |

[1963 c 793 s 13; 1965 c 716 s 1-3]

**355.84 RETIREMENT BENEFITS.** Subdivision 1. The retirement annuity hereunder shall be computed in accordance with the applicable provisions of the formula stated in subdivision 2 hereof on the basis of each hospital employee member's average salary for the period of his allowable service.

(a) For years prior to July 1, 1957, average salary for the purpose of determining a member's retirement annuity means the amount equivalent to the average of his highest salary upon which deductions are based for any five consecutive years prior to that date.

(b) For each year subsequent to June 30, 1957, "average salary" of a member for the purpose of determining his retirement annuity means his salary not exceeding \$4,800 in any one calendar year through June 30, 1965, and his total salary not in excess of \$6,000 for any calendar year for every calendar year thereafter, for which he had made employee contributions to the retirement fund.

(c) Average salary in no case shall exceed \$6,000.

Subd. 2. The average salary, as defined in subdivision 1, of any such member multiplied by the applicable percentages indicated below shall determine the amount of the annuity to which the member qualifying therefor is entitled:

Years of Allowable Service:	Percentages at the Rate of:
(a) First ten years	5% of 1 percent per year of service.
(b) Second ten years or completed months of service less than such period	7% of 1 percent per year of service.
(c) Third ten years or completed months of service less than such period	1.66 percent per year of service.
(d) Subsequent years or completed months of service less than such period	1.75 percent per year of service.

[1963 c 793 s 14; 1965 c 716 s 4]

**355.85 OPTIONAL RETIREMENT ANNUITIES.** The board of trustees shall establish optional annuities at retirement which shall take the form of an annuity payable for a period certain and for life thereafter; or as a joint and survivor annuity. Such optional forms shall be actuarially equivalent to the normal forms. In establishing these optional forms the board shall obtain the written recommendation of an approved actuary and these recommendations shall be a part of the permanent records of the board.

[1963 c 793 s 15; 1965 c 716 s 5]

**355.86 RETIREMENT BEFORE BECOMING ELIGIBLE FOR SOCIAL SECURITY.** Any hospital employee member who retires before he is eligible for social security retirement benefits may elect to receive retirement benefits from the association in an amount greater than his annuity computed on the basis of his age when he retires, provided in section 355.84. He shall exercise this option by making application to the board on a form provided by the board. This greater amount shall be the actuarial equivalent of the member's retirement annuity computed on the basis of his age when he retires. This greater amount shall be paid until the member reaches the age of 65, at which time the payment from the association shall be reduced. These annuities provided in this section shall be computed by an approved actuary.

[1963 c 793 s 16]

**355.87 PAYMENTS AFTER DEATH.** Subdivision 1. Where a hospital employee member dies before retirement, there shall be paid to his beneficiary or legal representative, as the case may be, an amount equal to his accumulated deductions plus interest credited to this account to the date of death.

Subd. 2. Where a former hospital employee member dies after retirement, a death benefit shall be paid in accordance with his optional annuity selected pur-

# MINNESOTA STATUTES 1965

3665

SOCIAL SECURITY COVERAGE 355.89

suant to section 355.85 or any other annuity selected by the member before retirement.

Subd. 3. Under the terms of sections 355.82 to 355.89 there are no survivors benefits payable as such to the surviving spouse or dependent children of any deceased hospital employee member. However, any such member may provide for payments to a surviving spouse or any dependent child by selecting an appropriate annuity payable after his death to any such person in the manner authorized by the board as provided in section 355.85.

[1963 c 793 s 17; 1965 c 716 s 6]

**355.88 DISABILITY BENEFITS.** The disability benefit shall be computed in the manner provided in section 355.84. The disability benefit shall be the "normal" annuity without reduction for each month the member is under age 65 at the time of retirement.

[1963 c 793 s 18]

**355.89 MILITARY SERVICE CREDIT.** After any agreement or modification is made, any hospital employee member given a leave of absence to enter military service and who returns to public service upon discharge from military service as provided in Minnesota Statutes, Section 192.262, may obtain credit for his period of military service but he 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. Such member may obtain such credit by paying into the fund an employee contribution based upon his salary at the date of return from military service. The amount of this contribution shall be three percent of his salary not to exceed \$4,800 in any calendar year through June 30, 1965, and thereafter three percent of his total salary not in excess of \$6,000 in any calendar year, plus interest at four percent per annum compounded annually. In such cases the matching employer contribution and additional contribution shall be paid by the political subdivision employing such member upon his return to public service and the political subdivision involved is hereby authorized to appropriate money therefor.

[1963 c 793 s 19; 1965 c 716 s 7]