

CHAPTER 352

MINNESOTA STATE RETIREMENT SYSTEM

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352.01 DEFINITIONS. Subdivision 1. **Terms.** Unless the language or context clearly indicates that a different meaning is intended, the following terms, for the purposes of this chapter, shall be given the meanings subjoined to them.

Subd. 2. **State employee.** "State employee" means any employee or officer in the classified and unclassified service of the state. The term also includes the special classes of persons listed in subdivision 2A but excludes the special classes of persons listed in subdivision 2B.

Subd. 2A. **Included employees.** The following persons are included in the meaning of state employee:

- (1) Employees of the Minnesota Historical Society.
- (2) Employees of the State Horticultural Society.
- (3) Employees of the Disabled American Veterans, Department of Minnesota, Veterans of Foreign Wars, Department of Minnesota, if employed prior to July 1, 1963.
- (4) Employees of the Minnesota Crop Improvement Association.
- (5) Employees of the adjutant general who are paid from federal funds and who are not covered by any federal civilian employees retirement system.
- (6) Employees of the state colleges employed under the college activities program.
- (7) Currently contributing employees covered by the system who are temporarily employed by the legislature during a legislative session or any currently contributing employee employed for any special service as defined in item (8) of subdivision 2B.
- (8) Employees of the armory building commission.
- (9) Permanent employees of the legislature and persons 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 including permanent employees of the legislative research committee.
- (10) Trainees who are employed on a full time established training program performing the duties of the classified position for which they will be eligible to receive immediate appointment at the completion of the training period.
- (11) Employees of the Minnesota Safety Council.

Subd. 2B. **Excluded employees.** The following persons are excluded from the meaning of state employee:

- (1) Elective state officers;
- (2) Students employed by the university of Minnesota, the state colleges, and state junior colleges unless approved for coverage by the board of regents, the state college board or the state junior college board, as the case may be;
- (3) Employees who are eligible to membership in the state teachers retirement association except employees of the department of education who have

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elected or may elect to be covered by the Minnesota state retirement system instead of the teachers retirement association;

(4) Employees of the university of Minnesota who are excluded from coverage by action of the board of regents;

(5) Officers and enlisted men in the national guard and the naval militia and such as are assigned to permanent peacetime duty who pursuant to federal law are or are required to be members of a federal retirement system;

(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 who are temporarily employed and those employees of the legislative research committee who are intermittently employed when needed;

(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 department of labor and industry;

(10) Patient and inmate help in state charitable, penal and correctional institutions including the Minnesota veterans 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 section 16.07, subdivision 4;

(15) Members of the tax court, 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; the secretary, secretary-treasurer, and treasurer of such boards if their compensation is \$500 or less per year, or, if they are legally prohibited from serving more than two consecutive terms and their total service therefor is required by law to be less than ten years; and the board of managers of the state agricultural society and its treasurer unless he is also its full time secretary;

(16) State highway patrolmen;

(17) Temporary employees of the Minnesota state fair employed on or after July 1 for a period not to extend beyond October 15 of the same year; also persons employed at any time or times by the state fair administration for special events held on the fairgrounds;

(18) Emergency employees in the classified service except emergency employees who within the same pay period become provisional or probationary employees on other than a temporary basis, shall be deemed "state employees" retroactively to the beginning of the pay period;

(19) State police officers as defined in section 352A.01;

(20) All temporary employees in the classified service, and all seasonal help in the unclassified service employed by either the motor vehicle division or the department of taxation to perform clerical duties;

(21) Trainees paid under budget classification number 41, and other trainee employees, except those listed in subdivision 2A(10);

(22) Persons whose compensation is paid on a fee basis;

(23) State employees who in any year have credit for 12 months service as teachers in the public schools of the state and as such teachers are members of the teachers retirement association or a retirement system in St. Paul, Minneapolis, or Duluth;

(24) Employees of the adjutant general employed on an unlimited intermittent basis in the classified and unclassified service for the support of army and air national guard training facilities;

(25) Chaplains and nuns who have taken a vow of poverty as members of a religious order;

(26) Labor service employees who are entitled to receive a pay differential because they are not entitled to annual or sick leave, or pay for holidays, or insurance coverage;

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(27) Examination monitors employed by departments, agencies, commissions, and boards for the purpose of conducting examinations required by law;

(28) Members of appeal tribunals, exclusive of the chairman to which reference is made in section 268.10, subdivision 4;

(29) Persons appointed to serve as members of fact finding commissions, adjustment panels, arbitrators, or labor referees under the provisions of chapter 179;

(30) Temporary employees employed for limited periods of time under any state or federal program for the purpose of training or rehabilitation including needy persons employed thereunder for limited periods of time from areas of economic distress except skilled and supervisory personnel and persons having civil service status covered by the system;

(31) Full time students employed by the Minnesota historical society who are employed intermittently during part of the year and full time during the summer months; and

(32) Temporary employees, appointed for not more than six months, of the Metropolitan council and of any of its statutory boards, the members of which board are appointed by the Metropolitan council.

Subd. 3. Head of department. "Head of department" means the head of any department, institution, or branch of the state service which directly pays salaries out of its income or which prepares, approves, and submits salary abstracts of its employees to the state auditor and state treasurer.

Subd. 4. Accumulated contributions. "Accumulated contributions" means the total, exclusive of interest, of (a) the sums deducted from the salary of an employee, (b) the amount of payments, including assessments, paid by him in lieu of such salary deductions and all other payments made under Laws 1929, Chapter 191, or any amendment thereof, and credited to his individual account in the retirement fund.

Subd. 5. Retirement fund. "The retirement fund" includes the aggregate of all "accumulated contributions" of employees, and all other moneys paid into the state treasury or received by the director pursuant to the provisions of Laws 1929, Chapter 191, or any amendment thereof, together with all income and profits therefrom and interest thereon, including contributions on the part of the federal government, the state and departments thereof.

Subd. 6. [Repealed, Ex1967 c 57 s 29]

Subd. 7. Prior service. "Prior service" means the allowable service rendered before the first day of July, 1929, and includes the service during the first world war of officers, soldiers, sailors, marines, and army nurses who were state employees at the time of enlisting or being drafted into the military service of the United States, and who returned directly to the service of the state upon returning from the first world war. It also includes any temporary service or service of less than six months rendered prior to July 1, 1929, upon payment for such service credit as provided in the law in effect at the time of such payment or authorized agreement for such payment.

Subd. 8. [Repealed, 1957 c 928 s 33]

Subd. 9. [Repealed, 1957 c 928 s 33]

Subd. 10. [Repealed, 1963 c 383 s 59]

Subd. 11. Allowable service. "Allowable service" means:

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

(2) Any service rendered by an employee for which on or before July 1, 1961, he elected to obtain credit for service by making payments to the fund pursuant to Minnesota Statutes 1961, Section 352.24, or

(3) Any service rendered by an employee after July 1, 1957, for any pay period when he receives salary from which deductions are made, deposited and credited in the fund, including deductions made, deposited and credited as provided in section 352.041, or

(4) Any service rendered by an employee after July 1, 1957 for any pay period for which payments in lieu of salary deductions are made, deposited and credited in the fund, as provided in section 352.27 and Minnesota Statutes 1957, Section 352.021, Subdivision 4.

(For purposes of paragraphs (3) and (4) of this subdivision, any salary paid for a fractional part of any pay period is deemed the compensation for the entire pay period), or

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

(6) The unused portion of an employee's annual leave allowance for which he is paid salary on regular pay-period abstracts until his accumulated leave is exhausted; but, if payment of annual leave allowance is made as provided in section 351.12, the last day of the pay period in which is his last working day is the date credit for state service terminates, or

(7) Any employee who made payment in installments in order to obtain additional service credit but failed to make the final payment on or before July 1, 1962 shall be entitled to have credit for all service for which the payments he made will entitle him under the provisions of Minnesota Statutes 1961, Section 352.24. In determining "the service for which the payments he made will entitle him" service credit shall extend retroactively from the latest service for which he made payment, or

(8) Former state employees who hold numbered certificates of deferred annuity who again become state employees shall surrender such certificates and shall be entitled to full credit for the service covered by the surrendered certificates, or

(9) Any service covered by refundment repaid as provided in section 352.23 but does not include service rendered as an employee of the adjutant general for which the person has credit with the federal civil service retirement system.

Subd. 12. Actuarial equivalent. "Actuarial equivalent" means the annual amount determined by calculations based on mortality tables, purchasable with a given amount at a stated age.

Subd. 13. Salary. "Salary" means any compensation paid to any employee including wages, allowances, and fees.

Subd. 14. [Repealed, 1963 c 383 s 59]

Subd. 15. Approved actuary. "Approved actuary" means any actuary who is either a fellow of the society of actuaries or who has at least 15 years of service to major public employee funds, or any firm retaining such an actuary on its staff.

Subd. 16. Year of allowable service. "Year of allowable service" means any 12 calendar months not necessarily consecutive in which an employee is entitled to allowable service credit for all pay periods in such 12 calendar months. It also means 12 months credit each calendar year for teachers in the state colleges and state institutions who may or may not receive compensation in every pay period in the calendar year.

Subd. 17. Total and permanent disability. "Total and permanent disability" means the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to be of long-continued and indefinite duration.

Subd. 18. "Annuity" and "benefit" synonymous. The words "annuity" and "benefit," wherever they appear in this chapter, are synonymous.

Subd. 19. Retirement. "Retirement" means the time after a state employee is entitled to an accrued annuity, as defined in subdivision 21 of this section, payable to him pursuant to his application for annuity filed in the office of the system as provided in section 352.115, subdivision 8 or, in the case of an employee who has received a disability benefit, when he attains age 65.

Subd. 20. Retired employee. "Retired employee" means an employee who has retirement status as defined in section 352.01, subdivision 19.

Subd. 21. Accrued annuity. For the purposes of this chapter "accrued annuity" means an annuity which had become payable to a retired employee in his lifetime. An annuity authorized as provided in this chapter becomes payable on the first day of each calendar month for the preceding calendar month and is to be paid during the first week of each calendar month.

Subd. 22. Disabled employee. For the purposes of this chapter "disabled employee" means an employee who is totally and permanently disabled as defined in section 352.01, subdivision 17, and who as a result thereof is entitled to receive a disability benefit as provided in section 352.113.

Subd. 23. **Coverage or covered by the system.** "Coverage" or "covered by the system" for the purposes of this chapter means that state employees who serve the state of Minnesota and make the required employee contributions to the retirement fund will by reason thereof become entitled to either (1) a retirement annuity, or (2) a disability benefit, or (3) a refundment of accumulated contributions, all as provided in this chapter.

[1929 c 191 s 1; 1931 c 351 s 1; 1933 c 326 s 1; 1935 c 238 s 1; 1939 c 432 s 1; 1941 c 391 s 1; 1943 c 622 s 1; 1945 c 38 s 1; 1945 c 284 s 1, 2; 1947 c 631 s 2, 3, 4, 5, 6; 1949 c 644 s 2, 3; 1951 c 441 s 2-8; 1953 c 320 s 1; 1955 c 239 s 1-3; 1957 c 576 s 1, 2; 1957 c 928 s 1-6, 34; Ex1959 c 6 s 1-3; 1961 c 560 s 31; Ex1961 c 67 s 1, 2; 1963 c 383 s 1-8; 1965 c 230 s 1, 2; 1965 c 590 s 1; 1965 c 698 s 3; 1967 c 148 s 2; Ex1967 c 1 s 6; Ex1967 c 57 s 1-7; 1969 c 6 s 45; 1971 c 12 s 1, 2] (254-1)

352.015 [Repealed, 1951 c 441 s 1; 1957 c 928 s 23]

352.02 [Repealed, 1957 c 928 s 33]

352.021 **MINNESOTA STATE RETIREMENT SYSTEM.** Subdivision 1. **Establishment.** There is hereby established the Minnesota state retirement system, hereinafter called the system, for state employees. The Minnesota state retirement system is a continuation of the state employees retirement association. Any person who was a member of the state employees retirement association on June 30, 1967, shall be covered by the Minnesota state retirement system and shall be entitled to all benefits provided by such system upon fulfilling the age, service, contribution, and other requirements thereof.

Subd. 2. **State employees covered.** Every person who is a state employee, as defined in section 352.01, on July 1, 1967, and every person becoming a state employee thereafter is covered by the system provided by this chapter. Acceptance of state employment or continuance in state service is deemed consent to have deductions made from salary for deposit to the credit of the account of the state employee in the retirement fund.

Subd. 3. **Optional exemptions.** Any person who is a departmental head appointed by the governor may request exemption from coverage under this chapter if he is not so covered at the date of such appointment. To qualify for this exemption he shall make his request within 90 days from the date of entering upon the duties of the position to which appointed. He shall not thereafter be entitled to such coverage so long as he continues in the position which entitled him to exemption therefrom.

Subd. 4. M.S. 1957 [Repealed, Ex1959 c 6 s 34]

Subd. 4. **Re-entering service after refundment.** Whenever a former employee who has withdrawn his accumulated contributions re-enters employment entitling him to coverage under the state retirement system established by this chapter, he shall be covered thereby 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.

Subd. 5. **Continuing coverage.** (a) Any state employee who has made contributions to the retirement fund for a period of one year and who, thereafter continuing in state service, becomes eligible to membership in the state teachers retirement association shall have the option of continuing coverage under the system by filing in its office his written election therefor. If he exercises this option, he shall not thereafter be entitled to membership in the teachers retirement association. This option shall also extend to any member of the state employees retirement association who has been required to become a member of the state teachers retirement association subsequent to June 30, 1957; and when the option is exercised as in this subdivision provided, the teachers retirement association shall upon application refund to such person the sum to his credit in that fund.

(b) Employee contributions accepted under (a) of this subdivision by the state employees retirement association before July 1, 1961 shall entitle the paying member to the allowable service reflected by such contributions.

[1957 c 928 s 7; Ex1959 c 6 s 5, 6; 1963 c 383 s 9; Ex1967 c 57 s 8]

352.028 **COVERAGE TERMINATION.** Coverage of any person under the system shall terminate upon his ceasing to be a state employee.

[1963 c 383 s 10; Ex1967 c 57 s 9]

352.03 **BOARD OF DIRECTORS, COMPOSITION, EXECUTIVE DIRECTOR; DUTIES, POWERS.** Subdivision 1. **Membership of board; election; term.** The policy making function of the system is hereby vested in a board of seven members, who shall be known as the board of directors, hereinafter called the board.

This board shall consist of the state auditor, the state treasurer, the insurance commissioner, and four state employees who shall be elected by state employees covered by the system at a time and in a manner to be fixed by the board. Two board members, whose terms of office shall begin on the first Monday in March next succeeding their election, shall be elected biennially. The term of the two board members whose terms expire in 1968 shall terminate on the first Monday in March, 1968, and the terms of the two board members whose terms expire in 1970 shall terminate on the first Monday in March, 1970. The members of the board so elected shall hold office for a term of four years and until their successors are elected, and have qualified. A state employee on leave of absence shall not be eligible for election or re-election to membership on the board of directors; and the term of any board member who is on leave for more than six months shall automatically terminate upon the expiration of such period.

Subd. 2. **Vacancy, how filled.** Any vacancy in the board caused by death, resignation, or removal of any member so elected shall be filled by the board for the unexpired portion of the term in which the vacancy occurs.

Subd. 3. **Directors serve without compensation.** The members of the board shall serve without compensation, but shall be reimbursed out of the retirement fund for expenses actually and necessarily paid or incurred in the performance of their duties, and shall suffer no loss of salary or wages through service on the board.

Subd. 4. **Duties and powers of board of directors.** It is the duty of the board and it has power to:

- (1) Elect a chairman;
- (2) Appoint an executive director;
- (3) Establish rules and regulations for the administration of the provisions of chapter 352 and transaction of the business of the system, all subject to the limitations of said chapter and the law;
- (4) Consider and dispose of, or take such other action as the board of directors deems appropriate concerning denials of applications for annuities or disability benefits under this chapter, and complaints of employees and others pertaining to the retirement of employees and the operation of the system;
- (5) Advise the director on any matters relating to the system and the carrying out of the functions and purposes of said chapter, which advice shall be controlling; and
- (6) Fix the compensation of the director and assistant director of the system with full and exclusive authority regarding such compensation notwithstanding the provisions of section 15A.11. The director and assistant director shall be in the unclassified service but appointees may be selected from civil service lists if it is desired to do so.

Subd. 5. **Executive director.** The executive director, hereinafter called the director, of the system shall be appointed by the board on the basis of fitness, experience in the retirement field, and leadership ability. He shall have had at least five years' experience on the administrative staff of a major retirement system.

Subd. 6. **Duties and powers of executive director.** The management of the system is vested in the director who shall be the executive and administrative head of the system. He shall act as advisor to the board on all matters pertaining to the system. He shall also act as the secretary of the board. It is the duty of the director and he has the power to:

- (1) Attend all meetings of the board;
- (2) Prepare and recommend to the board rules and regulations for the purpose of carrying out the provisions of chapter 352;
- (3) Establish and maintain an adequate system of records and accounts following recognized accounting principles and controls;
- (4) Designate an assistant director with the approval of the board;
- (5) Appoint such employees, both permanent and temporary, as are necessary to carry out the provisions of said chapter;
- (6) Organize the work of the system as he deems necessary to fulfill the functions of the system, and to define the duties of its employees and delegate to them any of his powers or duties, subject to his control and under such conditions as he may prescribe. Appointments to exercise delegated power shall be by written order filed with the secretary of state;
- (7) With the advice and consent of the board, contract for actuarial services, professional management services, and consulting services as may be necessary

and fix the compensation therefor. Such contracts shall not be subject to the competitive bidding procedure prescribed by chapter 16. Professional management services may not be contracted for more often than once in every six years. Copies of all professional management survey reports shall be sent directly to the legislature and the public examiner at the same time reports are furnished the board. Only management firms experienced in conducting management surveys of federal, state or local public retirement systems shall be qualified to contract with the director hereunder;

(8) With the advice and consent of the board provide inservice training for all employees of the system;

(9) Make refundments of accumulated contributions to former state employees and to the designated beneficiary, surviving spouse, legal representative or next of kin of deceased state employees or deceased former state employees, all as provided in chapter 352;

(10) Determine the amount of the annuities and disability benefits of employees covered by the system and authorize payment thereof beginning as of the dates such annuities and benefits begin to accrue, all in accordance with the provisions of said chapter;

(11) Pay annuities, refundments, survivor benefits, salaries and all necessary operating expenses of the system;

(12) Certify funds available for investment to the state board of investment;

(13) With the advice and approval of the board request the state board of investment to sell securities when he determines that funds are needed for the purposes of the system;

(14) Prepare and submit to the board and the legislature a biennial report covering the operation of the system, as required by sections 356.20 to 356.23;

(15) Prepare and submit biennial and quarterly budgets to the board and with the approval of the board submit such budgets to the department of administration; and

(16) With the approval of the board, perform such other duties as may be required for the administration of the retirement and other provisions of this chapter and for the transaction of its business.

Subd. 7. Directors' fiduciary obligation. It is the duty of the board and the director to administer the law faithfully without prejudice and consistent with the expressed intent of the legislature. They shall act in their respective capacities with a fiduciary obligation to the state of Minnesota which created the fund, the taxpayers which aid in financing it, and the state employees who are its beneficiaries.

Subd. 8. Medical advisor. The executive officer of the state board of health or such other licensed physician on the staff of the state board of health as he may designate shall be the medical advisor of the director.

Subd. 9. Duties of the medical advisor. The medical advisor shall designate licensed physicians to examine applicants for disability benefits. The medical advisor shall pass upon all medical reports based upon such examinations required to determine whether a state employee is totally and permanently disabled as defined in section 352.01, subdivision 17, and shall investigate all health and medical statements and certificates by or on behalf of a state employee in connection with a disability benefit, and shall report in writing to the director his conclusions and recommendations on all matters referred to him.

Subd. 10. Power to determine employee's status. Except as otherwise specifically provided in chapter 352, the final power to determine the status of any individual in the employ of the state for the purposes of this chapter is vested in the board and its decision is final.

Subd. 11. Legal adviser, attorney general. The attorney general shall be the legal adviser of the board and of the director.

Subd. 12. Civil service department, duties. Upon request of the director, the civil service department shall furnish such information relative to the status of state employees as may be required by the director or the board in the performance of their duties.

Subd. 13. Department of labor and industry, duties. The department of labor and industry shall furnish the director with a copy of each abstract submitted to the state auditor and to be charged to the state compensation revolving fund which shall be construed as notice to the director that the employees listed thereon have sustained injury arising out of and in the course of employment by the state of

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Minnesota and are entitled to credit for service on the records of the system during the time compensation is received for temporary disability resulting from such injury, but shall not be used for any other purpose.

Subd. 14. **Departmental information.** Under the direction of the director the head of each department shall furnish such information and keep such records as the director or the board may require for the discharge of their duties.

Subd. 15. **Calendar year basis optional.** For all purposes except quarterly and biennial budgets the system may operate on a calendar rather than a fiscal year basis.

[1929 c 191 s 3; 1931 c 351 s 3; 1935 c 238 s 3; 1941 c 391 s 3; 1947 c 631 s 9; 1949 c 644 s 8; Ex1959 c 6 s 4; 1963 c 383 s 11; 1965 c 691 s 1; Ex1967 c 1 s 6; Ex1967 c 57 s 10] (254-3)

352.04 STATE EMPLOYEES RETIREMENT FUND, CONTRIBUTIONS BY EMPLOYEE AND EMPLOYER. Subdivision 1. **Fund created.** (1) There is created a special fund to be known as the state employees retirement fund. In that fund there shall be deposited employees contributions, employers contributions and other amounts authorized by law.

(2) Effective July 1, 1969, the Minnesota state retirement system shall participate in the Minnesota adjustable fixed benefit fund. In that fund there shall be deposited the amounts provided in section 352.119.

Subd. 2. **Employee contributions.** The employee contribution to the fund (a) by those employees whose state service is covered by the federal social security act shall be an amount equal to three percent of salary, and (b) by those employees whose state service is not covered by the federal social security act shall be an amount equal to six percent of salary. These contributions shall be made by deduction from salary in the manner provided in subdivision 4.

Subd. 3. **Employer contributions.** The employer contribution to the fund shall be (1) an amount equal to the total amount deducted from the salaries of employees on each payroll abstract, plus (2) (a) an additional one-half of the amount of such deductions beginning with the first full pay period after June 30, 1969, for employees paying three percent contributions, such amount to be reduced to one-third of such deductions beginning with the first full pay period after June 30, 1970; or (b) an additional one-sixth of the amount of such deductions for employees paying six percent contributions. The employer contributions shall be made in the manner provided in subdivisions 5 and 6.

Subd. 4. **Payroll deductions.** The head of each department shall cause employee contributions to be deducted from the salary of each employee covered by the system on every payroll abstract and shall approve one voucher payable to the state treasurer for the aggregate amount so deducted on 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. The head of any department or agency having authority to appoint any employee who receives fees as his compensation or who receives his compensation on federal payrolls shall collect as the required employee contribution the applicable amounts required in section 352.04, subdivision 2. All such deductions from salary and amounts collected shall be remitted by him to the director 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.

Subd. 5. **Payment of employer contributions.** (a) The head of each department or agency shall cause employer contributions to be made to the fund on each payroll abstract at the time each employee is paid his salary in the amounts required by section 352.04, subdivision 3. These contributions shall be charged as administrative costs. Each department shall pay these amounts from such accounts and funds from which each department or agency receives its revenue, including appropriations from the general 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 to provide for the administrative cost as herein provided 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.

(b) If there are insufficient moneys in any such accounts or fund or source of

revenue to make the payments to the state employees retirement fund required by this section to be made by such department or agency, 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 such 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.

Subd. 6. Quasi-state agencies; employer contributions. For those of their employees who are covered by the system, 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, the Minnesota safety council, the Metropolitan council and any of its statutory boards, and any other agency employing employees covered by this system, respectively, shall also pay into the retirement fund the amount required by section 352.04, subdivision 3.

Subd. 7. Employer obligation to match employee lump sum payments. Upon certification of the required amount to the employer by the director, each employing state department and employing governmental subdivision shall match on a pro-rata basis all authorized employee lump sum payments for past service rendered to each state department and governmental subdivision pursuant to this section or sections 352.23 or 352.27. The employer's liability in this subdivision provided shall have both prospective and retroactive application to lump sum payments made by employees after June 30, 1961.

Subd. 8. Department required to pay equivalent of interest on omitted salary deductions. (a) If any department fails to take deductions from an employee's salary as provided in this section such deductions shall be taken on subsequent payroll abstracts, and the department, and not the employee, shall pay in lieu of interest an amount equivalent to six percent of the amount due for both the employee and employer contributions. (b) If the employee is no longer in state service so that the required deductions cannot be taken from his salary the department shall nevertheless pay the required employer contributions plus an amount equivalent to six percent of the required employee and employer contributions. (c) If an employee from whose salary required deductions were not taken returns to state service the unpaid amount thereof shall be considered the equivalent of a refundment, and the employee shall accrue no right by reason thereof, except that he may pay the amount thereof as provided in section 352.23.

Subd. 9. Erroneous deductions, cancelled warrants. (1) Any deductions taken from the salary of an employee for the retirement fund in error shall, upon discovery and verification by the department making the deduction, be refunded to the employee.

(2) In the event a salary warrant or check from which a deduction for the retirement fund was taken has been cancelled or the amount of the warrant or check returned to the funds of the department making the payment, a refundment of the sum so deducted, or any portion of it as is required to adjust the deductions, shall be made to the department or institution provided application for it is made on a form furnished by the director, and the department's payments shall likewise be refunded to the department.

Subd. 10. Certain warrants cancelled. Any state auditor's warrant payable from the retirement fund remaining unpaid for a period of six years shall be cancelled into the retirement fund and not into the general fund.

Subd. 11. Gifts and bequests. The director is hereby authorized and empowered to credit to the retirement fund any moneys received in the form of donations, gifts, appropriations, bequests, or otherwise, or derived therefrom.

Subd. 12. Fund disbursement restricted. The state employees retirement fund and the participation in the Minnesota adjustable fixed benefit fund shall be disbursed only for the purposes herein provided. The expenses of the system and any benefits herein provided, other than benefits payable from the Minnesota adjustable fixed benefit fund, shall be paid from the state employees retirement fund. The retirement allowances, retirement annuities, and disability benefits, as well as refundment of any sum remaining to the credit of a deceased retired employee or a disabled employee shall be paid only from the state employees retirement fund after such needs have been certified and the amounts withdrawn from the participation in the Minnesota adjustable fixed benefit fund under the provisions of section

11.25. The amounts necessary to make the payments from the state employees retirement fund and the participation in the Minnesota adjustable fixed benefit fund are hereby annually appropriated from said funds for said purposes.

[1929 c 191 s 4; 1931 c 351 s 4; 1933 c 326 s 4; 1935 c 238 s 4; 1939 c 432 s 2; 1941 c 391 s 4; 1943 c 622 s 3; 1945 c 284 s 5, 6, 7; 1945 c 603 s 1; 1947 c 631 s 10, 11; 1949 c 644 s 9, 10; 1951 c 441 s 13, 14; 1955 c 239 s 7, 8; 1957 c 928 s 8, 33; 1961 c 633 s 1; Ex1961 c 67 s 3, 4, 5, 6; 1963 c 383 s 12-19; 1965 c 861 s 1; 1967 c 571 s 1; Ex1967 c 57 s 11; 1969 c 399 s 1; 1969 c 893 s 3-5; 1971 c 194 s 1] (254-4)

352.041 LEAVE OF ABSENCE FOR EMPLOYMENT BY POLITICAL SUBDIVISION. Subdivision 1. **Allowable service credit.** Any employee covered by the system who is given a leave of absence for employment by a political subdivision of the state shall continue to pay into the state employees retirement fund for the period of such leave, and upon such payment he shall be given allowable service credit as a state employee on the records of the system the same as though he had received salary from the state therefor. Such payments into the retirement fund shall be at the rate required in section 352.04, subdivision 2, and shall be based upon the salary received from the political subdivision subject to the maximum amount, if any.

Subd. 2. Employee contributions, procedure. The officer or employee authorized by law to pay salaries to employees of the political subdivision employing such state employee shall cause employee contributions to be deducted from the salary of each employee who is on leave of absence from state service as aforesaid on each payroll abstract and shall pay such sum to the director each pay period.

Subd. 3. Employer contributions, procedure. The officer or employee authorized by law to pay salaries to employees of the political subdivision employing such state employee covered by the system shall also cause employer contributions to be made to the state employees retirement fund on each payroll abstract in the amount required by section 352.04, subdivision 3. These contributions are to be charged as an administrative cost.

Subd. 4. [Repealed, 1963 c 383 s 59]

Subd. 5. Employer contributions, leaves of absence; tax levies. Every political subdivision employing a state employee covered by the system on leave of absence from state service for employment by a political subdivision of the state shall pay into the state employees retirement fund the amount of the employer contribution required by law for state employees covered by the system. Such employing political subdivisions, except school districts, may levy such taxes as may be necessary for the payment of employer contributions without limitation as to rate or amount, and the levy of such taxes shall not cause the amount of other taxes to be levied by political subdivisions, except school districts, which are subject to any such limitation, to be reduced in any amount whatsoever.

Subd. 6. Certain employee contributions validated. The payments made to the state employees retirement fund by members of the association on leave of absence for employment by political subdivisions of the state of Minnesota between July 1, 1957 and July 1, 1959, pursuant to the resolution of the state employees retirement board adopted August 27, 1957, are hereby validated.

Subd. 7. [Repealed, 1963 c 383 s 59]

[1959 c 647 s 1; 1963 c 383 s 20, 21; Ex1967 c 57 s 12; Ex1971 c 31 art 20 s 10]

352.05 STATE TREASURER TO BE TREASURER OF SYSTEM. The state treasurer shall be ex-officio treasurer of the retirement funds of the system and his general bond to the state shall cover all liability for his actions as treasurer of these funds. All moneys of the system received by him shall be set aside in the state treasury to the credit of the proper fund. He shall deliver to the director each month copies of all payroll abstracts of the state together with the state auditor's warrants covering the deductions made on these payroll abstracts for the retirement fund; whereupon the director shall cause to be made, in quadruplicate, a list of the auditor's warrants and these warrants shall then be deposited with the state treasurer to be credited to the retirement fund. He shall pay out of this fund only on warrants issued by the state auditor, upon abstracts signed by the director, or by the finance officer designated by the director during the disability or the absence of the director from the city of St. Paul, Minnesota. Abstracts for investments may be signed by the secretary of the state board of investment.

[1929 c 191 s 5; 1931 c 351 s 5; 1935 c 238 s 5; 1941 c 391 s 5; 1945 c 284 s 8; 1957 c 928 s 28; Ex1961 c 67 s 7; Ex1967 c 57 s 13] (254-5)

352.06 [Repealed, 1967 c 404 s 8]

352.061 INVESTMENT BOARD TO INVEST FUNDS. The director shall, from time to time, certify to the state board of investment such portions of the state employees retirement fund as in his judgment may not be required for immediate use. Assets from the state employees retirement fund shall be transferred to the Minnesota adjustable fixed benefit fund as provided in section 11.25. The state board of investment shall thereupon invest and reinvest sums so transferred, or certified, in such securities as are duly authorized legal investments for such purposes under chapter 11.

[1967 c 404 s 7; Ex 1967 c 57 s 14; 1969 c 893 s 6]

352.07 [Repealed, 1963 c 383 s 59]

352.08 [Repealed, 1963 c 383 s 59]

352.09 [Repealed, 1957 c 928 s 33]

352.10 [Repealed, 1945 c 284 s 1]

352.103 Subdivision 1. [Repealed, 1963 c 383 s 59]

Subd. 2. [Repealed, 1963 c 383 s 59; 1965 c 230 s 18]

352.11 [Repealed, 1957 c 928 s 33]

352.113 PERMANENT DISABILITY BENEFITS. Subdivision 1. **Age and service requirements.** Any employee covered by the system who is less than 65 years of age who becomes totally and permanently disabled after ten or more years of allowable service shall be entitled to a disability benefit in an amount provided in subdivision 3. If such disabled employee's state service has terminated at any time, at least five of the required ten years of allowable service must have been rendered after last becoming a state employee covered by the system.

Subd. 2. **Accrual of benefits.** The benefit shall begin to accrue 90 days following the commencement of disability or the day following the last day paid whichever is later but in no event earlier than 60 days prior to the date the application is filed with the director.

Subd. 3. **Computation of benefits.** The total and permanent disability benefit shall be computed in the manner provided in section 352.115. The disability benefit shall be the normal annuity without reduction for each month the employee is under age 65 at the time of becoming disabled. The optional annuities provided for in section 352.116 do not apply to this section. Employees covered by the system whose total and permanent disability shall have been established prior to July 1, 1961, and approved by the trustees, shall continue to receive the disability benefits provided by the law then in effect so long as the total and permanent disability continues.

Subd. 4. **Medical examinations; authorization for payment of benefit.** The director shall have the employee examined by at least two licensed physicians designated by the medical advisor. These physicians shall make written reports to the director concerning the employee's disability including medical opinions as to whether he is permanently and totally disabled within the meaning of section 352.01, subdivision 17, and acts amendatory thereto. The director shall also obtain written certification from the employer stating whether the employee is on sick leave of absence because of a disability which will prevent further service to the employer and as a consequence the employee is not entitled to compensation from the employer. If upon the consideration of the reports of the physicians and such other evidence as may have been supplied by the employee or others interested therein, the medical advisor finds the employee totally and permanently disabled, he shall make appropriate recommendation to the director in writing together with the date from which the employee has been totally disabled, and the director shall thereupon determine the propriety of authorizing payment of a disability benefit as provided in this section. The fact that an employee is placed on leave of absence without compensation because of disability shall not bar him from receiving a disability benefit. Unless payment of a disability benefit has terminated because the employee is no longer totally disabled, or because he has reached age 65 as provided in this section, the disability benefit shall cease with the last payment received by the disabled employee or which had accrued to him in his lifetime unless he leaves a spouse surviving him; in that event the surviving spouse shall be entitled to the disability benefit for the calendar month in which the disabled employee died.

Subd. 5. **Benefits paid under other laws.** The disability benefit shall be re-

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duced by any amounts received or receivable by an employee from the employer under applicable workmen's compensation laws.

Subd. 6. Regular medical examinations. At least once each year during the first five years following the allowance of a disability benefit to any employee, and at least once in every three-year period thereafter, the director shall require any disabled employee to undergo a medical examination to be made at the place of residence of such employee, or at any place mutually agreed upon, by a physician or physicians designated by the medical advisor and engaged by the director. If any examination indicates to the medical advisor that he is no longer permanently and totally disabled, or that he is engaged or is able to engage in a gainful occupation, payments of the disability benefit by the fund shall be discontinued. The payments shall discontinue 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 the medical advisor finds that such employee is no longer permanently and totally disabled.

Subd. 7. Partial re-employment. Should the disabled employee resume a gainful occupation and his earnings are less than his salary at the date of disability or the salary currently paid for similar positions, the director shall continue the disability benefit in an amount which when added to such earnings does not exceed his salary at the date of disability or the salary currently paid for similar positions, whichever is lower, provided the disability benefit in such case does not exceed the disability benefit originally allowed. No deductions for the retirement fund shall be taken from the salary of a disabled employee who is receiving a disability benefit as provided in this subdivision.

Subd. 8. Refusal of examination. Should any such disabled employee refuse to submit to a medical examination as herein provided, payments by the fund shall be discontinued and all rights of the employee in any disability benefit shall be revoked by the director.

Subd. 9. Return to state service. Any employee receiving a disability benefit who is restored to active state service except employees receiving benefits as provided in subdivision 7, shall have deductions taken for the retirement fund and upon subsequent retirement have his retirement annuity based upon all allowable service including that upon which the disability benefits were based. No employee shall be entitled to receive disability benefits and a retirement annuity at the same time.

Subd. 10. Employee again disabled after resuming employment. If a disabled employee resumes gainful employment with the state and he is not entitled to continued payment of a disability benefit as provided in subdivision 7, his right to a disability benefit shall terminate when he has been employed for one year thereafter. Should such employee again become totally and permanently disabled before reaching age 65, he may again make application for a disability benefit. In the event the employee is entitled to a disability benefit it shall be computed as provided in subdivision 9.

Subd. 11. Recomputation of benefit. If an employee who has resumed employment as provided in subdivision 10 is re-employed for more than three months, but is unable to continue in such re-employment for one year, his disability benefit shall be recomputed allowing him additional service credit for the period of re-employment; provided that if the period of re-employment does not exceed three months, the deductions taken from his salary after resuming employment shall be returned to him, and he shall not be entitled to service credit for the period covered by the returned deductions.

Subd. 12. Retirement status at age 65. The disability benefit paid to an employee hereunder shall terminate when he reaches age 65 if he is still totally and permanently disabled. At that time he shall be deemed to be a retired employee.

[1951 c 441 s 21; 1955 c 239 s 13; 1957 c 928 s 13; Ex1959 c 6 s 13; Ex1961 c 67 s 9; 1963 c 383 s 22-25; Ex1967 c 57 s 15; 1971 c 12 s 3; 1971 c 194 s 2]

352.115 RETIREMENT ANNUITY. Subdivision 1. **Age and service requirements.** After separation from state service any employee (a) who has attained the age of at least 65 years and who is entitled to credit for not less than ten years allowable service or (b) who has attained the age of at least 58 years and who is entitled to credit for not less than 20 years allowable service is entitled

upon application to a retirement annuity. Retirement is not compulsory prior to attaining the age of 70.

Subd. 2. Average salary. The retirement annuity hereunder payable at age 65 or thereafter shall be computed in accordance with the applicable provisions of the formula stated in subdivision 3 hereof, on the basis of the employee's average salary for the period of his allowable service. Such retirement annuity is known as the "normal" retirement annuity.

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

(b) For each year subsequent to June 30, 1957, "average salary" of an employee for the purpose of determining his retirement annuity means the average of his salary upon which he has made contributions to the retirement fund by payroll deductions.

Subd. 3. Retirement annuity formula. The employee's average salary, as defined in subdivision 2 multiplied by the applicable percentages indicated below shall determine the amount of the retirement annuity to which the employee qualifying therefor is entitled:

(1) For Years of Allowable Service Rendered Prior to July 1, 1969	Percentages at the Rate of:
(a) First ten years	1 percent per year of service
(b) Second ten years or completed months of service less than such period	1.1 percent per year of service
(c) Third ten years or completed months of service less than such period	1.7 percent per year of service
(d) Subsequent years or completed months of service less than such period	2 percent per year of service
(2) For years of Allowable Service Rendered Subsequent to June 30, 1969	Percentages at the Rate of:
(a) First ten years	1 percent per year of service
(b) Second ten years of completed months of service less than such period	1.3 percent per year of service
(c) Third ten years of completed months of service less than such period	2 percent per year of service
(d) Subsequent years or completed months of service less than such period	2.5 percent per year of service

(3) If a combination of the above formulas is used, the formula percentages used shall be those percentages in each formula as continued for the respective years of allowable service from one formula to the next.

Subd. 4. Certain annuity options. When any employee retires who on July 1, 1957, had ten or more years of allowable service as a member of the state employees retirement association, and who does not qualify for old age and survivors primary benefits, he shall have the option to receive (a) the annuity provided in subdivisions 2 and 3, or (b) the annuity based on salary not exceeding \$4,800 per annum provided in Minnesota Statutes 1953, Section 352.11 as amended by Laws 1955, Chapter 239, but without rights to a reversionary annuity; provided however, that in the event he becomes eligible to receive the primary social security benefit, the provisions of section 352.115, subdivisions 2 and 3, shall apply for the purpose of ascertaining his retirement annuity under this section.

Subd. 5. Additional annuity in certain cases. When any employee retires who on July 1, 1957, had ten or more years of allowable service as a member of the state employees retirement association, he shall receive in addition to the annuity provided in subdivisions 2 and 3, an amount which, when added to his old age survivors insurance primary benefit, equals the annuity based on salary not exceed-

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ing \$4,800 per annum, he would have received under Minnesota Statutes 1953, Section 352.11 as amended by Laws 1955, Chapter 239.

Subd. 6. [Repealed, 1965 c 230 s 18]

Subd. 7. **Application for annuity.** Application for annuity may be made by the employee, or some one acting in his behalf, upon proof of authority satisfactory to the director.

Subd. 8. **Accrual of annuity.** State employees shall make application for an annuity but such application shall not be made prior to the time the employee is eligible to retire by reason of both age and service requirements. If the director determines an applicant for annuity has fulfilled all the requirements of the law to entitle him to an annuity, he shall authorize payment thereof in accordance with the provisions of this chapter and payment shall be made pursuant to this authorization. An annuity shall begin to accrue no earlier than 60 days prior to the date the application is filed with the director except that if an optional annuity as provided in section 352.116, subdivision 3 is selected the annuity shall begin to accrue 30 days after the application is filed with the director but in no event prior to the day following the termination of state service. The retirement annuity shall cease with the last payment which had accrued to the retired employee during his lifetime unless he elected an optional annuity provided in section 352.116, subdivision 3, and he had become entitled to payment thereof. The joint and last survivor annuity shall cease with the last payment received by the survivor in his or her lifetime. If a retired employee had not selected an optional annuity, or a survivor annuity is not payable under the option, and a spouse survives, such spouse shall be entitled only to the annuity for the calendar month in which the retired employee died. If an optional annuity is payable after the death of the retired employee, the survivor shall be entitled to the annuity for the calendar month in which the retired employee died. If an employee who has filed an application for annuity prior to the termination of his state service dies before an annuity becomes payable to him, refundment of his accumulated contributions shall be made as provided in section 352.12, subdivision 1.

Subd. 9. **Annuities payable monthly.** All annuities, and disability benefits authorized under the provisions of this chapter shall be paid in equal monthly installments and shall not be increased, decreased, or revoked except as provided herein.

Subd. 10. **Re-employment of annuitant.** Should any retired employee again become entitled to receive salary or wages from the state, other than salary or wages received as a temporary employee of the legislature during a legislative session, his annuity or retirement allowance shall cease when he has earned \$2000 in any calendar year. The annuity shall be resumed when state service terminates, or, if the retired employee is still employed at the beginning of the next calendar year, at the beginning of such calendar year, and payment shall again terminate when he has earned \$2000. No payroll deductions for the retirement fund shall be made from the earnings of such retired employee. If such retired employee is granted a sick leave without pay, but not otherwise, the annuity or retirement allowance shall be resumed during the period of sick leave. No change shall be made in the monthly amount of such annuity or retirement allowance because of such employment. The provisions of this subdivision shall be construed consistently with section 352.72, subdivision 3.

Subd. 11. **Accrued annuity at death.** Any annuity which had accrued prior to the death of a retired employee, and any disability benefit which had accrued prior to the death of a disabled employee shall be paid to the beneficiary whom the retired employee or the disabled employee had last designated. If (a) no beneficiary has been so designated, or (b) the designated beneficiary should die before making claim for payment of such annuity or benefit, payment shall be made to the surviving spouse, or, if none, to the legal representative of such retired employee or disabled employee. If such designated beneficiary, surviving spouse, or legal representative entitled thereto does not apply for payment within five years from the date of death of the retired employee or disabled employee, the annuity or disability benefit which had accrued at the time of death shall be credited to and become a part of the retirement fund.

Subd. 12. **Death, return of warrants.** If at the time of death a retired employee, a disabled employee or a survivor has in his possession state auditor's

warrants covering a retirement annuity, disability benefit or survivor benefit from the retirement fund, in the absence of probate proceedings, and upon the return of such warrants for cancellation, payment of such accrued annuity or benefit shall be paid as provided in sections 352.115, subdivision 11, or 352.12, subdivision 4. Payments made under the provisions of this subdivision shall be a bar to recovery by any other person or persons.

[1957 c 928 s 9; Ex1959 c 6 s 7, 9, 20; Ex1961 c 67 s 10; 1963 c 383 s 26-32; 1963 c 814 s 1; 1965 c 230 s 3-6; Ex1967 c 57 s 16; 1969 c 893 s 7; 1971 c 12 s 4]

352.116 ANNUITIES UPON RETIREMENT. Subdivision 1. **Reduced annuity before age 65.** Any employee who retires prior to age 65 shall be paid the normal retirement annuity provided in sections 352.115, subdivisions 2 and 3, or 352.715, subdivision 2, as the case may be, reduced by one-half of one percent for each month that the employee is under age 65 on the last day for which he is entitled to service credit as provided in section 352.01, subdivision 11, clause (3), or the date state service terminated, or the date the application for the annuity is filed with the director, whichever is later.

Subd. 2. **Normal annuity at age 65.** Any employee who retires after age 65 shall be paid the annuity provided in section 352.115 or 352.715, subdivision 2, whichever applies.

Subd. 3. **Optional annuities.** The board shall establish an optional retirement annuity which shall take the form of a joint and survivor annuity. The board may also in its discretion establish an optional annuity which shall take the form of an annuity payable for a period certain and for life thereafter. Such optional forms shall be actuarially equivalent to the normal forms provided in sections 352.115 and 352.116, or 352.715, subdivision 2, whichever applies. In establishing these optional forms the board shall obtain the written recommendation of approved actuary and these recommendations shall be a part of the permanent records of the board.

[1957 c 928 s 10; Ex1959 c 6 s 11; Ex1961 c 67 s 11; 1963 c 383 s 33-35; Ex1967 c 57 s 17; 1969 c 37 s 1; 1971 c 274 s 1]

352.117 Subdivision 1. [Repealed, 1963 c 383 s 59]

Subd. 2. [Repealed, 1963 c 383 s 59]

Subd. 3. [Repealed, 1959 c 162 s 3]

352.118 INCREASE IN BENEFITS. The retirement annuities and disability benefits authorized and in effect on June 30, 1969 shall be increased in the same ratio that the actuarially computed reserve for such benefits determined by using an interest assumption of three percent bears to the actuarially computed reserve for such benefits determined by using an interest assumption of three and one-half percent. The reserves upon which such increase shall be based shall be the actuarially determined reserve for benefits in effect at December 31, 1968, in accordance with the mortality assumptions then in effect and at interest assumptions of three percent and three and one-half percent. Such ratio of increase computed to the last full one hundredth of one percent shall be applied to benefits in effect on June 30, 1969 and shall begin to accrue July 1, 1969. Notwithstanding section 356.18, increases in benefit payments pursuant to this section will be made automatically unless the intended recipient files written notice with the Minnesota state retirement system requesting that the increase shall not be made.

[1969 c 893 s 8]

352.1181 FORMULA FOR PAST SERVICE; INCREASED BENEFITS AS PROSPECTIVE. The legislature finds that the normal cost of the Minnesota state retirement system is below the amount contributed by employee and employer for the purpose of financing normal cost. For this reason the formula for past service is improved by Laws 1969, Chapter 893. The legislature also determines that sound policy dictates that improvements in benefit rates justifiable on the basis of actuarial gains to the fund and improved contribution rates should be prospective in nature so as not to accumulate inordinate deficits. For this reason the benefit increases herein provided for service after July 1, 1969, are prospective in application.

[1969 c 893 s 2]

352.119 PARTICIPATION IN MINNESOTA ADJUSTABLE FIXED BENEFIT FUND. Subdivision 1. **Adjustable fixed benefit annuity.** Adjustable fixed benefit annuity means the payments made from the participation in the fund to an annuitant

after retirement in accordance with the provisions of this section. It also means that the payments made to the persons receiving benefits shall never be an amount less than the amount originally determined on the date of retirement or on July 1, 1969, whichever is later but not including the supplemental benefit provided for in section 352.73.

Subd. 2. **Valuation of assets; adjustment of benefits.** (1) As of June 30, 1969, the present value of all annuities in force as of June 30, 1969 and as amended in accordance with Laws 1969, Chapter 893, shall be determined in accordance with the 1937 standard annuity table of mortality, calculated separately as to sex, with an interest assumption of three and one-half percent and assets representing the required reserves for these annuities shall be transferred to the Minnesota adjustable fixed benefit fund, during a period of one year in accordance with the procedures specified by law for the Minnesota adjustable fixed benefit fund.

(2) Effective July 1, 1969, for those employees commencing to receive benefits pursuant to chapter 352, and acts amendatory thereof, the required reserves as determined in accordance with this section shall be transferred to the Minnesota adjustable fixed benefit fund as of the date benefits begin to accrue.

(3) Annuity payments shall be adjusted in accordance with the provisions of section 11.25, subdivisions 12 and 13.

Subd. 3. **Increases made automatically.** Notwithstanding section 356.18, increases in benefit payments pursuant to this section will be made automatically unless the intended recipient files written notice with the Minnesota state retirement system requesting that the increase shall not be made.

[1969 c 893 s 9; 1971 c 12 s 5; 1971 c 414 s 7]

352.12 REFUNDMENT AFTER DEATH OF EMPLOYEE OR FORMER EMPLOYEE. Subdivision 1. **Death before termination of service.** If an employee dies before his state service has terminated and neither a survivor annuity nor a reversionary annuity is payable or if an employee who has filed a valid application for an annuity or disability benefit prior to the termination of his state service dies before the benefit has become payable, the director shall make a refundment to his last designated beneficiary or, if there be none, to his surviving spouse or, if none, to the representative of his estate in an amount equal to his accumulated contributions plus interest thereon to the date of death at the rate of three and one-half percent per annum compounded annually. In the event an employee dies who has received a refundment which he had subsequently repaid in full, interest shall be paid on such repaid refundment only from the date of repayment. If the repayment was made in installments, interest shall be paid only from the date installment payments began. The designated beneficiary, surviving spouse or representative of the estate of an employee who had received a disability benefit shall not be entitled to interest upon any balance remaining to his credit in the fund at the time of death.

Subd. 2. **Surviving spouse benefit.** If an employee who has attained the age of at least 65 years and has credit for not less than ten years allowable service or who has attained the age of at least 58 years and has credit for not less than 20 years allowable service dies before his state service has terminated or if an employee who has filed a valid application for an annuity or disability benefit prior to the termination of his state service dies before the benefit has become payable, notwithstanding any designation of beneficiary to the contrary, his surviving spouse may elect to receive, in lieu of the refundment with interest provided in subdivision 1, an annuity equal to the joint and 50 percent survivor annuity which the employee could have qualified for had he retired on the date of death, computed as provided in section 352.115, subdivisions 2 and 3, and section 352.116, subdivisions 1 and 3. The annuity shall cease with the last payment received by the surviving spouse in his or her lifetime. An amount equal to the excess, if any, of the accumulated contributions which were credited to the account of the deceased employee over and above the total of the benefits paid and payable to the surviving spouse shall be paid to the deceased employee's last designated beneficiary or, if none, to the representative of the estate of such deceased employee. Any employee may request in writing that this subdivision not apply and that payment be made only to his designated beneficiary as otherwise provided by this chapter.

Subd. 3. **Refundment of \$500 or less.** If a state employee or former state employee dies without having designated a beneficiary, or if the beneficiary should

die before making application for refundment of the sum to the credit of such deceased employee or former employee, and there is no surviving spouse, and the amount of the refundment does not exceed \$500 exclusive of interest the director may, 90 days after the date of death of the employee or former employee in the absence of probate proceedings, upon proper application make refundment to the next of kin of the deceased employee or former employee, as determined by the director with the concurrence of the board, to be entitled thereto consistent with the laws of descent and such determination and payment without notice shall be conclusive and final and shall be a bar against claims of all other persons.

Subd. 4. Refundment to minor beneficiary. If an employee or former employee dies having named as his beneficiary a person who is a minor at the time of the application for refundment, and the amount of the refundment does not exceed \$500, exclusive of interest, the director in the absence of guardianship or probate proceedings may make payment to the natural guardian having custody of such minor beneficiary, for the benefit of such child. Any annuity, retirement allowance or disability benefit which had accrued at the time of death of a disabled or retired employee, payable to a minor beneficiary, may similarly be paid, and such payment shall be a bar to recovery by any other person or persons.

Subd. 5. Monthly installments. The beneficiary or surviving spouse of any deceased employee or former employee entitled to receive a refundment shall have the option of having the amount due him paid in monthly installments in such amounts as may be agreed upon with the director.

Subd. 6. Death after service termination. If a former employee covered by the system dies and he has not received an annuity, a retirement allowance or a disability benefit, a refundment shall be made to his last designated beneficiary or, if there be none, to his surviving spouse or, if none, to the representative of his estate in an amount equal to his accumulated contributions.

Subd. 7. Absence of optional or reversionary annuity. If a retired employee dies who selected neither an optional annuity or a reversionary annuity, there shall be paid to his designated beneficiary or, if there be none, to his surviving spouse or, if none, to the representative of his estate, an amount equal to the excess, if any, of the accumulated contributions to the credit of the retired employee immediately prior to his retirement over and above the aggregate of (1) all annuities, retirement allowances and disability benefits he had received and which had accrued in his lifetime, and (2) the annuity, retirement allowance or disability benefit if applicable, payable to his surviving spouse under section 352.115, subdivision 8, or section 352.113, subdivision 4, for the calendar month in which the retired employee died.

Subd. 8. M.S. 1961 [Repealed, 1963 c 383 s 59]

Subd. 8. Optional or reversionary annuity. If a retired employee dies who selected either an optional annuity or a reversionary annuity, and the total amounts paid thereunder are less than the accumulated contributions to the credit of the retired employee immediately prior to his retirement, the balance of such accumulated contributions shall be paid to the person designated by the retired employee in writing to receive the same, but if no such designation has been made by the retired employee the remaining balance of such accumulated contributions shall be paid to the representative of his estate.

Subd. 9. Beneficiary designation. The designation of a beneficiary or person to receive any accumulated contributions remaining to the credit of an employee, a former employee, or a retired employee, at the time of his death, as provided in this section, must be in writing and must be filed with the director prior to the death of the employee, former employee, or retired employee.

Subd. 10. Death of beneficiary before refundment. If the last designated beneficiary or beneficiaries and the surviving spouse of a (a) deceased employee, (b) former employee, or (c) retired employee, should die before receiving a refundment of the sum to the credit of the deceased employee, former employee or retired employee at the time of his death, the refundment shall be made to the estate of the deceased employee or as provided in subdivision 3 if the amount of the refundment does not exceed \$500 exclusive of interest.

Subd. 11. Death of disability annuitant. If an employee who has received a disability benefit dies, there shall be paid to his last designated beneficiary or, if there be none, to his surviving spouse, or if none, to the representative of his estate, an

amount equal to the excess, if any, of the accumulated contributions to the credit of the employee at the time the disability benefit began to accrue over and above the aggregate of (1) all disability benefits he had received and which had accrued in his lifetime, and (2) the benefit for the month in which the disabled employee died, payable, if applicable, to his surviving spouse under section 352.113, subdivision 4, and acts amendatory thereof.

Subd. 12. Refundment, failure to request. If the last designated beneficiary, surviving spouse, legal representative or next of kin, as determined by the director with the concurrence of the board, fails to make claim for refundment as provided in this section (a) within five years from the date of death of a retired employee or disabled employee, or (b) within five years after the last deduction was taken from the salary of a deceased employee or deceased former employee, the accumulated contributions of such deceased employee, former employee, retired employee or disabled employee shall be credited to the retirement fund; however, if claim to refundment is made within ten years after the transfer of accumulated contributions to the fund or within ten years after the date of death, whichever is later, and the amount transferred to the fund is over \$25, the sum shall be restored to the account of such deceased employee, former employee, retired employee, or disabled employee and refundment shall then be made to the surviving spouse or, if none, to the legal representative of his estate irrespective of any designation of beneficiary made by the deceased employee, former employee, retired employee or disabled employee.

Subd. 13. Refundment, beneficiary. If at the time of death a former employee has in his possession a state auditor's warrant which does not exceed \$500 covering a refundment of his accumulated contributions in the retirement fund, in the absence of probate proceedings such state auditor's warrant may be returned for cancellation, and then upon application made by the last designated beneficiary of such deceased former employee, refundment of the accumulated contributions shall be made to the last designated beneficiary. Payments made under the provisions of this subdivision shall be a bar to recovery by any other person or persons.

[1929 c 191 s 14; 1933 c 326 s 1; 1935 c 238 s 12; 1941 c 391 s 11; 1947 c 631 s 15; 1949 c 644 s 15; 1951 c 441 s 22-24; 1957 c 928 s 12; 1959 c 162 s 1, 2; 1963 c 383 s 36-45; 1965 c 230 s 7-9; Ex1967 c 57 s 18; 1969 c 188 s 1; 1969 c 893 s 10; 1971 c 12 s 6; 1971 c 194 s 3, 4] (254-11)

352.13 [Repealed, 1963 c 383 s 59]

352.14 [Repealed, 1963 c 383 s 59]

352.15 EXEMPTION FROM PROCESS AND TAXATION. None of the moneys, annuities, or other benefits mentioned herein shall be assignable either in law or in equity or be subject to execution, levy, attachment, garnishment, or other legal process, or to any state income tax or state inheritance tax, except that none shall be exempt from taxation under chapter 291, unless transferred to a surviving spouse or minor or dependent child of the decedent or a trust for their benefit.

[1929 c 191 s 17; 1931 c 351; 1933 c 326; 1935 c 238 s 15; 1941 c 391 s 14; Ex1959 c 6 s 21; 1971 c 789 s 4] (254-17)

352.16 INSURANCE LAWS NOT TO APPLY. None of the laws of this state regulating insurance or insurance companies shall apply to the Minnesota state retirement system or any of its funds.

[1929 c 191 s 18; 1933 c 326; 1935 c 238 s 16; 1941 c 391 s 15; Ex1967 c 57 s 19] (254-18)

352.17 [Repealed, 1963 c 383 s 59]

352.18 [Repealed, 1963 c 383 s 59]

352.22 REFUNDMENTS OR DEFERRED ANNUITIES. Subdivision 1. **Service termination.** Any employee who ceases to be a state employee by reason of termination of state service, shall be entitled to a refundment provided in subdivision 2 or a deferred retirement annuity as provided in subdivision 3. Application for a refundment may be made 60 or more days after the termination of state service if the applicant has not again become a state employee required to be covered by the system; except that employees of the University of Minnesota, having attained the age of 68 years or more, and employees of other departments and agencies of the state having attained the age of 70 years or more, whose state service is terminated by operation of law, or by direction of the appointing authority, who are not eligible to receive an annuity under sections 352.115 or 352.72, may apply for refundment without any waiting period.

Subd. 2. Amount of refundment. Except as provided in subdivision 3, any person who ceased to be a state employee by reason of termination of state service shall receive a refundment in an amount equal to his accumulated contributions without interest, except that an employee terminating state service at the age of 65 or more shall receive a refundment in an amount equal to his accumulated contributions plus interest thereon to the date of termination at the rate of three and one-half percent per annum compounded annually if the employee due to age could not qualify for an annuity upon reaching compulsory retirement age had he continued in covered employment. Interest shall not be paid on any contributions for service rendered prior to age 58.

Subd. 3. Deferred annuity. (1) Any employee with at least ten years of allowable service when such termination occurs may at his option leave his accumulated contributions in the fund and thereby be entitled to a deferred retirement annuity commencing at age 65. This annuity shall be computed in the manner provided by the law in effect at the time state service terminated, on the basis of allowable service prior to termination of service.

(2) An employee on layoff who does not return to state service during the period his name is carried on a layoff list pursuant to civil service law or regulation shall have any deferred annuity to which he may become entitled computed under the law in effect on his last working day.

(3) The provisions of section 352.28, subdivision 1, and section 352.115, subdivisions 4 and 5 shall not apply to paragraphs (1) and (2) hereof.

(4) No application for a deferred annuity shall be made prior to the time the former employee reaches the required age to entitle him to the payment of such annuity. Such deferred annuity shall begin to accrue no earlier than 60 days prior to the date the application is filed in the office of the system but in no event prior to the date the employee reaches the required age to entitle him to such annuity nor prior to the day following the termination of state service in a position not covered by the retirement system nor prior to the day following the termination of employment in a position which requires the employee to be a member of either the public employees retirement association or the teachers retirement association.

(5) Application for the accumulated contributions left on deposit with the fund may be made at any time after 60 days following the date of his termination of service.

Subd. 4. Surrender of deferred annuity certificates. Former members of the state employees retirement association 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 contributions upon application.

Subd. 5. Refundment generally unlimited. The right of refundment provided in section 352.22 is not restricted as to time unless specifically provided and the statute of limitation does not apply thereto.

Subd. 6. [Repealed, 1965 c 230 s 18]

Subd. 8. Refundment specifically limited. If a former employee covered by the system does not apply for refundment within five years after the last deduction was taken from his salary for the retirement fund, and he does not have sufficient service to qualify for a deferred annuity such accumulated contributions shall be credited to and become a part of the retirement fund. In the event the former employee returns to state service and becomes a state employee covered by the system, the amount so credited to the retirement fund, if more than \$1, shall be restored to his individual account. If the amount so credited to the fund is over \$25 and the former employee applies for refundment or an annuity pursuant to the provisions of section 352.72, the amount shall be restored to the former employee's individual account and refundment made or annuity paid whichever applies.

Subd. 9. Refundment for persons committed to state hospitals. While a former employee is under commitment as an inmate of a state hospital under the jurisdiction of the commissioner of public welfare, or of a similar public authority if the former employee is an inmate of a state hospital of another state, and if the inmate is entitled to a refundment of his accumulated contributions in the retirement fund in an amount not to exceed \$300, refundment of such accumulated contributions may be made, upon appropriate application therefor, to the superintendent of such state hospital of this state, or similar public authority of another

state if authorized so to do by the laws of that state, and such refundment shall be a bar to recovery by any other person or persons.

Subd. 10. Other refundments. Former employees covered by the system who are or who shall become members of the highway patrolmen's retirement association, the state police officers retirement fund; or employees of the university of Minnesota excluded from coverage under the system by action of the board of regents; or labor service employees, excluded from coverage under section 352.01, subdivision 2B, (26); or employees of the adjutant general who under federal law effectually elect membership in a federal retirement system; or officers or employees of the senate or house of representatives, excluded from coverage under section 352.01, subdivision 2B (8), shall be entitled to a refundment without any waiting period, in an amount equal to their respective accumulated contributions without interest, notwithstanding their continuance in state service but in positions not covered by chapter 352.

Subd. 11. Refundment, membership in teachers retirement association. A state employee who has no option or who does not exercise his option under section 352.021, subdivision 5, to continue as an employee covered by the system, shall upon becoming eligible to membership in the state teachers retirement association, be entitled to an immediate refundment of his accumulated contributions without interest.

[1957 c 928 s 14; Ex1959 c 6 s 14, 15; Ex1961 c 67 s 13, 14; 1963 c 383 s 46-52; 1965 c 230 s 10-13; Ex1967 c 57 s 20; 1969 c 31 s 1; 1969 c 188 s 2; 1969 c 893 s 11; 1971 c 12 s 7, 8; 1971 c 194 s 5]

352.23 TERMINATION OF RIGHTS. When any employee accepts a refundment as provided in section 352.22, all existing service credits and all rights and benefits to which the employee was entitled prior to the acceptance of such refundment shall terminate and shall not again be restored until the former employee acquires not less than one year's allowable service credit subsequent to taking his last refundment. In that event, he may repay all refundments which he had taken from the retirement fund. Repayment of refundments will entitle the employee only to credit for service covered by (a) salary deductions, (b) payments made in lieu of salary deductions, and (c) payments made to obtain credit for service as permitted by laws in effect at the time payment was made. If an employee before taking one or more refundments had credit for prior service or for military service without payment in either case, he may obtain credit for such forfeited service prior to July 1, 1929, and for such forfeited military service by making payments at a contribution rate of three percent of his average salary upon which deductions for the retirement fund were based, for the three year period immediately preceding repayment of refundment for service credit prior to July 1, 1929, and on the salary received by him at the time of entering military service to restore his military service credit. All such payments and repayment of refundments are to be paid with interest at four percent per annum compounded annually.

[1957 c 928 s 15; Ex1959 c 6 s 22; 1965 c 230 s 14; Ex1967 c 57 s 21; 1969 c 1083 s 1]

352.24 [Repealed, 1963 c 383 s 59]

352.241 [Repealed, 1963 c 383 s 59]

352.25 [Repealed, 1963 c 383 s 59]

352.26 [Repealed, 1963 c 383 s 59]

352.27 CREDIT FOR MILITARY SERVICE. Any employee given a leave of absence to enter military service who returns to state service upon discharge from military service as provided in section 192.262, may obtain credit for his period of military service but he shall not be entitled to credit for any voluntary extension of military service at the instance of the employee beyond the initial period of enlistment, induction or call to active duty, nor to credit for any period of service following a voluntary return to military service. Such employee 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 the applicable amounts required in section 352.04, subdivision 2, plus interest at four percent per annum compounded annually. In such cases the matching employer contribution and additional contribution provided in section 352.04 shall be paid by the department employing such employee upon his return to state service from funds available to such department at the time and in the manner provided in section 352.04.

[1957 c 928 s 20; Ex1959 c 6 s 25; 1963 c 383 s 53; 1965 c 230 s 15; Ex1967 c 57 s 22; 1969 c 188 s 3]

352.28 SAVINGS CLAUSES. Subdivision 1. **Optional retirement benefits.** Any person who on July 1, 1957, had ten or more years of allowable service as a member of the state employees retirement association and whose deductions from salary continue at the rate in effect prior to that date, shall have the option when he retires either to receive the retirement benefits computed under Minnesota Statutes 1953, (a) Section 352.11, Subdivision 1, paragraphs 3, 4 and 6, or (b) Sections 352.715, Subdivision 2, and 352.116.

Subd. 2. **Certain elections continued.** Any election made by a member of the state employees retirement association prior to July 1, 1957, pursuant to Minnesota Statutes 1953, Section 352.11, Subdivision 1(5), as amended by Laws 1955, Chapter 239, Section 13, shall be continued in effect until the employee retires.

Subd. 3. [Repealed, Ex1967 c 57 s 29]

Subd. 4. **Certain deferred annuities.** Any person who ceased to be a "state employee" prior to July 1, 1957, who has left his accumulated deductions in the retirement fund for the purpose of receiving, when eligible, a retirement annuity or allowance in accordance with the law in effect at the date state service terminated, shall have his annuity or retirement allowance computed in accordance with the law in effect at the date he ceased to be a "state employee."

Subd. 5. [Repealed, 1963 c 383 s 59]

Subd. 6. [Repealed, 1963 c 383 s 59]

Subd. 7. **Certain deferred annuities preserved.** Any person whose state service terminated after January 1, 1957, and before July 1, 1957, who returned to state service after December 31, 1957, and before January 1, 1959, and who would have been entitled to a deferred annuity at age 65 had he not returned to state service, shall when he attains age 65, be entitled to an annuity under the law in effect at time of retirement, in an amount which shall not be less than the deferred annuity to which he would have been entitled had he not returned to state service.

Subd. 8. **Joint and survivor annuity entitlement.** If (a) an employee and his spouse are both at least 64 years of age when, in accordance with section 352.116, subdivision 3, as amended, he files with the system his application for joint and survivor optional annuity providing for payments thereunder to his surviving spouse; and (b) such application is filed with the system at least 40 days prior to the employee's death; and (c) the employee's death occurs less than 15 days before the first optional annuity payment would have accrued to him had he lived; then, upon fulfillment of these conditions, his surviving spouse shall be entitled to the survivor's optional annuity specified for her benefit thereunder, to accrue from and after the day following the last day for which the employee was paid salary.

[1957 c 928 s 21; Ex1959 c 6 s 26; Ex1961 c 67 s 16; 1963 c 197 s 1; 1963 c 383 s 54, 55; 1965 c 51 s 66; 1965 c 230 s 16; Ex1967 c 57 s 23, 24, 25]

352.29 [Repealed, 1963 c 383 s 59]

352.30 [Repealed, Ex1959 c 6 s 34]

352.31 [Repealed, 1963 c 383 s 59]

352.32 PRIOR SERVICE CREDIT PAYMENTS; PRIOR APPLICATIONS FOR BENEFITS. Subdivision 1. Payments heretofore made into the retirement fund in order to obtain service credit, by persons who became members of the association prior to July 1, 1951, shall for all purposes of Laws 1951, Chapter 441, Section 10, as amended, or of other provisions of this chapter, be declared to be in full compliance of all the provisions thereof.

Subd. 2. Applications for annuities and retirement allowances made between July 1, 1957 and July 1, 1959, pursuant to Minnesota Statutes 1957, Section 352.115, Subdivision 5, by members qualified to do so, who filed applications for annuities less than 30 days prior to the last day they were paid salary, or after state service had terminated, shall be considered for the purposes of entitlement to benefits under this chapter, and for the commencement of payments therefor during said period, to be in full compliance with all the provisions thereof.

[1957 c 928 s 25; Ex1959 c 6 s 23]

352.33 [Repealed, 1963 c 383 s 59]

352.34 [Repealed, 1963 c 383 s 59]

352.35 [Repealed, 1963 c 383 s 59]

352.36 [Repealed, 1963 c 383 s 59]

352.37 [Repealed, 1963 c 383 s 59]

352.38 FORMER MEMBERS; SERVICE ALLOWANCES. Subdivision 1. **Qualifications.** Any former member of the state employees retirement association hav-

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ing ten or more years of allowance service credit as a member thereof who made his application for retirement benefits prior to July 1, 1949, shall receive a service allowance of \$5 per year for each full year of allowable service. This service allowance shall be added to such former member's annuity payments but when so added shall not exceed the maximum retirement benefits provided by law at the time of such person's retirement; but no payments under this section shall be made to the representative, beneficiary or legal representative of the estate, if any, of those former members who died between July 1, 1957, and June 30, 1958, in those cases where no request or application for such allowance was or is made prior to January 1, 1966.

Subd. 2. [Repealed, 1963 c 383 s 59]

Subd. 3. **Appropriation.** The moneys necessary for the payment provided for in this section are hereby appropriated from the state employees retirement fund; and the director shall administer this section, ascertain the person qualifying for the benefits provided herein, and make payments as authorized.

[1959 c 124 s 1-3; 1963 c 383 s 56; 1965 c 701 s 1; Ex1967 c 57 s 26]

352.61 [Repealed, 1963 c 383 s 59]

352.62 Subdivision 1. [Repealed, 1963 c 383 s 59]

Subd. 2. [Repealed, 1963 c 383 s 59]

Subd. 3. [Repealed, Ex1961 c 67 s 23]

352.63 [Repealed, 1963 c 383 s 59]

352.64 [Repealed, 1963 c 383 s 59]

352.65 [Repealed, 1963 c 383 s 59]

352.651 [Repealed, 1963 c 383 s 59]

352.66 Subdivision 1. [Repealed, 1959 c 162 s 3]

Subd. 2. [Repealed, 1959 c 162 s 3]

Subd. 3. [Repealed, 1963 c 383 s 59]

352.67 [Repealed, 1963 c 383 s 59]

352.68 [Repealed, 1963 c 383 s 59]

352.69 [Repealed, 1963 c 383 s 59]

352.71 **RETROACTIVE SOCIAL SECURITY TAX, PAYMENT.** Subdivision 1. Any person who was a member of the retirement association on December 31, 1957, and who prior thereto had taken a refundment or refundments of his accumulated salary deductions for the calendar years 1956 and 1957 or any part thereof, with the result he did not then have to his credit in the fund the sums required for the retroactive social security tax for those years or any part thereof, is required to pay into the retirement fund a sum sufficient to pay such social security tax with interest at four percent per annum; and any such person who again left state service without having made the payment required for the retroactive social security tax and without having had deducted from his salary for the retirement fund a sum sufficient to pay such tax, is required to pay to the association such tax with interest at four percent per annum.

Subd. 2. Any member of the retirement association who did not have to his credit in the retirement fund a sum over and above an amount sufficient to pay the required retroactive social security tax at the time state service terminated subsequent to December 31, 1957, is not entitled to a refundment from the retirement fund, and the transfer therefrom of the amount of such tax to the social security contribution fund shall be considered the equivalent of a refundment of the amount thereof and shall terminate all rights and benefits to which the member was entitled immediately prior thereto from the retirement fund. Such rights and benefits may be restored thereafter by making payment to cover the salary deductions required for the periods of service involved at the deduction rate in effect at the time the service was rendered less payment, if any, made to obtain the retroactive social security coverage. Such payment for restoration of service credit shall be made as provided in section 352.23.

[Ex1959 c 6 s 28]

352.715 **ANNUITIES, BENEFITS AND SURVIVOR BENEFITS FOR EMPLOYEES NOT COVERED BY SOCIAL SECURITY.** Subdivision 1. **Scope.** The provisions of this section apply only to (a) those employees covered by the system who are not covered under the provisions of the federal old age and survivors insurance act, and (b) any department or agency employing such employees. Except as otherwise specifically provided in this section, the provisions of Minnesota Statutes 1961, Section 352.01 through Section 352.72 shall apply.

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Subd. 2. **Annuities.** (A) The retirement annuity payable under this subdivision at age 65 or thereafter shall be computed in accordance with the applicable provisions of the formula stated in paragraph (B) hereof, on the basis of the employee's average salary for the period of his allowable service. Such retirement annuity is known as the "normal" retirement annuity.

(a) For years prior to July 1, 1957, "average salary" for the purpose of determining an employee's retirement annuity means the average of his highest salary upon which deductions were based for any five consecutive years prior to that date;

(b) For each year subsequent to June 30, 1957, "average salary" of an employee for the purpose of determining his retirement annuity means the average of his salary upon which he had made contributions to the retirement fund by payroll deductions.

(B) The employee's average salary as defined in paragraph (A), multiplied by the applicable percentages indicated below shall determine the amount of retirement annuity to which the employee qualifying therefor is entitled:

Years of Allowable Service	Percentages at the Rate of:
(a) First ten years	1 percent per year of service
(b) Second ten years or completed months of service less than such period	2 percent per year of service
(c) Third ten years or completed months of service less than such period	2½ percent per year of service
(d) Subsequent years or completed months of service less than such period.	3 percent per year of service

(C) The annuity of an employee who retires prior to age 65 shall be reduced by one half of one percent for each month he is under age 65 on the last day for which he is entitled to service credit as provided in section 352.01, subdivision 11(3) or the date state service terminated whichever is later.

(D) An employee may at time of making application for annuity elect to take an optional annuity authorized pursuant to section 352.116, subdivision 3, provided however, that such optional forms shall be actuarially equivalent to the normal sum provided for in this subdivision, paragraphs (A), (B) and (C).

Subd. 3. **Disability benefit.** (A) An employee who has become totally and permanently disabled as provided in section 352.113 shall receive a disability benefit based upon his age at the time of disability in accordance with subdivision 2, paragraphs (A), (B) and (C) hereof, plus a supplementary monthly benefit computed in accordance with the following table:

Age when disabled	Supplementary benefit
Under 56	\$50
56	45
57	40
58	35
59	30
60	25
61	20
62	15
63	10
64	5

(B) The disability benefit shall be reduced by any amounts received or receivable by an employee from the employer under applicable workmen's compensation laws.

(C) The disability benefit paid to a person under this section shall terminate when he reaches age 65 if he is still totally and permanently disabled. At that time he shall be determined to be a retired employee and shall be paid a straight life retirement annuity as provided in this section, subdivision 2, or a straight life retirement annuity equal to the disability benefit paid to him before he reached age 65, whichever amount is greater.

Subd. 4. **Survivor benefits.** (A) Upon the death of an employee before retirement who has had at least 18 months of credited allowable service, his surviv-

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ing dependent spouse and dependent children under the age of 18 shall receive the monthly benefit provided below:

- | | |
|--------------------------------|--|
| (a) Surviving dependent spouse | 30 percent of the employee's monthly average salary, not to exceed \$65 per month |
| (b) Each dependent child | 20 percent of the employee's monthly average salary, not to exceed \$45 per month. |

In addition to the amounts provided in (a) and (b) hereof, ten percent of the employee's monthly average salary, not to exceed \$20 per month, shall be paid to be divided equally among the dependent children. Payments for the benefit of any dependent child under the age of 18 years shall be made to the surviving parent, or if there be none, to the legal guardian of such child. For the purpose of this subdivision dependent child means any natural or adopted child of a deceased member under the age of 18, unmarried and actually dependent for his support upon such employee. The maximum monthly benefit shall not exceed \$250 for any one family. The surviving dependent spouse benefit shall terminate upon his or her remarriage, and the dependent children's benefit shall be reduced pro tanto when any child is no longer dependent.

Any survivor of an employee whose average salary is less than \$75 per month shall not be entitled to the benefits provided in this subdivision. If the survivor benefits provided in this subdivision exceed in total the monthly average salary of the deceased employee, these benefits shall be reduced to an amount equal to the deceased employee's monthly average salary.

(B) Upon the death of an employee before retirement who has had at least 20 years of credited, allowable service, his surviving spouse shall be paid a deferred annuity in an amount equal to 75 percent of the employee's annuity computed on the basis provided in subdivision 2 of this section, not to exceed \$150 per month. This annuity shall be paid when such surviving spouse reaches the age of 62 and shall terminate upon remarriage. The surviving spouse has the option, if qualified, to receive the benefits provided in subdivision 1 or the annuity provided in subdivision 2 but not both.

[1963 c 383 s 58; *Ex*1967 c 57 s 27; 1969 c 37 s 2]

352.72 COVERAGE BY MORE THAN ONE RETIREMENT SYSTEM OR ASSOCIATION. Subdivision 1. **Entitlement to annuity.** Any person who has been an employee covered by the Minnesota state retirement system, or a member of the public employees retirement association including the public employees retirement association policemen and firemen fund, or the teachers retirement association, or the highway patrolmen's retirement association, or any other public employee retirement system in the state of Minnesota having a like provision but excluding all other funds providing benefits for policemen or firemen shall be entitled when qualified to an annuity from each fund if his total allowable service in all funds or in any two of these funds totals ten or more years, provided no portion of the allowable service upon which the retirement annuity from one fund is based is again used in the computation for benefits from another fund and provided further that he has not taken a refundment from any one of these funds since his service entitling him to coverage under the system or his membership in any of the associations last terminated. The annuity from each fund shall be determined by the appropriate provisions of the law except that the requirement that a person must have at least ten years allowable service in the respective system or association shall not apply for the purposes of this section provided the combined service in two or more of these funds equals ten or more years.

Subd. 2. Computation of deferred annuity. The deferred annuity, if any, accruing under subdivision 1, or section 352.22, subdivision 3, shall be computed in the manner provided in section 352.22, subdivision 3, and acts amendatory thereof, on the basis of allowable service prior to termination of state service and augmented as provided herein. The required reserves applicable to a deferred annuity or to any deferred segment of an annuity shall be augmented by interest compounded annually from the first day of the month following the month in which the employee ceased to be a state employee, or July 1, 1971, whichever is later, to the first day of the month in which the annuity begins to accrue. The rates of interest used for this purpose shall be one percent less than the interest assumptions which were in effect during the period for which interest is compounded.

If a person has more than one period of uninterrupted service, the required reserves related to each period shall be augmented by interest pursuant to this subdivision. The sum of the augmented required reserves so determined shall be the present value of the annuity. Uninterrupted service for the purpose of this subdivision shall mean periods of covered employment during which the employee has not been separated from state service for more than two years. If a person repays a refundment, the service restored by such repayment shall be considered as continuous with the next period of service for which the employee has credit with this system. The formula percentages used for each period of uninterrupted service shall be those as would be applicable to a new employee. The mortality table and interest assumption used to compute such annuity shall be those in effect at the time the employee files application for annuity. This section shall not reduce the annuity otherwise payable under this chapter.

Subd. 3. [Repealed, 1971 c 274 s 4]

Subd. 4. **Refundment repayment.** Any person who has received a refundment from the state employees retirement fund prior to July 1, 1961, and who is a member of either the public employees retirement association or the state teachers retirement association may repay such refundment with interest to the state employees retirement fund. If a refundment is repaid to the fund and more than one refundment has been received from the fund, all refundments must be repaid. Such repayment shall be made as provided in Minnesota Statutes 1957, Section 352.23, and acts amendatory thereof, and under such terms and conditions consistent therewith as may be agreed upon with the director. If a refundment has been received from the fund subsequent to June 30, 1961, the provisions of this subdivision do not apply and repayment of refundment can be made only as provided in section 352.23.

[*Ex*1961 c 67 s 22; 1963 c 383 s 57; 1965 c 230 s 17; *Ex*1967 c 57 s 28; 1969 c 188 s 4; 1971 c 274 s 2, 3]

NOTE: See also Sections 353.71 and 354.60.

352.73 SUPPLEMENTAL BENEFIT FOR FORMER STATE EMPLOYEES.

Subdivision 1. Any person who at June 30, 1963, was receiving from the state employees retirement fund an annuity or retirement allowance based upon not less than 20 years allowable service, who is receiving such annuity or retirement allowance on June 30, 1967, and

(a) who did not have social security coverage as a state employee shall receive on and after July 1, 1967 the following supplemental benefit: \$18 a month, or

(b) who had social security coverage as a state employee and who was eligible to receive either an immediate social security benefit or who would become eligible to receive a social security benefit based in whole or in part upon his social security coverage as a state employee shall receive on and after July 1, 1967, a supplemental benefit of \$10 a month.

Subd. 2. The supplemental benefit payable under subdivision 1 hereof shall not be paid to any person receiving, or who may become eligible to receive, a survivor benefit pursuant to the election of an employee to take an optional annuity or a reversionary annuity; nor shall such supplemental benefit be paid to any person receiving a survivor benefit under Minnesota Statutes 1957, Section 352.117, Subdivisions 1 and 2, as amended, or to any employee receiving a disability benefit. Such supplemental payment shall be paid to a surviving spouse receiving payment as provided in section 352.115, subdivision 8.

Subd. 3. The supplemental benefit herein provided is for the purpose of relief in the present inflationary period and is not an increase in the amount of the annuity or retirement allowance such retired state employee receives from the state employees retirement fund. This supplemental benefit is not a vested right and the legislature reserves the power to withdraw, abolish, or modify it in any way. The benefits herein provided for shall be administered by the director of the Minnesota state employees retirement system. These supplemental benefits shall be paid in the same manner and at the same time annuities and retirement allowances are paid and, for the purpose of economy, such benefits may be included in the warrants on which the annuities are paid.

Subd. 4. Such sums of money as may be necessary to pay the supplemental retirement benefits provided in subdivisions 1 to 3 are hereby annually appropriated for such purposes to the state employees retirement fund from any moneys in the state treasury not otherwise appropriated.

[1967 c 714 s 1, 2; 1969 c 293 s 1]