

Sec. 17. [221.601] AGREEMENTS WITH OTHER STATES.

Subdivision 1. AUTHORITY. The commissioner may enter agreements with representatives of other states to allow the cooperative registration of motor carriers transporting property or passengers for hire in interstate commerce. The agreement may authorize representatives of other states to issue interstate registration stamps and trip permits, accept the filing of insurance certificates and interstate commerce commission orders, and collect and disburse fees prescribed by this chapter. The agreement may allow the exchange of information for audit, reporting, and enforcement purposes, and the collection and disbursement of fees provided under this chapter and the laws of other states that participate in the agreement. The agreement must be in writing. The agreement may provide for the gradual adoption of a base state registration system. It may provide that a motor carrier based in another state participating in the agreement, that has filed evidence of financial responsibility in that state that meets the requirements of this chapter and of the agreement, need not file evidence of financial responsibility with the commissioner for its interstate operations in this state.

Subd. 2. DEFINITION. For purposes of this section, "state" means a state, the District of Columbia, or a state or province of a foreign country.

Presented to the governor May 26, 1989

Signed by the governor May 26, 1989, 5:55 p.m.

CHAPTER 319—S.F.No. 783

An act relating to retirement; making a variety of changes in the laws governing benefits, contributions, and administrators of various statewide and local public pension plans; use of state aid and payment of postretirement adjustments to Minneapolis police and firefighters; amending Minnesota Statutes 1988, sections 3A.01, subdivision 7, and by adding a subdivision; 3A.02, subdivisions 1, 1b, and 4; 11A.01; 11A.04; 11A.07, subdivision 4; 11A.09; 11A.13, subdivision 1; 11A.18, subdivisions 9 and 10; 11A.19, by adding a subdivision; 43A.316, subdivision 9; 43A.44, subdivision 2; 69.031, subdivision 5; 69.77, subdivisions 2b and 2g; 69.775; 136.80, subdivision 1; 136.81, subdivision 1; 136.82, subdivision 1 and 2; 136.84; 352.01, subdivisions 11, 19, and by adding a subdivision; 352.021, subdivision 5; 352.03, subdivisions 7 and 11; 352.04, subdivisions 2 and 3; 352.113, subdivisions 1 and 12; 352.115, subdivisions 1, 2, and 3; 352.116; 352.12, subdivisions 1, 2, and 6; 352.22, subdivisions 1, 2, 2a, and 3; 352.72, subdivisions 1, 2, and 5; 352.85, subdivision 1; 352.92, by adding a subdivision; 352.93, subdivisions 1, 2, 3, and by adding a subdivision; 352.95, subdivisions 1, 2, and 5; 352.96, subdivision 3; 352B.01, subdivision 11; 352B.03, subdivision 1; 352B.08, subdivision 1, 2, 3, and by adding a subdivision; 352B.10, subdivisions 1, 2, and 5; 352B.11, subdivisions 1 and 2; 352B.30, subdivision 1; 352C.091, subdivision 1; 352D.04, subdivision 1; 352D.06, subdivision 1; 352D.075, subdivision 2; 352D.09, subdivision 1;

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353.01, subdivisions 2a, 2b, 10, and by adding subdivisions; 353.03, subdivision 1; 353.27, subdivisions 2 and 12; 353.28, subdivisions 5 and 6; 353.29, subdivisions 1, 2, 3, 4, and 7; 353.30; 353.32, subdivisions 1 and 1a; 353.33, subdivisions 1, 2, 3, 5, 6, 7, and 11; 353.34, subdivisions 1, 2, 3, and 3a; 353.35; 353.64, subdivisions 1, 2, 3, and by adding a subdivision; 353.65, subdivisions 1, 6, and by adding a subdivision; 353.651, subdivisions 1, 2, 3, and by adding a subdivision; 353.656, subdivisions 1, 3, and 4; 353.657, subdivisions 2, 2a, and 3; 353.71, subdivisions 1, 2, and 5; 353C.06, subdivisions 1, 2, and 4; 353C.08, subdivision 5; 354.05, subdivisions 2a, 5, 35, 37, and by adding a subdivision; 354.06, subdivision 1; 354.07, subdivision 3; 354.091; 354.092; 354.10, subdivision 2; 354.35; 354.41, subdivision 3; 354.42, subdivision 7; 354.44, subdivisions 1, 1a, 3, 5, 6, 7, 8, and by adding a subdivision; 354.45, subdivision 1, and by adding a subdivision; 354.46, subdivision 2; 354.47, subdivisions 1 and 2; 354.48, subdivisions 1, 2, 3, and 10; 354.49, subdivisions 2 and 3; 354.50, by adding a subdivision; 354.55, subdivision 11; 354.60; 354.62, subdivision 2, and by adding a subdivision; 354.65; 354.66, subdivision 2; 354A.011, subdivision 20, and by adding a subdivision; 354A.021, subdivision 6; 354A.21; 354A.31, subdivisions 1, 3, 4, 5, 6, and by adding a subdivision; 354A.32, subdivision 1, and by adding a subdivision; 354A.35, subdivisions 1 and 2; 354A.36, subdivisions 1, 3, and 10; 354A.37, subdivisions 2, 3, and 4; 354A.39; 354B.02; 354B.04, subdivision 2; 354B.05, subdivisions 3 and 4; 355.90, subdivisions 3 and 4; 356.215, subdivisions 4d and 4g; 356.216; 356.24; 356.30, subdivisions 1, 2, and 3; 356.302, subdivision 7; 356.303, subdivision 4; 356.32, subdivision 1; 356.371, subdivision 3; 356.80, subdivisions 1 and 3; 422A.05, subdivisions 2a and 2d; 423.374; 423.45; 423.805; 423A.01, subdivision 2; 423A.21, subdivision 4; 424.06; 424A.001, subdivision 7; 424A.01, subdivision 2; 424A.02, subdivisions 1, 2, 7, and 13; 424A.04, subdivision 2; 424A.10; 490.122; 490.124, subdivision 12; proposing coding for new law in Minnesota Statutes, chapters 3A; 352; 353; 354; 354A; 354B; 355; 356; 356A; and 490; repealing Minnesota Statutes 1988, sections 136.88, subdivision 3; 352.03, subdivision 13; 352.73, subdivision 3; 353.01, subdivision 2c; 353.661; 353.662; 354.41, subdivision 3; 354.531; 354.532; 354.55, subdivision 5; 354.56; 354A.32, subdivision 2; and 424A.01, subdivision 3a; amending Laws 1955, chapter 151, section 13, as amended; Laws 1965, chapter 446, sections 2 and 3; Laws 1980, chapter 595, section 2, subdivision 4; Laws 1982, chapter 574, section 5, as amended; Laws 1985, chapter 11, section 12, subdivision 3; and Laws 1988, chapter 709, article 3, section 1, subdivision 4; repealing Laws 1967, chapter 815; Laws 1978, chapter 683; and Laws 1981, chapter 224, sections 2 and 5.

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

ARTICLE 1

MINNESOTA STATE RETIREMENT SYSTEM

Section 1. Minnesota Statutes 1988, section 43A.44, subdivision 2, is amended to read:

Subd. 2. **BENEFITS.** Employees in shared positions shall be eligible for the following benefits and subject to the following obligations:

(a) (1) Membership in the Minnesota state retirement system, the teachers

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retirement association or the state patrol retirement fund, whichever is appropriate; ~~except that, notwithstanding any provision of section 352.01, subdivisions 11 and 16; 352B.01, subdivision 3; 354.05, subdivisions 13 and 25; or 354.091, employees shall have allowable service for the purpose of meeting the minimum service requirements for eligibility to a retirement annuity or other retirement benefit credited in full, but shall have benefit accrual service for the purpose of computing a retirement annuity or other retirement benefit credited on a fractional basis either weekly or annually based upon the relationship that the number of hours of service bears to either 40 hours per week or 2,080 hours per year, with any salary paid for the fractional service credited on the basis of the rate of salary applicable for a full-time week or a full-time year;~~

(b) (2) Vacation and sick leave accruals shall be prorated in accordance with the pertinent collective bargaining agreement or plan covering the position;

(e) (3) Employee dental, medical and hospital benefits coverage shall be available of the same type and coverage afforded to comparable full-time employees. Employees in shared positions who elect such coverage shall pay, by payroll deduction, the difference between the actual cost to the employer and the appropriate shared time percent of the actual cost. The remaining percent shall be paid by the employer. Employee life insurance coverage shall be available to employees in shared positions on the same terms as for comparable full-time employees;

(d) (4) Dependent life insurance coverage shall be available to employees in shared positions on the same terms as for comparable full-time employees. Dependent medical, hospital and dental benefits coverage shall be available to employees in shared positions of the same type and coverage afforded to comparable full-time employees, except that the employer shall contribute the appropriate shared time percent of the dollar amount contributed for comparable full-time employees electing the same program, the remainder to be paid by payroll deduction by the employee electing such coverage;

(e) (5) Employees in shared positions shall be entitled to the prorated holiday provisions of the applicable collective bargaining agreement or plan covering the position;

(f) (6) Employees in shared positions shall accrue seniority time in every relevant category at the same rate accorded to comparable full-time employees. No full-time employee accepting a shared position shall suffer any loss of or gap in seniority time in the relevant categories applicable to the full-time employment; and

(g) (7) Any other benefits of employment for employees in shared positions shall be prorated at a rate of the appropriate shared time percent of those available to comparable full-time employees, whenever the benefits are divisible. Contributions by the employer toward the benefits, if any, shall be equal to the appropriate shared time percent of the full-time benefits. When not divisible, the cost of the full-time benefits normally allocable to the employer shall be allo-

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cated, the appropriate shared time percent to the employee in a shared position, by payroll deduction, and the remaining percent to the employer.

Sec. 2. Minnesota Statutes 1988, section 352.01, subdivision 11, is amended to read:

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

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

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

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

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

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

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

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

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

(8) Any service before July 1, 1978, by an employee of the transit operating division of the metropolitan transit commission or by an employee on an authorized leave of absence from the transit operating division of the metropolitan transit commission who is employed by the labor organization which is the

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exclusive bargaining agent representing employees of the transit operating division, which was credited by the metropolitan transit commission-transit operating division employees retirement fund or any of its predecessor plans or funds as past, intermediate, future, continuous, or allowable service as defined in the metropolitan transit commission-transit operating division employees retirement fund plan document in effect on December 31, 1977.

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

~~(10) Any service by an employee in the Minnesota demonstration job-sharing program under sections 43A.40 to 43A.465 which is less than 40 hours per week or 2,080 hours per year and for which the employee is paid salary from which deductions are made, deposited and credited in the fund, shall be credited on a fractional basis either weekly or annually based on the relationship that the number of hours of service bears to either 40 hours per week or 2,080 hours per year, with any salary paid for the fractional service credited on the basis of the rate of salary applicable for a full-time week or a full-time year.~~

The allowable service determined and credited on a fractional basis under clauses (9) and ~~(10)~~ shall be used in calculating the amount of benefits payable, but service as determined on a fractional basis must not be used in determining the length of service required for eligibility for benefits.

~~(11)~~ (10) Any period of authorized leave of absence without pay that does not exceed one year and for which the employee obtained credit by payment to the fund in lieu of salary deductions. To obtain credit, the employee shall pay an amount equal to the employee and employer contribution rate in section 352.04, subdivisions 2 and 3, multiplied by the employee's hourly rate of salary on the date of return from leave of absence and by the days and months of the leave of absence without pay for which the employee wants allowable service credit. The employing department, at its option, may pay the employer amount on behalf of its employees. Payments made under this clause shall include interest at the rate of six percent per year from the date of termination of the leave of absence to the date payment is made unless payment is completed within one year of the return from leave of absence.

Sec. 3. Minnesota Statutes 1988, section 352.021, subdivision 5, is amended to read:

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Subd. 5. **CONTINUING COVERAGE.** Any state employee who has made contributions to the retirement fund for a period of one year and who, continuing in state service after that year, becomes eligible for membership in the state teachers retirement association as a full-time teacher, as defined in section 354.05, subdivision 2, may continue coverage under the system by filing in its office written notice of election to continue. The election to be covered by the system under this subdivision or section 352.01, subdivision 2b, clause (3), must be made on a form approved by the director within 90 days after appointment to the position. If the option is exercised, the employee is not thereafter entitled to membership in the teachers retirement association while employed by the state in a position that entitled the employee to make this election.

Sec. 4. Minnesota Statutes 1988, section 352.03, subdivision 11, is amended to read:

Subd. 11. **LEGAL ADVISER, ATTORNEY GENERAL.** The attorney general shall be the legal adviser of the board and of the director. The board may sue or be sued or petitioned under this section in the name of the board of directors of the system. In actions brought by it or against it, the board shall be represented by the attorney general: and, except as provided in section 5, subdivision 9, venue of actions shall be in the Ramsey county district court.

Sec. 5. **[352.031] APPEALS PROCEDURE.**

Subdivision 1. DEFINITIONS. Unless the language or context clearly indicates that a different meaning is intended, for the purpose of this section, the following terms have the meanings given them.

(a) "Board" means the board of directors of the Minnesota state retirement system.

(b) "Documentation" includes, but is not limited to:

(1) sworn and notarized affidavits made on the personal knowledge of any person;

(2) official letters or documents;

(3) documents from the file of the petitioner; and

(4) other relevant documents that are admissible as evidence in a court of law.

(c) "Executive director" means the executive director of the Minnesota state retirement system.

(d) "Person" includes any state agency or other governmental unit that employs persons covered under statutes listed in subdivision 2.

(e) "Record" means the petition and the documentation that the petitioners submit with the petition; the executive director's answer to the petition and

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documentation submitted with it; and any documentation the board allows to be submitted at or after the meeting at which the petition is considered.

Subd. 2. NOTICE OF TERMINATION OR DENIAL. If the executive director terminates a benefit or denies an application or a written request of any person claiming a right under chapter 352, other than sections 352.96 and 352.97; chapters 3A, 352B, 352C, and 352D; sections 490.121 to 490.133; or the applicable sections of chapters 355 and 356, the executive director must serve upon that person written notice containing:

(1) the reasons for the termination or denial;

(2) notice that the person may petition the board for a review of the termination or denial and that the petition for review must be filed within 60 days of the receipt of the written notice;

(3) a statement that failure to petition the board within 60 days will preclude the person from contesting in any other court procedure or administrative hearing, the issues determined by the executive director; and

(4) a copy of this section.

Subd. 3. PETITION FOR REVIEW. A person who claims a right under subdivision 2 and whose benefit has been terminated or whose application or written request has been denied may petition for a review of that decision by the board. A petition under this section must be served upon the executive director personally, or by mail postmarked no later than 60 days after the petitioner received the notice required by subdivision 2. The petition must include the sworn, notarized statement of the reasons the petitioner believes the decision of the executive director should be reversed or modified and may include relevant documentation.

Subd. 4. ANSWER; RECORD FOR HEARING. Within a reasonable time after receiving a petition, the executive director must serve the petitioner with an answer to the petition with all relevant documentation and with notice of the time and place of the regular or special board meeting at which the board will consider the petition. The documentation need not duplicate the documentation submitted by the petitioner. Not later than ten days before the board meeting at which the petition will be heard, the executive director must, personally or by mail, deliver a copy of the relevant documentation to each board member. Each board member who participates in the decision on the petition must be familiar with all relevant documentation.

Subd. 5. HEARING. The board shall hold a timely hearing on a petition for review. The board shall make its decision on a petition solely on the relevant documentation as submitted and the proceedings of the hearing. At the hearing, the petitioner, the petitioner's attorney, and the executive director may state and discuss with the board their positions with respect to the petition. The board may allow further documentation to be placed in the record at or subsequent to the board meeting at which the petition is considered. If the board allows additional documentation into the record at or subsequent to the board

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meeting, it may make a final determination on the petition at that board meeting only upon the agreement of both the petitioner and the executive director.

Subd. 6. TERMINATION OF BENEFITS. If the executive director proposes to terminate a benefit that is being paid to any person, before terminating the benefit, the executive director must, in addition to the other procedures prescribed herein, give the person written or oral notice of the proposed termination. The notice must explain the reason for the proposed termination. The person must be given an opportunity, verbally or in writing, to explain why the benefit should not be terminated; if the executive director is unable to contact the person and the executive director determines that a failure to terminate the benefit might result in unauthorized payment by the association, the executive director may terminate the benefit with only a written notice containing the information required by subdivision 2, mailed to the address to which the benefit was last sent and, if that address is a financial institution, to the last known address of the person.

Subd. 7. MEDICAL ADVISOR ACTION. If a person petitions the board to reverse or modify a determination by the executive director finding that the petitioner, for medical reasons, does not or has ceased to qualify for a disability benefit, the board may resubmit the matter to the medical advisor for reconsideration, with or without instructions to obtain further medical examinations. The board may make a determination contrary to the recommendation of the medical advisor only if there is expert medical evidence in the record to support its contrary decision. If there is no medical opinion contrary to the opinion of the medical advisor in the record and the medical advisor asserts that the decision was made in accordance with the disability standard in sections 352.01, subdivision 17; 352B.10; or 490.121, subdivision 13, the board must follow the determination of the medical advisor. The board may make a determination different from the recommendation of the medical advisor on issues that do not involve a medical opinion.

Subd. 8. BOARD FINDINGS. After the board has made a decision on a petition, the executive director must prepare findings of fact, the board's reasons for its conclusions, and the board's final order for the signature of the chair or other board member as the board, by resolution, may designate. The executive director shall serve the findings, conclusions, and order on the petitioner by certified mail.

Subd. 9. APPEALS. Within 30 days of receipt of the findings, conclusions, and final order, the petitioner may appeal the board's decision by writ or certiorari to the court of appeals. Failure to appeal to that court within the 30 days precludes the petitioner from later raising, in any court procedure or administrative hearing, those substantive and procedural issues that reasonably should have been raised upon appeal.

Subd. 10. REFERRAL FOR ADMINISTRATIVE HEARING. Notwithstanding sections 14.03; 14.06; and 14.57 to 14.69, a challenge to a determina-

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tion of the executive director must be conducted exclusively under the procedures in this section. The board in its sole discretion may refer a petition brought under this section to the office of administrative hearings for a contested case hearing under sections 14.57 to 14.69.

Subd. 11. PETITIONS WITHOUT NOTICE. A person who is not entitled to a review under this section may nevertheless receive review of the decision of the executive director which affects the person's rights by petitioning the board under this section within 60 days of the time the person knew or should have known of the disputed decision.

Sec. 6. Minnesota Statutes 1988, section 352.116, subdivision 3, is amended to read:

Subd. 3. **OPTIONAL ANNUITIES.** The board shall establish an optional retirement annuity in the form of a joint and survivor annuity. The board may also establish an optional annuity in the form of an annuity payable for a period certain and for life thereafter or establish an optional annuity which takes the form of a joint and survivor annuity providing that, if after the joint and survivor annuity becomes payable, the person with the designated remainder interest in the annuity dies before the former member, the annuity amount must be reinstated to a normal single life annuity amount as of the first day of the month after the day the person dies. In addition, the board may also establish an optional annuity that takes the form of an annuity calculated on the basis of the age of the retired employee at retirement and payable for the period before the retired employee becomes eligible for social security old age retirement benefits in a greater amount than the amount of the annuity calculated under subdivision 2 on the basis of the age of the retired employee at retirement ~~but equal so far as possible to the social security old age retirement benefit and the adjusted retirement annuity amount payable immediately after the retired employee becomes eligible for social security old age retirement benefits and payable for the period after the retired employee becomes eligible for social security old age retirement benefits in an amount less than the amount of the annuity calculated under subdivisions 2 and 3. The social security leveling option may be calculated based on broad average social security old age retirement benefits. For each year that the retiring employee is under age 62, up to five percent of the total single life annuity required reserves may be used to accelerate the optional retirement annuity. This greater amount shall be paid until the end of the month in which the retired employee reaches age 62, at which time the annuity shall be reduced.~~ The optional forms must be actuarially equivalent to the normal single life annuity forms provided in sections 352.115 and 352.116, whichever applies.

Sec. 7. Minnesota Statutes 1988, section 352.22, subdivision 1, is amended to read:

Subdivision 1. **SERVICE TERMINATION.** Any employee who ceases to be a state employee by reason of termination of state service or layoff is entitled

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to a refund provided in subdivision 2 or a deferred retirement annuity as provided in subdivision 3. Application for a refund may be made 30 or more days after the termination of state service or layoff if the applicant has not again become a state employee required to be covered by the system.

Sec. 8. Minnesota Statutes 1988, section 352.22, subdivision 2a, is amended to read:

Subd. 2a. ~~AMOUNT OF CERTAIN REFUND REPAYMENTS PROHIBITED.~~ For any employee who is entitled to a refund under subdivision 1 and who, before July 1, 1978, was a member of the metropolitan transit commission-transit operating division employees retirement fund, the refund for contributions made before July 1, 1978, must equal the following amounts:

(a) For any employee contributions made before January 1, 1950, the amount equal to one-half of the employee contributions without interest;

(b) For any employee contributions made after December 31, 1949, but before January 1, 1975, the amount of the employee contributions plus simple interest at the rate of two percent per year; and

(c) For any employee contributions made after December 31, 1974, but before July 1, 1978, the amount of the employee contributions plus simple interest at the rate of 3-1/2 percent per year. The refund of contributions made on or after July 1, 1978, must be determined under subdivision 2. Interest must be computed to the first day of the month in which the refund is processed and must be based on fiscal year balances. No refunds of contributions made to the metropolitan transit commission-transit operating division employees retirement fund received before July 1, 1978, or for service rendered before July 1, 1978, may be repaid.

Sec. 9. Minnesota Statutes 1988, section 352.93, subdivision 3, is amended to read:

Subd. 3. **PAYMENTS; DURATION AND AMOUNT.** The annuity under this section shall begin to accrue as provided in section 352.115, subdivision 8, and must be paid for an additional 84 full calendar months or to the first of the month following the month in which the employee becomes age 65, whichever occurs first, except that payment must not cease before the first of the month following the month in which the employee becomes 62. It must then be reduced to the amount as calculated under section 352.115, except that if this amount, when added to the social security benefit based on state service the employee is eligible to receive at the time, is less than the benefit payable under subdivision 2, the retired employee shall receive an amount that when added to the social security benefit will equal the amount payable under subdivision 2.

When an annuity is reduced under this subdivision, the percentage adjustments, if any, that have been applied to the original annuity under section 11A.18, before the reduction, must be compounded and applied to the reduced

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annuity. A former correctional employee employed by the state in a position covered by the regular plan or the unclassified employees retirement program between the ages of 58 and 65 shall receive a partial return of correctional contributions at retirement with five percent interest based on the following formula:

Employee contributions contributed as a correctional employee in excess of the contributions the employee would have contributed as a regular employee	X	Years and complete months of regular service between ages 58 and 65 7
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Sec. 10. Minnesota Statutes 1988, section 352B.08, subdivision 3, is amended to read:

Subd. 3. **OPTIONAL ANNUITY FORMS.** In lieu of the single life annuity provided in subdivision 2, the member or former member with ~~ten~~ five years or more of service may elect an optional annuity form. The board of the Minnesota state retirement system shall establish a joint and survivor annuity, payable to a designated beneficiary for life, adjusted to the actuarial equivalent value of the single life annuity. The board shall also establish an additional optional annuity with an actuarial equivalent value of the single life annuity in the form of a joint and survivor annuity which provides that the elected annuity be reinstated to the single life annuity provided in subdivision 2, if after commencing the elected joint and survivor annuity, the designated beneficiary dies before the member, which reinstatement is not retroactive but takes effect for the first full month occurring after the death of the designated beneficiary. The board may also establish other actuarial equivalent value optional annuity forms. In establishing actuarial equivalent value optional annuity forms, each optional annuity form shall have the same present value as a regular single life annuity using the mortality table adopted by the board and the interest assumption specified in section 356.215, subdivision 4d, and the board shall obtain the written recommendation of the commission-retained actuary. These recommendations shall be a part of the permanent records of the board.

Sec. 11. Minnesota Statutes 1988, section 352B.10, subdivision 5, is amended to read:

Subd. 5. **OPTIONAL ANNUITY.** A disabled member ~~not eligible for~~ may, in lieu of survivorship coverage under section 352B.11, subdivision 2, ~~may~~ choose the normal disability benefit or an optional annuity as provided in section 352B.08, subdivision 2. The choice of an optional annuity must be made before commencement of payment of the disability benefit. It is effective ~~30 days after receipt of this choice or~~ on the date on which the disability benefit begins to accrue, ~~whichever is later.~~ Upon becoming effective, the optional annuity begins to accrue on the date provided for the disability benefit.

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Sec. 12. Minnesota Statutes 1988, section 352B.11, subdivision 2, is amended to read:

Subd. 2. **DEATH; PAYMENT TO SPOUSE AND CHILDREN.** If a member serving actively as a member, a member receiving the disability benefit provided by section 352B.10, subdivision 1, or a former member receiving a disability benefit as provided by section 352B.10, subdivision 3 2, dies from any cause, the surviving spouse and dependent children are entitled to benefit payments as follows:

(a) A member with at least five years of allowable service ~~or a former member with at least 20 years of allowable service~~ is deemed to have elected a 100 percent joint and survivor annuity payable to a surviving spouse only on or after the date the member or former member became or would have become 55.

(b) The surviving spouse of a member who had credit for less than five years of service shall receive, for life, a monthly annuity equal to 20 percent of that part of the average monthly salary of the member from which deductions were made for retirement. If the surviving spouse remarries, the annuity shall cease as of the date of the remarriage.

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

(d) The surviving spouse of any member who had credit for five years or more and who was not 55 years of age at death, shall receive the benefit equal to 20 percent of the average monthly salary as described in clause (b) until the deceased member would have reached the age of 55 years, and beginning the first of the month following that date, may elect to receive the 100 percent joint and survivor annuity. If the surviving spouse remarries before the deceased member's 55th birthdate, benefits or annuities shall cease as of the date of remarriage. Remarriage after the deceased member's 55th birthday shall not affect the payment of the benefit.

(e) Each dependent child shall receive a monthly annuity equal to ten percent of that part of the average monthly salary of the former member from which deductions were made for retirement. A dependent child over 18 and under 22 years of age also may receive the monthly benefit provided in this section, if the child is continuously attending an accredited school as a full-time student during the normal school year as determined by the director. If the child does not continuously attend school but separates from full-time attendance during any part of a school year, the annuity shall cease at the end of the month of separation. In addition, a payment of \$20 per month shall be prorated equally to surviving dependent children when the former member is survived by one or more dependent children. Payments for the benefit of any qualified dependent child must be made to the surviving spouse, or if there is none, to the legal guardian of the child. The maximum monthly benefit must not exceed 40 percent of the average monthly salary for any number of children.

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

(g) The surviving spouse of a deceased former member who had credit for five or more years of allowable service, but not the spouse of a former member receiving a disability benefit under section 352B.10, subdivision 3 2, is entitled to receive the 100 percent joint and survivor annuity at the time the deceased member would have reached the age of 55 years, if the surviving spouse has not remarried before that date. If a former member dies who does not qualify for other benefits under this chapter, the surviving spouse or, if none, the children or heirs are entitled to a refund of the accumulated deductions left in the fund plus interest at the rate of five percent per year compounded annually.

Sec. 13. Minnesota Statutes 1988, section 352D.04, subdivision 1, is amended to read:

Subdivision 1. (a) An employee exercising an option to participate in the retirement program provided by this chapter may elect to purchase shares in one or a combination of the income share account, the growth share account, the money market account, the bond market account, the guaranteed return account, or the common stock index account established in section 11A.17. The employee may elect to participate in one or more of the investment accounts in the fund by specifying, on a form provided by the executive director, the percentage of the employee's contributions provided in subdivision 2 to be used to purchase shares in each of the accounts.

(b) Twice in any calendar year, a participant may indicate in writing on forms provided by the Minnesota state retirement system a choice of options for subsequent purchases of shares. Until a different written indication is made by the participant, the executive director shall purchase shares in the supplemental fund as selected by the participant. If no initial option is chosen, 100 percent income shares must be purchased for a participant. A change in choice of investment option is effective no later than the first pay date first occurring after 30 days following the receipt of the request for a change.

(c) One month before the start of a new guaranteed investment contract, a participant or former participant may elect to transfer all or a portion of the participant's shares previously purchased in the income share, growth share, common stock index, bond market, or money market accounts to the new guaranteed investment contract in the guaranteed return account. ~~If a partial transfer is made, a minimum of \$1,000 must be transferred and a minimum balance of \$1,000 must remain in the previously selected investment options.~~ Upon expiration of a guaranteed investment contract, the participant's shares attributable to that contract must be transferred to a new guaranteed investment contract unless the executive director is otherwise directed by the participant. Shares in the guaranteed return account may not be withdrawn from the fund or

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transferred to another account until the guaranteed investment contract has expired, unless the participant qualifies for withdrawal under section 352D.05 or for benefit payments under sections 352D.06 to 352D.075.

(d) Twice in any calendar year a participant or former participant may also change the investment options selected for all or a portion of the participant's shares previously purchased in accounts other than the guaranteed return account. ~~However, if a partial transfer is made a minimum of \$1,000 must be transferred and a minimum balance of \$1,000 must remain in the previously selected investment option.~~ Changes in investment options for the participant's shares must be effected as soon as cash flow to an account practically permits, but not later than six months after the requested change.

Sec. 14. Minnesota Statutes 1988, section 352D.06, subdivision 1, is amended to read:

Subdivision 1. When a participant attains at least age ~~58~~ 55, is retired from covered service, and applies for a retirement annuity, the cash value of the participant's shares shall be transferred to the Minnesota postretirement investment fund and used to provide an annuity for the retired employee based upon the participant's age when the benefit begins to accrue according to the reserve basis used by the state employees retirement fund in determining pensions and reserves.

Sec. 15. Minnesota Statutes 1988, section 352D.075, subdivision 2, is amended to read:

Subd. 2. If a participant dies leaving a spouse and there is no named beneficiary who survives to receive payment or the spouse is named beneficiary, the spouse may receive:

(1) The value of the participant's total shares;

(2) The value of one-half of the total shares and beginning at age ~~58~~ 55 or thereafter receive an annuity based on the value of one-half of the total shares, provided that if the spouse dies before receiving any annuity payments the value of said shares shall be paid to the spouse's children in equal shares, but if no such children survive then to the parents of the spouse in equal shares, but if no such children or parents survive, then to the estate of the spouse; or

(3) Beginning at age ~~58~~ 55 or thereafter receive an annuity based on the value of the total shares, provided that if the spouse dies before receiving any annuity payments the value of said shares shall be paid to the spouse's children in equal shares, but if no such children survive then to the parents of the spouse in equal shares, but if no such children or parents survive, then to the estate of the spouse; and further provided, if said spouse dies after receiving annuity payments but before receiving payments equal to the value of the employee shares, the value of the employee shares remaining shall be paid to the spouse's children in equal shares, but if no such children survive then to the parents of

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the spouse in equal shares, but if no such children or parents survive, then to the estate of the spouse.

Sec. 16. **DEADLINE EXTENSION IN CERTAIN INSTANCES.**

Notwithstanding any provision of Minnesota Statutes, section 352D.12, to the contrary, a participant on the effective date of this section may transfer prior service contributions or repay any refund under that section by September 30, 1989, or within one year of the person's participation, whichever is later.

Sec. 17. **REPEALER.**

Minnesota Statutes 1988, sections 352.03, subdivision 13; and 352.73, subdivision 3, are repealed.

Sec. 18. **EFFECTIVE DATES.**

Sections 1 to 15 and 17 are effective July 1, 1989. Section 16 is effective the day following final enactment.

ARTICLE 2

TEACHERS' RETIREMENT ASSOCIATIONS

Section 1. Minnesota Statutes 1988, section 136.81, subdivision 1, is amended to read:

Subdivision 1. There shall be deducted from the salary of each person described in section 136.80, subdivision 1, a sum equal to five percent of the portion of the person's annual salary paid between \$6,000 and \$15,000. The deduction is to be made in the same manner as other retirement deductions are made from the salary of the person only after the first \$6,000 has been paid in a fiscal year. The state employer shall make a contribution to the plan on behalf of every covered person in an amount equal to the deductions made from the salary of the person. The moneys so deducted and the state employer contribution shall be deposited to the credit of the state university and community college supplemental retirement plan account of the teachers retirement fund. The account is hereby established and shall be separate and distinct from other funds, accounts, or assets of the teachers retirement fund. ~~The money required to meet the obligation of the state as provided in this subdivision shall be contributed to the executive director of the teachers retirement association by the state.~~ Two percent of the amount of the salary deductions and employer contributions must be credited to the administrative expense reserve account of the supplemental retirement plan and must be used for payment of necessary and reasonable administrative expenses of the supplemental retirement plan as provided in section 354.65.

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Any deductions which are taken from the salary of a person for the supplemental retirement plan in error shall upon discovery and verification be refunded to the person. Any related employer contributions must be refunded to the employer. The ~~retirement board~~ executive director shall establish a reserve which ~~shall~~ must reflect any gains or losses realized due to the purchase and redemption of shares representing salary deductions and ~~state~~ employer contributions which were made in error. The balance of the reserve ~~shall~~ remaining after the refund of contributions made in error must be credited annually to the ~~cancellation reserve established pursuant to section 136.82, subdivision 1, clause (5)~~ administrative expense reserve account.

If any ~~payroll~~ salary deductions which are required ~~pursuant to~~ under this section are omitted, the amount of the omitted salary deductions shall ~~may~~ be remitted by the person to the supplemental retirement plan investment account of the teachers retirement association ~~within one year from the end of the fiscal year in which the deductions were due, and at the time of the receipt of 90 days following the association's written notification to the person of the omission, but not thereafter.~~ If the omitted salary deductions are received from the person, the required state employer contribution shall then must be made paid by the employer within 30 days after the association's written notification to the employer of the amount due.

Sec. 2. Minnesota Statutes 1988, section 136.82, subdivision 1, is amended to read:

Subdivision 1. **GENERALLY.** (a) The executive director of the teachers retirement fund shall redeem shares in the accounts of the Minnesota supplemental retirement investment fund standing in an employee's share account record under the following circumstances, but always in accordance with the laws and rules governing the Minnesota supplemental retirement investment fund:

(b) The executive director shall redeem shares under this subdivision when requested to do so in writing on forms provided by the executive director by a person having shares to the credit of the employee's share account record if the person is age 55 or older and is no longer employed by the state university board or state board for community colleges. In such case the person must receive the cash realized on the redemption of the shares. The person may direct the redemption of not more than 20 percent of the person's shares in the employee's share account record in any one year and may not direct more than one redemption in any one calendar month; provided, however, that the state university board or its designee, in the case of a person employed by the state university board, and the state board for community colleges or its designee, in the case of a person employed by the state board for community colleges, may, upon application, at their sole discretion, permit greater withdrawals in any one year.

(c) The executive director shall redeem shares under this subdivision when requested to do so in writing, on forms provided by the executive director, by a

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person having shares to the credit of the employee's share account record if the person has left employment by the state university board or state board for community colleges because of a total and permanent disability as defined in section 354.05, subdivision 14. If the executive director finds that the person is totally and permanently disabled and will as a result be unable to return to similar employment, the person must receive the cash realized on the redemption of the shares. The person may direct the redemption of not more than 20 percent of the shares in the employee's share account record in any one year and may not direct more than one redemption in any one calendar month; provided, however, that the state university board or its designee, in the case of a person employed by the state university board, and the state board for community colleges or its designee, in the case of a person employed by the state board for community colleges, may, upon application, at their sole discretion, permit greater withdrawals in any one year. If the person returns to good health, the person owes no restitution to the state or a fund established by its laws for a redemption under this paragraph.

(d) The executive director shall redeem shares under this subdivision in the event of the death of a person having shares to the credit of the employee's share account record and leaving a surviving spouse, when requested to do so in writing, on forms provided by the executive director, by the surviving spouse. The surviving spouse must receive the cash realized on the redemption of the shares. The surviving spouse may direct the redemption of not more than 20 percent of the shares in the deceased spouse's employee's share account record in any one year and may not direct more than one redemption in any one calendar month; provided, however, that the state university board or its designee, in the case of a person employed by the state university board, and the state board for community colleges or its designee, in the case of a person employed by the state board for community colleges, may, upon application, at their sole discretion, permit greater withdrawals in any one year. In that case the surviving spouse must receive the cash realized from the redemption of the shares. Upon the death of the surviving spouse any shares remaining in the employee's share account record must be redeemed by the executive director and the cash realized from the redemption must be distributed to the estate of the surviving spouse.

(e) In the event of the death of a person having shares to the credit of the employee's share account record and leaving no surviving spouse, the executive director shall redeem all shares to the credit of the employee's share account record and pay the cash realized from the redemption to the estate of the deceased person.

(f) The executive director shall redeem shares under this subdivision when requested to do so in writing, on forms provided by the executive director, by a person having shares to the credit of the employee's share account record if the person is no longer employed by the state university board or state board for community colleges, but does not qualify under the provisions of paragraphs (b) to (e). In that case, the person is entitled upon application to receive one-half of

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the cash realized on the redemption of shares ~~must be received by the person and one-half becomes the property~~ must be credited to the administrative expense reserve account of the supplemental retirement plan ~~account of the teachers retirement fund for payment of necessary and reasonable administrative expenses of the supplemental retirement plan as provided in section 354.65. Annually on July 1 the cancellations of the previous 12 months must be prorated among the employees share accounts in proportion to the value that each account bears to the total value of all share accounts.~~

Sec. 3. Minnesota Statutes 1988, section 136.82, subdivision 2, is amended to read:

Subd. 2. **REDEMPTION OF SHARES AS AN ANNUITY.** A person who has shares to the credit of the employee's share account record, who is 55 years of age or older and who is no longer employed by the state university board or the state board for community colleges or who is totally and permanently disabled pursuant to subdivision 1, paragraph (2) (c), or who has the status of a surviving spouse of a person who has shares to the credit of the employee's share account pursuant to subdivision 1, paragraph (2) (d), may redeem all or part of the shares to purchase an annuity by depositing the cash realized upon redemption with the executive director of the teachers retirement fund and receive in exchange an annuity for life or an optional annuity as hereinafter provided. The election to purchase an annuity may be made only once by any individual. If an election is made before the date on which the person is entitled to request redemption, the redemption shall not be made prior to the date upon which the person would be entitled to make the request. The annuity purchase rates shall be based on the annuity table of mortality adopted by the board of trustees of the teachers retirement fund for the fund as provided in section 354.07, subdivision 1, using the interest assumption specified in section 356.215, subdivision 4d. The amount of the annuity for life shall be that amount which has a present value equal to the cash realized on the redemption of the shares as of the first day of the month next following the date of the election to purchase an annuity. The board of trustees of the teachers retirement fund shall establish an optional joint and survivor annuity, an optional annuity payable for a period certain and for life thereafter, and an optional guaranteed refund annuity paying the annuitant a fixed amount for life with the guarantee that in the event of death the balance of the cash realized from the redemption of shares is payable to the designated beneficiary. The optional forms of annuity shall be actuarially equivalent to the single life annuity as defined in section 354.05, subdivision 7. In establishing these optional forms, the board of trustees shall obtain the written recommendation of the actuary retained by the legislative commission on pensions and retirement, and these recommendations shall be a part of the permanent records of the board of trustees.

Sec. 4. Minnesota Statutes 1988, section 354.05, subdivision 35, is amended to read:

Subd. 35. **SALARY.** (a) "Salary" means the compensation ~~paid to a teacher excluding, upon which member contributions are required and made, that is paid to a teacher before any allowable reductions permitted under the federal Internal Revenue Code of 1986, as amended through December 31, 1988, for~~

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employee selected fringe benefits, tax sheltered annuities, deferred compensation, or any combination of these items.

(b) "Salary" does not mean:

(1) lump sum annual ~~or~~ leave payments;

(2) lump sum sick leave payments ~~and~~ and;

(3) payments in lieu of any employer paid group insurance coverage, including the difference between single and family premium rates, that may be paid to a member with single coverage. "Salary" does not mean;

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

(5) any form of severance payments;

(6) workers' compensation payments; or

(7) disability insurance payments including self-insured disability payments.

Subd. 35a. SEVERANCE PAYMENTS. Severance payments include, but are not limited to:

(a) (1) payments to an employee to terminate employment;

(b) (2) payments, or that portion of payments, that are not clearly for the performance of services by the employee to the employer; and

(c) (3) payments to an administrator or former administrator serving as an advisor to a successor or as a consultant to the employer under an agreement to terminate employment within two years or less of the execution of the agreement for compensation that is significantly different than the most recent contract salary; and

(4) payments under a procedure that allows the employee to designate the time of payment if the payments are made during the period of formula service credit used to compute a benefit or annuity under section 354.44, subdivision 6 or 7; 354.46, subdivision 1 or 2; or 354.48, subdivision 3.

Sec. 5. Minnesota Statutes 1988, section 354.05, subdivision 37, is amended to read:

Subd. 37. **TERMINATION OF TEACHING SERVICE.** "Termination of teaching service" means the withdrawal of a member from active teaching service by resignation or the termination of the member's teaching contract by the employer. A member is not considered to have terminated teaching service, if before the effective date of the termination or retirement, the member has entered into a contract to resume teaching service with an employing unit covered by the provisions of this chapter.

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Sec. 6. Minnesota Statutes 1988, section 354.07, subdivision 3, is amended to read:

Subd. 3. The attorney general shall be legal advisor to the board and the executive director. The board may sue or be sued or petitioned under section 7 in the name of the board of trustees of the teachers retirement fund ~~and~~. In all actions brought by or against it the board shall be represented by the attorney general. Except as provided in section 7, subdivision 9, venue of all actions is in the Ramsey county district court.

Sec. 7. [354.071] APPEALS PROCEDURE.

Subdivision 1. DEFINITIONS. Unless the language or context clearly indicates that a different meaning is intended, for the purpose of this section, the following terms have the meanings given.

(a) "Documentation" includes but is not limited to:

(1) sworn and notarized affidavits made on the personal knowledge of any person;

(2) official letters or documents;

(3) documents from the file of the petitioner; and

(4) other relevant documents that are admissible as evidence in a court of law.

(b) "Executive director" means the executive director of the teachers retirement association.

(c) "Person" includes any state institution, school district, or other governmental unit that employs persons covered under statutes listed in subdivision 2.

(d) "Record" means the petition and the documentation that the petitioners submit with the petition, the executive director's answer to the petition and documentation submitted with it, and any documentation the board allows to be submitted at or after the meeting at which the petition is considered.

Subd. 2. NOTICE OF TERMINATION OR DENIAL. If the executive director terminates a benefit or denies an application or a written request of any person claiming a right under this chapter or the applicable sections of chapters 136, 355, and 356, the executive director must serve upon that person a written notice. The notice must contain:

(1) the reasons for the termination or denial;

(2) notice that the person may petition the board for a review of the termination or denial and that the petition for review must be filed within 60 days of the receipt of the written notice;

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(3) a statement that failure to petition the board within 60 days will preclude the person from contesting in any other court procedure or administrative hearing, the issues determined by the executive director; and

(4) a copy of this section.

Subd. 3. PETITION FOR REVIEW. A person who claims a right under subdivision 2 and whose benefit has been terminated or whose application or written request has been denied may petition for a review of that decision by the board. A petition under this section must be served upon the executive director personally, or by mail postmarked no later than 60 days after the petitioner received the notice required by subdivision 2. The petition must include the sworn, notarized statement of the reasons the petitioner believes the decision of the executive director should be reversed or modified and may include relevant documentation.

Subd. 4. ANSWER; RECORD FOR HEARING. Within a reasonable time after receiving a petition, the executive director must serve the petitioner with an answer to the petition with all relevant documentation and with notice of the time and place of the regular or special board meeting at which the board will consider the petition. The documentation need not duplicate the documentation submitted by the petitioner. Not later than ten days before the board meeting at which the petition will be heard and at the time the petition is considered by the board, the executive director must, personally or by mail, deliver a copy of the relevant documentation to each board member. Each board member who participates in the decision on the petition must be familiar with all relevant documentation.

Subd. 5. HEARING. The board shall hold a timely hearing on a petition for review. The board shall make its decision on a petition solely on the relevant documentation as submitted and the proceedings of the hearing. At the hearing the petitioner, the petitioner's attorney, and the executive director may state and discuss with the board their positions with respect to the petition. The board may allow further documentation to be placed in the record at or subsequent to the board meeting at which the petition is considered. If the board allows additional documentation into the record at or subsequent to the board meeting, it may make a final determination on the petition at that board meeting only upon the agreement of both the petitioner and the executive director.

Subd. 6. TERMINATION OF BENEFITS. If the executive director proposes to terminate a benefit that is being paid to any person, before terminating the benefit the executive director must, in addition to the other procedures prescribed herein, give the person written or oral notice of the proposed termination. The notice must explain the reason for the proposed termination. The person must be given an opportunity, verbally or in writing, to explain why the benefit should not be terminated. If the executive director is unable to contact the person and the executive director determines that a failure to terminate the benefit might result in unauthorized payment by the association, the executive director may terminate the benefit with only a written notice containing the information required by subdivision 2, mailed to the address to which the benefit was last sent and, if that address is a financial institution, to the last known address of the person.

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Subd. 7. MEDICAL ADVISOR ACTION. If a person petitions the board to reverse or modify a determination by the executive director finding that the petitioner, for medical reasons, does not or has ceased to qualify for a disability benefit, the board may resubmit the matter to the medical advisor for reconsideration, with or without instructions to obtain further medical examinations. The board may make a determination contrary to the recommendation of the medical advisor only if there is expert medical evidence in the record to support its contrary decision. If there is no medical opinion contrary to the opinion of the medical advisor in the record and the medical advisor asserts that the decision was made in accordance with the disability standard in section 354.05, subdivision 14, the board must follow the determination of the medical advisor. The board may make a determination different from the recommendation of the medical advisor on issues that do not involve a medical opinion.

Subd. 8. BOARD FINDINGS. After the board has made a decision on a petition, the executive director must prepare findings of fact, the board's reasons for its conclusions, and the board's final order for the signature of the chair or other board member as the board, by resolution, may designate. The executive director must serve the findings, conclusions, and order on the petitioner by certified mail.

Subd. 9. APPEALS. Within 30 days of receipt of the findings, conclusions, and final order, the petitioner may appeal the board's decision by writ of certiorari to the court of appeals. Failure to appeal to that court within the 30 days precludes the petitioner from later raising, in any court procedure or administrative hearing, those substantive and procedural issues that reasonably should have been raised upon appeal.

Subd. 10. REFERRAL FOR ADMINISTRATIVE HEARING. Notwithstanding sections 14.03, 14.06, and 14.57 to 14.69, a challenge to a determination of the executive director must be conducted exclusively under the procedures in this section. The board in its sole discretion may refer a petition brought under this section to the office of administrative hearings for a contested case hearing under sections 14.57 to 14.69.

Subd. 11. PETITION WITHOUT NOTICE. A person who is not entitled to notice of a right of review under this section may nevertheless receive review of a decision of the executive director which affects the person's rights by petitioning the board under this section within 60 days of the time the person knew or should have known of the disputed decision.

Sec. 8. Minnesota Statutes 1988, section 354.091, is amended to read:

354.091 SERVICE CREDIT.

In computing the time of service of a teacher, the length of a legal school year in the district or institution where such service was rendered shall constitute a year under sections 354.05 to 354.10, provided such year is not less than the legal minimum school year of this state. No person shall be allowed credit

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for more than one year of teaching service for any fiscal year. Commencing July 1, 1969 1961 (1) if a teacher teaches only a fractional part of a day, credit shall be given for a day of teaching service for each five hours taught, and (2) if a teacher teaches at least 170 full days in any fiscal year credit shall be given for a full year of teaching service, and (3) if a teacher teaches for only a fractional part of the year credit shall be given for such fractional part of the year as the term of service rendered bears to 170 days. Teaching service performed prior to July 1, 1969 1961 shall be computed pursuant to the law in effect at the time it was rendered.

In no event shall any teacher lose or gain retirement service credit as a result of the employer converting to a four day work week. If the employer does convert to a four day work week, the forms for reporting and procedures for determining service credit shall be determined by the executive director with the approval of the board of trustees.

Sec. 9. Minnesota Statutes 1988, section 354.092, is amended to read:

354.092 SABBATICAL LEAVE.

A member who is granted a sabbatical leave may receive allowable service credit not exceeding three years in any ten consecutive years toward a retirement annuity by paying into the fund employee contributions during the period of leave. The employee contribution shall be based upon the appropriate rate of contributions and the salary received during the year immediately preceding the leave. This payment shall be made by the end of the fiscal year following the fiscal year in which the leave of absence terminated, and shall be without interest. A member shall not accrue more than three years allowable service by reason of this section unless the allowable service credit was paid for by the member prior to July 1, 1962. A sabbatical leave for the purpose of this section shall be compensated by a minimum of one-third of the salary the member received for a comparable period during the prior fiscal year. Before the end of the fiscal year during which any sabbatical leave begins, the employing unit granting the leave must certify the leave to the association on a form specified by the executive director. Deductions for employee contributions at the applicable rate specified in section 354.42 must be made by the employing unit from salary paid to the member for a sabbatical leave. The member may also make direct payment of employee contributions at the appropriate rates specified in section 354.42 based upon the difference between the salary received for the sabbatical leave and the salary received for a comparable period during the year immediately preceding the leave. This direct payment must be made by the end of the fiscal year following the fiscal year in which the leave of absence terminated and must be without interest. If the employee contributions during the period of the leave made under this section are less than the employee contributions based on the salary received made for a comparable period during the year immediately preceding the leave, the allowable and formula service credit of the member shall be prorated according to section 354.05, subdivision 25, clause (3), except that if the member is paid full salary for any sabbatical leave of

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absence, either past or prospective, the allowable and formula service credit shall not be prorated. A member may not receive more than three years of allowable service credit in any ten consecutive years under this section unless the allowable service credit was paid for by the member before July 1, 1962. For sabbatical leaves ~~taken~~ that begin after June 30, 1986, the required employer contribution, including the amortization amount contributions specified in section 354.42, subdivisions 3 and 5, shall must be paid by the employing unit within 30 days after the association's written notification by the association to the employing unit of the amount due.

Sec. 10. Minnesota Statutes 1988, section 354.10, subdivision 2, is amended to read:

Subd. 2. **AUTOMATIC DEPOSITS.** The board may pay an annuity or benefit to a banking institution, qualified under chapter 48, that is a trustee for a person eligible to receive ~~such~~ the annuity or benefit. Upon completion of the proper forms as provided by the ~~board~~ executive director, the annuity or benefit amount may be electronically transferred or the annuity or benefit check may be mailed to a banking institution, savings association or credit union for deposit to the recipient's individual account or joint account with a the recipient's spouse. The board shall prescribe the conditions which shall govern these procedures.

Sec. 11. Minnesota Statutes 1988, section 354.35, is amended to read:

354.35 RETIREMENT BEFORE BECOMING ELIGIBLE FOR SOCIAL SECURITY OPTIONAL ACCELERATED RETIREMENT ANNUITY BEFORE AGE 65.

Any coordinated member who retires before ~~becoming eligible for social security retirement benefits~~ age 65, may elect to receive an optional accelerated retirement annuity from the association which provides for different annuity amounts over different periods of retirement. The election of this optional accelerated retirement annuity shall be exercised by making an application to the board on a form provided by the board. The optional accelerated retirement annuity shall take the form of an annuity payable for the period before the member attains ~~the age of 65 years~~ in a greater amount than the amount of the annuity calculated under section 354.44 on the basis of the age of the member at retirement but equal insofar as possible to the social security old age retirement benefit and the adjusted retirement annuity amount payable immediately after the annuitant becomes eligible for social security old age retirement benefits in an amount less than the amount of the annuity calculated under section 354.44 on the basis of the age of the member at retirement. The social security leveling option may be calculated based on broad average social security old age retirement benefits. the optional accelerated retirement annuity shall must be the actuarial equivalent of the member's annuity computed on the basis of the member's age at retirement. The greater amount shall must be paid until the member retiree reaches the age of 65 and at which that time the payment from

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the association ~~shall~~ must be reduced. For each year the retiree is under age 65, up to five percent of the total life annuity required reserves may be used to accelerate the optional retirement annuity under this section. The method of computing the optional accelerated retirement annuity provided in this section shall be established by the board of trustees. In establishing the method of computing the optional accelerated retirement annuity, the board of trustees shall must obtain the written ~~recommendation~~ approval of the commission-retained actuary. The ~~recommendations shall~~ written approval must be a part of the permanent records of the board of trustees.

Sec. 12. Minnesota Statutes 1988, section 354.42, subdivision 7, is amended to read:

Subd. 7. **ERRONEOUS SALARY DEDUCTIONS OR DIRECT PAYMENTS.** (1) (a) Any deductions taken from the salary of an employee for the retirement fund in error shall, be refunded to the employee upon discovery and verification by the school district or institution employing unit making the deduction, be refunded to the employee and the corresponding employer contribution and additional employer contribution amounts attributable to the erroneous salary deduction must be refunded to the employing unit.

(2) ~~In the event~~ (b) If salary deductions and employer contributions were erroneously transmitted to the retirement fund and should have been transmitted to another public pension fund enumerated in section 356.30, subdivision 3, the retirement fund must transfer these salary deductions and employer contributions to the appropriate public pension fund without interest.

(c) If a salary warrant or check from which a deduction for the retirement fund was taken has been canceled or the amount of the warrant or check has been returned to the funds of the school district or institution employing unit making the payment, a refundment refund of the sum so amount deducted, or any portion of it as that is required to adjust the salary deductions, shall be made to the school district or institution provided application for it is made on a form furnished by the retirement board employing unit.

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

Sec. 13. Minnesota Statutes 1988, section 354.44, subdivision 3, is amended to read:

Subd. 3. **APPLICATION FOR RETIREMENT.** Retirement may Application for retirement must be made upon application of by the member or of by someone acting authorized to act in the member's behalf. Application must be made on a form prescribed by the executive director.

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

Sec. 14. Minnesota Statutes 1988, section 354.44, subdivision 5, is amended to read:

Subd. 5. **RESUMPTION OF TEACHING SERVICE AFTER RETIREMENT.** Any person who retired under ~~any provision of any retirement law applicable to schools and institutions covered by the provisions of this chapter~~ and has thereafter resumed teaching in any school or institution employer unit to which this chapter applies ~~shall~~ is eligible to continue to receive payments in accordance with the annuity except that annuity payments must be reduced during any the calendar year immediately following any calendar year in which the person's income from the teaching service is in an amount ~~equal to or~~ greater than the annual maximum earnings allowable for that age for the continued receipt of full benefit amounts monthly under the federal old age, survivors and disability insurance program as set by the secretary of health and human services ~~pursuant to the provisions of under~~ United States Code, title 42, section 403. The amount of the reduction must be one-half of the amount in excess of the applicable reemployment income maximum specified in this subdivision and must be deducted from the annuity payable for the calendar year immediately following the calendar year in which the excess amount was earned. If the person has not yet reached the minimum age for the receipt of social security benefits, the maximum earnings for the person must be equal to the annual maximum earnings allowable for the minimum age for the receipt of social security benefits.

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

After a person has reached the age of 70, no reemployment income maximum is applicable regardless of the amount of income. For the purpose of this subdivision, income from teaching service ~~shall include~~ includes, but is not limited to:

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

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

In the event that the person has not yet reached the minimum age for the receipt of social security benefits, the maximum earnings for the person shall be equal to the annual maximum earnings allowable for the minimum age for the receipt of social security benefits. The amount in excess of the applicable reemployment income maximum specified in this subdivision shall be deducted from the annuity payable for the year immediately following the year in which the excess amount was earned. After a person has reached the age of 70, the person shall receive the annuity in full regardless of the amount of income.

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

Sec. 15. Minnesota Statutes 1988, section 354.44, is amended by adding a subdivision to read:

Subd. 5a. EXEMPTION FOR INTERIM SUPERINTENDENT. A person who performs services as an interim superintendent because of the death, disability, termination, or resignation of the previous superintendent is exempt from the earnings limitations and reductions in annuity payments in subdivision 5 for up to 90 working days of service as an interim superintendent. During this period of up to 90 working days, the school board may pay the interim superintendent at any rate, up to the rate paid to the previous superintendent. This exemption applies only if the school board hiring the interim superintendent submits an application for the exemption to the executive director, and the executive director approves the application before the services as interim superintendent begin. The application must certify that the school board has unanimously approved the exemption from the earnings limitations and reductions. The executive director may prescribe a form for the application. A school board may not apply for more than one exemption in a fiscal year. No more than three exemptions may be approved for any person. Only one exemption may be approved for any person in a fiscal year.

Sec. 16. Minnesota Statutes 1988, section 354.44, subdivision 8, is amended to read:

Subd. 8. ANNUITY PAYMENT; EVIDENCE OF RECEIPT. Payment of an annuity or benefit for a given month shall must be paid during the first week of that month. Evidence of receipt of the check issued or acknowledgment of the amount electronically transferred in payment of an annuity or benefit shall be submitted by may be required from the payee or a banking institution on a form prescribed by the executive director. The evidence of receipt form shall may be submitted required periodically at times specified by the board. In the event the required evidence of receipt form is not submitted required, future annuities or benefits shall must be withheld until the form is submitted.

Sec. 17. Minnesota Statutes 1988, section 354.47, subdivision 2, is amended to read:

Subd. 2. BENEFITS OF \$500 \$1,500 OR LESS. If a member or a former member dies without having a surviving designated a beneficiary; or if the beneficiary should die before making application for the refundment and the amount to the credit of such deceased member or former member; and the amount of the benefit the decedent is \$500 \$1,500 or less, the retirement board of trustees may 90 days after the date of death of the member or former member, in the absence of probate proceedings, make payment to the surviving spouse of the deceased member or former members; or, if none to the next of kin under the laws of descent of the state of Minnesota and such decedent. This payment shall be a bar to recovery of this payment from the association by any other person or persons. Any accrued retirement allowance or annuity which shall have accrued at the time of death of an annuitant, disability, or survivor benefit, may be paid in like the same manner.

New language is indicated by underline, deletions by strikeout.

Sec. 18. Minnesota Statutes 1988, section 354.48, subdivision 1, is amended to read:

Subdivision 1. **AGE, SERVICE AND SALARY REQUIREMENTS.** ~~Any A~~ member who became ~~is~~ totally and permanently disabled after and has at least five years of credited allowable service ~~shall be at the time that the total and permanent disability begins~~ is entitled to a disability benefit based on this allowable service in an amount provided in subdivision 3. ~~If such the disabled person's member's~~ teaching service has terminated at any time, at least three of the required five years of allowable service must have been rendered after last becoming a member. Any member whose average salary is less than \$75 per month shall ~~is not be~~ is not be entitled to disability benefits.

Sec. 19. Minnesota Statutes 1988, section 354.48, subdivision 2, is amended to read:

Subd. 2. **APPLICATIONS.** Any person described in subdivision 1, or another person authorized to act on behalf of the person; may make application for a total and permanent disability benefit only within the 18 months month period following the termination of teaching service ~~but not thereafter~~. This benefit ~~shall begin to accrue~~ accrues from the day following the commencement of disability or the day following the ~~date on last day for~~ date on last day for which salary ceases ~~is paid~~, whichever is later, but ~~shall may~~ may not begin to accrue more than 90 days ~~prior to before~~ the date the application is filed with the board. If salary is being received for either annual or sick leave during the period, payments ~~shall~~ accrue from the date day following the last day for which this salary ceases is paid.

Sec. 20. Minnesota Statutes 1988, section 354.65, is amended to read:

354.65 ADMINISTRATIVE EXPENSES.

Necessary and reasonable administrative expenses incurred by the teachers retirement association ~~shall~~ must be prorated and allocated to the teachers retirement fund, and the organization's participation in both the Minnesota variable annuity investment fund, ~~the Minnesota postretirement investment fund~~ and the Minnesota supplemental investment retirement fund in accordance with policies and procedures established by the board of trustees of the teachers retirement association.

Sec. 21. **[354A.095] MATERNITY LEAVE.**

A basic or coordinated member of the St. Paul teachers' retirement fund association and old or new coordinated members of the Duluth teachers' retirement fund association, who are granted parental or maternity leave of absence by the employing authority, are entitled to obtain service credit not to exceed one year for the period of leave upon payment to the applicable fund by the end of the fiscal year in which the leave of absence terminated. The amount of the payment must include the total required employee and employer contributions for the period of leave prescribed in section 354A.12. Payment must be based

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on the member's average monthly salary upon return to teaching service, and is payable without interest. Payment must be accompanied by a certified or otherwise adequate copy of the resolution or action of the employing authority granting or approving the leave.

Sec. 22. Minnesota Statutes 1988, section 354A.31, subdivision 3, is amended to read:

Subd. 3. **RESUMPTION OF TEACHING AFTER COMMENCEMENT OF A RETIREMENT ANNUITY.** Any person who retired and is receiving a coordinated program retirement annuity under the provisions of sections 354A.31 to 354A.41 and who has resumed teaching service for the school district in which the teachers retirement fund association exists ~~shall be~~ is entitled to continue to receive retirement annuity payments except ~~that for any person under the age of 72 years during any quarter in which the person's compensation for the teaching service is in an amount equal to or greater than the quarterly maximum earnings allowable for that age for the continued receipt of full benefit amounts monthly under the federal old age, survivors and disability insurance program as set by the secretary of health and human services pursuant to the provisions of United States Code, title 42, section 403. In the event that the person has not yet reached the minimum age for the receipt of social security benefits, the maximum earnings for the person shall be equal to the quarterly maximum earnings allowable for the minimum age for the receipt of social security benefits. The amount in excess of the applicable reemployment income maximum specified in this subdivision shall be deducted from the retirement annuity payment payable for the quarter immediately following the quarter in which the excess amount was earned. Any person to whom this subdivision applies who has reached the age of at least 72 years shall be entitled to continue to receive retirement annuity payments in full that annuity payments must be reduced during the calendar year immediately following the calendar year in which the person's income from the teaching service is in an amount greater than the annual maximum earnings allowable for that age for the continued receipt of full benefit amounts monthly under the federal old age, survivors and disability insurance program as set by the secretary of health and human services under the provisions of United States Code, title 42, section 403. The amount of the reduction must be one-half the amount in excess of the applicable reemployment income maximum specified in this subdivision and must be deducted from the annuity payable for the calendar year immediately following the calendar year in which the excess amount was earned. If the person has not yet reached the minimum age for the receipt of social security benefits, the maximum earnings for the person must be equal to the annual maximum earnings allowable for the minimum age for the receipt of social security benefits.~~

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

After a person has reached the age of 70, no reemployment income maxi-

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num is applicable regardless of the amount of any compensation received for teaching service for the school district in which the teachers retirement fund association exists.

Sec. 23. Minnesota Statutes 1988, section 356.30, subdivision 2, is amended to read:

Subd. 2. **REPAYMENT OF REFUNDS.** ~~Any~~ A person who is ~~employed~~ has service credit in a position covered by one of the funds enumerated in subdivision 3 and who is employed or was formerly employed in a position covered by one of these funds but also has received a refund from any other of such these funds, may repay such the refund to the respective fund under ~~such~~ terms and conditions as that are consistent with the laws governing ~~such the~~ other fund, except that the person need not be a currently contributing member of the fund to which the refund is repaid at the time the repayment is made. Unless otherwise provided by statute, the repayment of a refund under this subdivision may only be made within six months following termination of employment from a position covered by one of the funds enumerated in subdivision 3 or before the date of retirement from the fund to which the refund is repaid, whichever is earlier.

Sec. 24. Minnesota Statutes 1988, section 356.371, subdivision 3, is amended to read:

Subd. 3. **REQUIREMENT OF NOTICE TO MEMBER'S SPOUSE.** If a public pension fund provides optional retirement annuity forms which include a joint and survivor optional retirement annuity form potentially applicable to the surviving spouse of a member, the chief administrative officer of the public pension fund shall send a copy of the written statement required by subdivision 2 to the spouse of the member ~~prior to~~ before the member's election of an optional retirement annuity.

Following the election of an optional retirement annuity form by the member, a copy of the completed retirement annuity application ~~shall~~ and retirement annuity beneficiary form must be sent ~~by certified mail by the public pension fund~~ to the spouse of the retiring member. A signed acknowledgment must be required from the spouse confirming receipt of a copy of the completed retirement annuity application and retirement annuity beneficiary form. If the required signed acknowledgment is not received from the spouse within 30 days, the public pension fund must send another copy of the completed retirement annuity application and retirement annuity beneficiary form to the spouse by certified mail.

Sec. 25. Minnesota Statutes 1988, section 356.80, subdivision 1, is amended to read:

Subdivision 1. **INFORMATION FOR A PENDING MARRIAGE DISSOLUTION.** (a) Upon written request by a person with access to the data under subdivision 3 who cites this statute, a public or private pension plan administra-

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

tor must provide the court and the parties to a marriage dissolution action involving a plan member or former plan member with information regarding pension benefits or rights of the plan member or former plan member. The pension plan shall provide this information upon request of the court or a party to the action without requiring a signed authorization from the plan member or former plan member.

(b) The information must include the pension benefits or rights of the plan member or former plan member as of the first day of the month following the date of the request, or as of the end of the previous fiscal year for the plan, and as of the date of valuation of marital assets under section 518.58, if the person requesting the information specifies that date. The information must include the accrued service credit of the person, the credited salary of the person for the most current five-year period, a summary of the benefit plan, and any other information relevant to the calculation of the present value of the benefits or rights.

Sec. 26. Minnesota Statutes 1988, section 356.80, subdivision 3, is amended to read:

Subd. 3. **ACCESS TO DATA.** Notwithstanding any provision of chapter 13 to the contrary, an administrator may release private or confidential data on individuals to the court, the parties to a marriage dissolution, their attorneys, and an actuary appointed under section 518.582, to the extent necessary to comply with this section, but only if the administrator has received a copy of the legal petition showing that an action for marriage dissolution has commenced and a copy of the affidavit of service showing that the petition has been served on the responding party to the action.

Sec. 27. **[356.81] REPAYMENT OF REFUNDS.**

Repayment of a refund and interest on that refund permitted under laws governing any public pension plan in Minnesota may be made with funds distributed from a plan qualified under the federal Internal Revenue Code of 1986, as amended through December 31, 1988, section 401(a) or an annuity qualified under the federal Internal Revenue Code of 1986, section 403(a). Repayment may also be made with funds distributed from an individual retirement account used solely to receive a nontaxable rollover from that type of a plan or annuity. The repaid refund must be separately accounted for as member contributions not previously taxed. Before accepting any transfers to which this subdivision applies, the executive director must require the member to provide written documentation to demonstrate that the amounts to be transferred are eligible for a tax-free rollover and qualify for that treatment under the federal Internal Revenue Code of 1986.

Sec. 28. **REPEALER.**

Minnesota Statutes 1988, sections 136.88, subdivision 3; 354.41, subdivision 3; 354.531; 354.532; 354.55, subdivision 5; and 354.56, are repealed.

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

Sec. 29. **EFFECTIVE DATE.**

Sections 2 to 13 and 15 to 28 are effective the day following final enactment. Section 1 is effective July 1, 1989. Section 14 is effective January 1, 1989.

ARTICLE 3

PERA

Section 1. Minnesota Statutes 1988, section 353.01, subdivision 2a, is amended to read:

Subd. 2a. **INCLUDED EMPLOYEES.** The following persons are included in the meaning of "public employee":

- (1) elected or appointed officers and employees of elected officers;
- (2) district court reporters;
- (3) officers and employees of the public employees retirement association;
- (4) employees of the league of Minnesota cities;
- (5) employees of the association of metropolitan municipalities;
- (6) officers and employees of public hospitals owned or operated by, or an integral part of, a governmental subdivision or governmental subdivisions;
- ~~(6)~~ (7) employees of a school district who receive separate salaries for driving their own buses;
- ~~(7)~~ (8) employees of the association of Minnesota counties;
- ~~(8)~~ (9) employees of the metropolitan intercounty association;
- ~~(9)~~ (10) employees of the Minnesota municipal utilities association;
- ~~(10)~~ (11) employees of the Minnesota association of townships when the board of the association, at its option, certifies to the executive director that its employees are to be included for purposes of retirement coverage, in which case coverage of all employees of the association is permanent;
- (12) employees of the metropolitan airports commission if employment initially commenced after June 30, 1979;
- ~~(11)~~ (13) employees of the Minneapolis employees retirement fund, if employment initially commenced after June 30, 1979;

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

~~(12)~~ (14) employees of the range association of municipalities and schools;

~~(13)~~ (15) employees of the soil and water conservation districts;

~~(14)~~ (16) employees of a county historical society who are county employees;

~~(15)~~ (17) employees of a county historical society located in the county whom the county, at its option, certifies to the executive director to be county employees for purposes of retirement coverage under this chapter, which status must be accorded to all similarly situated county historical society employees and, once established, must continue as long as a person is an employee of the county historical society and is not excluded under subdivision 2b;

~~(16)~~ (18) employees of an economic development authority created under sections 458C.01 to 458C.23;

~~(17)~~ (19) employees of the department of military affairs of the state of Minnesota who are full-time firefighters; and

(20) employees who became members before July 1, 1988, based on the total salary of positions held in more than one governmental subdivision.

Sec. 2. Minnesota Statutes 1988, section 353.01, subdivision 2b, is amended to read:

Subd. 2b. **EXCLUDED EMPLOYEES.** ~~(a)~~ The following persons are excluded from the meaning of "public employee":

(1) persons who are employed for professional services where the service is incidental to regular professional duties, determined on the basis that compensation for the service amounts to no more than 25 percent of the person's total annual gross earnings for all professional duties;

(2) election officers;

(3) independent contractors and their employees;

(4) patient and inmate ~~help~~ personnel who perform services in governmental subdivision charitable, penal, and or correctional institutions of a governmental subdivision;

(5) members of boards, commissions, bands, and others who serve ~~the~~ a governmental subdivision intermittently;

(6) employees whose employment is not expected to continue for a period longer than six consecutive months, unless it involves employment for a probationary period that is part of a permanent position. Immediately following the expiration of a six-month period of employment, if the employee continues in public service and earns more than \$425 from one governmental subdivision in any one calendar month, the department head shall report the employee for

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membership and require employee deductions be made on behalf of the employee in accordance with section 353.27, subdivision 4. Membership eligibility of an employee who holds concurrent temporary employment of six months or less and part-time positions in one governmental subdivision must be determined by the salary of each position. Membership eligibility of an employee who holds nontemporary positions in one governmental subdivision must be determined by the total salary of all positions;

(7) part-time employees who receive monthly compensation from a one governmental subdivision not exceeding \$425, and part-time employees and elected officials whose annual compensation from a one governmental subdivision is stipulated in advance, in writing, to be not more than \$5,100 per calendar year or per school year for school employees for employment expected to be of a full year's duration or more than the prorated portion of \$5,100 per employment period for employment expected to be of less than a full year's duration, except that members continue their membership until termination of public service; Membership eligibility of an employee who holds concurrent part-time positions under this clause must be determined by the total salary of all such positions in one governmental subdivision. If compensation from one governmental subdivision to an employee under this paragraph exceeds \$5,100 per calendar year or school year after being stipulated in advance not to exceed that amount, the stipulation is no longer valid and contributions must be made on behalf of the employee in accordance with section 353.27, subdivision 12, from the month in which the employee's earnings first exceeded \$425;

(8) persons who first occupy an elected office after July 1, 1988, the compensation for which does not exceed \$425 per month;

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

(10) employees who by virtue of their employment as an officer or employee of a in one governmental subdivision are required by law to be a member of and to contribute to any of the plans or funds administered by the state employees retirement system, the teachers retirement fund, the state patrol retirement fund, the Duluth teachers retirement fund association, the Minneapolis teachers retirement fund association, the St. Paul teachers retirement fund association, the Minneapolis employees retirement fund, the Minnesota state retirement system correctional officers retirement plan, or any police or firefighters relief association governed by section 69.77 that has not consolidated with the public employees police and fire fund and for which the employee has not elected coverage by the public employees police and fire fund benefit plan as provided in sections 353A.01 to 353A.10; other than as an act of the legislature has specifically enabled participation by employees of a designated governmental subdivision in a plan supplemental to the public employees retirement association; Minnesota state retirement system, the teachers retirement association, the Duluth teachers retirement fund association, the Minneapolis teachers retirement association, the St. Paul teachers retirement fund association, the Minneapolis employees

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

retirement fund, or any police or firefighters relief association governed by section 69.77 that has not consolidated with the public employees police and fire fund, or any police or firefighters relief association that has consolidated with the public employees retirement association but whose members have not elected coverage by the public employees police and fire fund as provided in sections 353A.01 to 353A.10. This clause must not be construed to prevent a person from being a member of and contributing to the public employees retirement association and also belonging to and contributing to another public pension fund for other service occurring during the same period of time. A person who meets the definition of "public employee" in subdivision 2 by virtue of other service occurring during the same period of time shall become a member of the association unless contributions are made to another public retirement fund on the salary based on the other service or to the teachers retirement association by a teacher as defined in section 354.05, subdivision 2;

(11) police matrons who are employed in a police department of a city who are transferred to the jurisdiction of a joint city and county detention and corrections authority;

(12) persons who are excluded from coverage under the federal old age, survivors, disability, and health insurance program for the performance of service as specified in United States Code, title 42, section 410(a) (8) (A), as amended through January 1, 1987;

(13) full-time students who are enrolled and are regularly attending classes at an accredited school, college, or university and who are not employed full time by a governmental subdivision;

(14) resident physicians, medical interns, and pharmacist residents and interns who are serving in a degree or residency program in public hospitals and students who are serving in an internship or residency program sponsored by an accredited educational institution;

(15) appointed or elected officers; who are paid entirely on a fee basis; and who were not members on June 30, 1971;

(16) persons ~~holding who hold~~ a part-time adult supplementary technical institute license who render part-time teaching service in a technical institute if ~~the service is incidental to the person's regular nonteaching occupation; the applicable technical institute stipulates annually in advance that the part-time teaching service will not exceed 300 hours in a fiscal year, and the part-time teaching service actually does not exceed 300 hours in a fiscal year; and;~~

(17) persons exempt from licensure under section 125.031;

(18) except as provided in section 353.86, volunteer ambulance service personnel, as defined in subdivision 35, but persons who serve as volunteer ambulance service personnel may still qualify as public employees under subdivision 2 and may be members of the public employees retirement association

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

and participants in the public employees retirement fund or the public employees police and fire fund on the basis of compensation received from public employment service other than service as volunteer ambulance service personnel; and

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

(b) Immediately following the expiration of a six-month period of employment by an employee covered by paragraph (a), clause (6), if the employee continues in public service and earns more than \$425 from a governmental subdivision in any one calendar month, the department head shall report the employee for membership and cause employee contributions to be made on behalf of the employee in accordance with section 353.27, subdivision 4, and the employee remains a member until termination of public service. This paragraph may not be construed to exclude an employee from membership whose employment is expected to continue for more than six months but who is serving a probationary period.

(c) If compensation from a governmental subdivision to an employee covered by paragraph (a), clause (7), exceeds \$5,100 per calendar year or school year after being stipulated in advance, the stipulation is no longer valid and contributions must be made on behalf of the employee in accordance with section 353.27, subdivision 12, from the month in which the employee first exceeded \$425.

(d) Paragraph (a), clause (10), does not prevent a person from being a member of and contributing to the public employees retirement association and also belonging to or contributing to another public pension fund for other service occurring during the same period of time. A person who meets the definition of "public employee" in subdivision 2, by virtue of other service occurring during the same period of time shall become a member of the association unless contributions are made to another public retirement fund on the salary based on the other service or to the teachers retirement association in accordance with section 354.05, subdivision 2.

Sec. 3. Minnesota Statutes 1988, section 353.01, subdivision 10, is amended to read:

Subd. 10. **SALARY.** "Salary" means the periodical compensation of a public employee, before deductions for deferred compensation, supplemental retirement plans, or other voluntary salary reduction programs, and also means "wages" and includes net income from fees. Fees paid to district court reporters

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

are not considered a salary. Lump sum annual or lump sum sick leave payments, severance payments, and all payments in lieu of any employer-paid group insurance coverage, including the difference between single and family rates that may be paid to a member with single coverage, are not deemed to be salary. Before the time that all sick leave has been used, amounts paid to an employee under a disability insurance policy or program where the employer paid the premiums are considered salary, and, after all sick leave has been used, the payment is not considered salary. Workers' compensation payments are not considered salary. Except as provided in sections 353.86 or 353.87, compensation of any kind paid to volunteer ambulance service personnel or volunteer firefighters, as defined in subdivisions 35 and 36, is not considered salary. For a public employee who has prior service covered by a local police or firefighters relief association that has consolidated with the public employees police and fire fund and who has elected coverage by the public employees police and fire fund benefit plan as provided in section 353A.08 following the consolidation, "salary" means the rate of salary upon which member contributions to the special fund of the relief association were made prior to the effective date of the consolidation as specified by law and by bylaw provisions governing the relief association on the date of the initiation of the consolidation procedure and the actual periodical compensation of the public employee after the effective date of the consolidation.

Sec. 4. Minnesota Statutes 1988, section 353.01, is amended by adding a subdivision to read:

Subd. 11a. TERMINATION OF PUBLIC SERVICE. An officer or employee who terminates employment but within 30 days returns to employment in the same governmental subdivision or begins employment in another position otherwise excluded from membership is considered a member from the beginning of the reemployment unless the total period covered by all periods of employment is less than six months or the amount earned does not exceed the dollar limitations in subdivision 2b, clause (7).

Sec. 5. Minnesota Statutes 1988, section 353.01, is amended by adding a subdivision to read:

Subd. 35. VOLUNTEER AMBULANCE SERVICE PERSONNEL. "Volunteer ambulance service personnel," for purposes of this chapter, are basic and advanced life support emergency medical service personnel employed by or providing services for any public ambulance service or privately operated ambulance service that receives an operating subsidy from a governmental entity.

Sec. 6. Minnesota Statutes 1988, section 353.01, is amended by adding a subdivision to read:

Subd. 36. VOLUNTEER FIREFIGHTER. For purposes of this chapter, a person is considered a "volunteer firefighter" for all service for which the person receives credit in an association or fund operating under chapter 424A.

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

Sec. 7. Minnesota Statutes 1988, section 353.27, subdivision 12, is amended to read:

Subd. 12. **OMITTED SALARY DEDUCTIONS; OBLIGATIONS.** In the case of omission of required deductions from salary of an employee, ~~past due for 60 days or less; the head of the department shall deduct from the employee's next salary payment and remit to the executive director the amount of the employee contribution delinquency; with the department head shall immediately, upon discovery, report the employee for membership and require employee deductions be made in accordance with subdivision 4. Omitted employee deductions due for the 60-day period preceding enrollment must be deducted from the employee's next salary payment and remitted to the association. The employer shall pay any remaining omitted employee deductions past due and any omitted employer contributions, plus cumulative interest at the rate of six percent a year, compounded annually, from the date or dates each delinquent omitted employee contribution was first payable. The interest must be paid by the employer. Omitted required deductions past due for a period in excess of 60 days are the sole obligation of the governmental subdivision from the time the deductions were first payable; together with interest as specified in this subdivision. Any amount so due, together with employer and additional employer contributions at the rates and in the amounts specified in subdivisions 3 and 3a, with interest at the rate of six percent compounded annually from the date they were first payable, from the employer must be paid from the proceeds of a tax levy made under section 353.28 or from other funds available to the employer. Unless otherwise indicated, An employer shall not hold an employee liable for omitted employee deductions due for more than the 60-day period preceding enrollment nor attempt to recover from the employee those employee deductions paid by the employer. Neither an employer nor an employee is responsible to pay omitted employee deductions when an employee terminates public service before making payment of omitted employee deductions to the association, but the employer remains liable to pay omitted employer contributions plus interest at the rate of six percent compounded annually from the date the contributions were first payable.~~ This subdivision has both retroactive and prospective application, and the governmental subdivision is liable retroactively and prospectively for all amounts due under it. ~~No action for the recovery of omitted employee and employer contributions or interest on contributions may be commenced and no payment of omitted contributions may be made or accepted unless the association has already commenced action for recovery of omitted contributions; The association may not commence action for the recovery of omitted employee deductions and employer contributions after the expiration of three calendar years after the calendar year in which the contributions and deductions were omitted. No payment may be made or accepted unless the association has already commenced action for recovery of omitted deductions.~~ An action for the recovery of omitted contributions or interest commences five calendar days after on the date of the mailing of any written correspondence from the association requesting information from the governmental unit that may lead to a recovery of omitted contributions subdivision upon which to determine whether or not omitted deductions occurred.

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

Sec. 8. Minnesota Statutes 1988, section 353.28, subdivision 5, is amended to read:

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

Sec. 9. Minnesota Statutes 1988, section 353.28, subdivision 6, is amended to read:

Subd. 6. If the governmental subdivision fails to pay amounts due under this chapter or fails to make payments of excess police state aid to the public employees police and fire fund under section 69.031, subdivision 5, the executive director shall certify those amounts to the governmental subdivision for payment. If the governmental subdivision fails to remit the sum so due in a timely fashion, the executive director shall certify amounts to the county auditor for collection. The county auditor shall collect such amounts out of the revenue of the governmental subdivision, or shall add them to the levy of the governmental subdivision and make payment directly to the association. This tax shall be levied, collected and apportioned in the manner other taxes are levied, collected and apportioned.

Sec. 10. Minnesota Statutes 1988, section 353.29, subdivision 4, is amended to read:

Subd. 4. **APPLICATION FOR ANNUITY.** Application for a retirement annuity may be made by a member or by a person authorized to act on behalf of the member. Every application for retirement shall be made in writing on a form prescribed by the executive director and shall be substantiated ~~in writing~~ by written proof of the member's age of the member and identity. No application for a retirement annuity may be considered complete until all necessary supporting documents are received by the executive director.

Sec. 11. Minnesota Statutes 1988, section 353.29, subdivision 7, is amended to read:

Subd. 7. **ANNUITIES; ACCRUAL.** Except as to elected public officials, all retirement annuities granted under the provisions of this chapter shall commence with the first day of the first calendar month next succeeding the date of termination of public service and shall be paid in equal monthly installments, but no payment shall accrue beyond the end of the month, in which entitlement to such annuity has terminated. If the annuitant dies prior to negotiating the check for the month in which death occurs, payment will be made to the surviving spouse or if none to the designated beneficiary or if none to the estate.

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Any annuity granted to an elective public official shall accrue on the day following expiration of the public office held or right thereto, and the annuity for that month shall be prorated accordingly. No annuity, once granted, shall be increased, decreased, or revoked except as provided in this chapter. No annuity payment shall be made retroactive for more than three months prior to that month in which application therefor shall be filed with the association a complete application is received by the executive director as provided in subdivision 4.

Sec. 12. Minnesota Statutes 1988, section 353.33, subdivision 1, is amended to read:

Subdivision 1. **AGE, SERVICE, AND SALARY REQUIREMENTS.** Any member who becomes totally and permanently disabled before age 65 and after five years of allowable service shall be entitled to a disability benefit in an amount provided in subdivision 3. ~~If such the~~ disabled person's public service has terminated at any time, at least three of the required five years of allowable service must have been rendered after last becoming a member. Any member whose average salary is less than \$75 per month shall not be entitled to a disability benefit. ~~No repayment of a refund otherwise authorized pursuant to section 353.34 and~~ A repayment of a refund may be made before the effective date of disability benefits under subdivision 2. No purchase of prior service or payment made in lieu of salary deductions otherwise authorized pursuant to section 353.01, subdivision 16, 353.017, subdivision 4, or 353.36, subdivision 2, may be made after the occurrence of the disability for which an application pursuant to this section is filed.

Sec. 13. Minnesota Statutes 1988, section 353.33, subdivision 2, is amended to read:

Subd. 2. **APPLICATIONS; ACCRUAL OF BENEFITS.** Every claim or demand for a total and permanent disability benefit ~~shall~~ must be initiated by written application in the manner and form prescribed by the executive director, ~~filed in the office of the retirement association,~~ showing compliance with the statutory conditions qualifying the applicant for a total and permanent disability benefit and filed with the executive director. A member or former member who became totally and permanently disabled during a period of membership may file application for total and permanent disability benefits within three years next following termination of public service, but not thereafter. This benefit shall begin to accrue the day following the commencement of disability, 90 days preceding the filing of the application, or, if annual or sick leave is paid for more than the said 90 day period, from the date salary ceased whichever is later. No payment shall accrue beyond the end of the month in which entitlement has terminated. If the disabled person dies prior to negotiating the check for the month in which death occurs, payment will be made to the surviving spouse, or if none, to the designated beneficiary, or if none, to the estate. An applicant for total and permanent disability benefits may file a retirement annuity application under section 353.29, subdivision 4, simultaneously with an application for total and permanent disability benefits. The retirement annuity application is void

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upon the determination of the entitlement for disability benefits by the executive director. If disability benefits are denied, the retirement annuity application must be initiated and processed.

Sec. 14. Minnesota Statutes 1988, section 353.33, subdivision 5, is amended to read:

Subd. 5. **BENEFITS PAID UNDER WORKERS' COMPENSATION LAW.** Disability benefits paid shall be ~~reimbursed and future benefits shall be reduced by coordinated with~~ any amounts received or receivable, ~~including under workers' compensation law, such as~~ temporary total, permanent total, temporary partial ~~or~~, permanent partial, or economic recovery compensation benefits, in either periodic or lump sum payments from the employer under applicable workers' compensation laws, after deduction of amount of attorney fees, authorized under applicable workers' compensation laws, paid by a disabilitant. If the total of the single life annuity actuarial equivalent disability benefit and the workers' compensation benefit exceeds: (1) the salary the disabled member received as of the date of the disability or (2) the salary currently payable for the same employment position or an employment position substantially similar to the one the person held as of the date of the disability, whichever is greater, the disability benefit must be reduced to that amount which, when added to the workers' compensation benefits, does not exceed the greater of the salaries described in clauses (1) and (2).

Sec. 15. Minnesota Statutes 1988, section 353.33, subdivision 6, is amended to read:

Subd. 6. **CONTINUING ELIGIBILITY FOR BENEFITS.** The eligibility for continuation of disability benefits shall be determined by the association, which has authority to require periodic examinations and evaluations of disabled members as frequently as deemed necessary. Disability benefits are contingent upon a disabled person's participation in a vocational rehabilitation program if the executive director determines that the disabled person may be able to return to a gainful occupation. If a member is found to be no longer totally and permanently disabled and is reinstated to the payroll, payments shall be made for no more than 60 days.

Sec. 16. Minnesota Statutes 1988, section 353.33, subdivision 7, is amended to read:

Subd. 7. **PARTIAL REEMPLOYMENT.** If, following a work or nonwork-related injury or illness, a disabled person resumes a gainful occupation from which earnings are less than the salary at the date of disability or the salary currently paid for similar positions, the board shall continue the disability benefit in an amount that, when added to the earnings and workers' compensation benefit, does not exceed the salary at the date of disability or the salary currently paid for similar positions, whichever is higher, provided the disability benefit does not exceed the disability benefit originally allowed, plus any postretirement adjustments payable after December 31, 1988, in accordance with section 11A.18,

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subdivision 10. No deductions for the retirement fund may be taken from the salary of a disabled person who is receiving a disability benefit as provided in this subdivision.

Sec. 17. Minnesota Statutes 1988, section 353.34, subdivision 1, is amended to read:

Subdivision 1. **REFUND OR DEFERRED ANNUITY.** Any member who ceases to be a public employee by reason of termination of public service, or who is on a continuous layoff for more than 120 calendar days, shall be entitled to a refund of accumulated deductions as provided in subdivision 2, or to a deferred annuity as provided in subdivision 3. An active member of a fund enumerated in section 356.30, subdivision 3, clause (7), (8), or (14), who terminates public service in any of those funds and becomes a member of another fund enumerated in those clauses may receive a refund of employee contributions plus five percent interest compounded annually from the fund in which the member terminated service. Application for a refund may not be made prior to date of termination of public service, or the expiration of 120 days of layoff, and a refund shall be paid within 120 days following receipt of application, provided applicant has not again become a public employee required to be covered by the association.

Sec. 18. Minnesota Statutes 1988, section 353.35, is amended to read:

353.35 CONSEQUENCES OF REFUND; REPAYMENT, RIGHTS RESTORED.

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

Sec. 19. Minnesota Statutes 1988, section 353.64, subdivision 1, is amended to read:

Subdivision 1. **POLICE AND FIRE FUND MEMBERSHIP.** Any person who prior to July 1, 1961, was a member of the police and fire fund, by virtue of being a police officer or firefighter, shall as long as the person remains in either position, be deemed to continue membership in the fund. Any person who was employed by a governmental subdivision as a police officer and was a member of the police and fire fund on July 1, 1978, by virtue of being a police officer as defined by this section on that date shall be entitled, if employed by the same

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governmental subdivision in a position in the same department in which the person was employed on that date, to continue membership in the fund whether or not that person has the power of arrest by warrant after that date. Any person who was employed by a governmental subdivision as a police officer or a firefighter, whichever applies, was an active member of the local police or salaried firefighters relief association located in that governmental subdivision by virtue of that employment as of the effective date of the consolidation as authorized by sections 353A.01 to 353A.10, and has elected coverage by the public employees police and fire fund benefit plan, shall be considered to be a member of the police and fire fund after that date if employed by the same governmental subdivision in a position in the same department in which the person was employed on that date. Any other employee serving on a full-time basis as a police officer or firefighter on or after July 1, 1961, shall become a member of the public employees police and fire fund. Any employee serving on less than a full-time basis as a police officer shall become a member of the public employees police and fire fund only after a resolution stating that the employee should be covered by the police and fire fund is adopted by the governing body of the governmental subdivision employing the person declaring that the position which the person holds is that of a police officer. Any employee serving on less than a full-time basis as a firefighter, ~~other than a volunteer firefighter~~, shall become a member of the public employees police and fire fund only after a resolution stating that the employee should be covered by the police and fire fund is adopted by the governing body of the governmental subdivision employing the person declaring that the position which the person holds is that of a firefighter. Any police officer or firefighter, ~~other than a volunteer firefighter~~, employed by a governmental subdivision who by virtue of that employment is required by law to be a member of and to contribute to any police or firefighter relief association governed by section 69.77 which has not consolidated with the public employees police and fire fund and any police officer or firefighter of a relief association that has consolidated with the association for which the employee has not elected coverage by the public employees police and fire fund benefit plan as provided in sections 353A.01 to 353A.10 ~~other than a volunteer firefighters relief association to which sections 69.771 to 69.776 apply~~ shall not be a member of this fund.

Sec. 20. Minnesota Statutes 1988, section 353.64, subdivision 2, is amended to read:

Subd. 2. Before a governing body may declare a position to be that of a police officer, the duties of the person so employed ~~shall~~ must, as a minimum, include ~~services~~ employment as an officer of a designated police department or sheriff's office or person in charge of a designated police department or sheriff's office whose primary job it is to enforce the law, who is licensed by the Minnesota board of peace officer standards and training under sections 626.84 to 626.855, who is engaged in the hazards of protecting the safety and property of others, and who has the power to arrest by warrant. A police officer who is periodically assigned to employment duties not within the scope of this subdivision may contribute to the public employees police and fire fund for all service, if a resolution declaring that the primary position held by the person is that of a police officer, is adopted by the governing body of the department, and is promptly submitted to the executive director.

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Sec. 21. Minnesota Statutes 1988, section 353.64, subdivision 3, is amended to read:

Subd. 3. Before a governing body may declare a position to be that of a firefighter, the duties of the person so employed ~~shall~~ must, as a minimum, include services as an employee of a designated fire company or person in charge of a designated fire company or companies who is engaged in the hazards of fire fighting. A firefighter who is periodically assigned to employment duties outside the scope of firefighting may contribute to the public employees police and fire fund for all service, if a resolution declaring that the primary position held by the person is that of a firefighter, is adopted by the governing body of the company or companies, and is promptly submitted to the executive director.

Sec. 22. Minnesota Statutes 1988, section 353.656, subdivision 4, is amended to read:

Subd. 4. No member shall receive any disability benefit payment when there remains to the member's credit unused annual leave or sick leave or under any other circumstances; when, during the period of disability, there has been no impairment of salary ~~and~~. Should ~~such~~ the member resume a gainful occupation with earnings less than the salary earned at the date of disability or the salary currently paid for similar positions, the association shall continue the disability benefit in an amount which when added to ~~such workers' compensation benefits and actual~~ earnings does not exceed the salary earned at the date of disability or the salary currently paid for similar positions, whichever is higher; ~~provided~~. In no event may the disability benefit in such case does not exceed the disability benefit originally allowed. In the event that the total amount is higher, the executive director shall reduce the disability benefit by the amount of the excess.

Sec. 23. **[353.86] VOLUNTEER AMBULANCE SERVICE PERSONNEL; PARTICIPATION; ELECTION; LIMITATION; AND COMPENSATION.**

Subdivision 1. PARTICIPATION. Volunteer ambulance service personnel, as defined in section 353.01, subdivision 35, who are or become members of and participants in the public employees retirement fund or the public employees police and fire fund and make contributions to either of those funds based on compensation for service other than volunteer ambulance service may elect to participate in that same fund with respect to compensation received for volunteer ambulance service, provided that the volunteer ambulance service is not credited to another public or private pension plan including the public employees retirement plan established by chapter 353D and provided further that the volunteer ambulance service is rendered for the same governmental unit for which the nonvolunteer ambulance service is rendered.

Subd. 2. ELECTION. Volunteer ambulance service personnel to whom subdivision 1 applies may exercise the election authorized under subdivision 1 within the earlier of the one-year period beginning on July 1, 1989, and extending through June 30, 1990, or the one-year period commencing on the first day of the first month following the start of employment in a position covered by the

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public employees retirement fund or the public employees police and fire fund. The election must be exercised by filing a written notice on a form prescribed by the executive director of the association.

Subd. 3. LIMITATION. Volunteer ambulance service personnel to whom subdivision 1 applies who exercise their option in accordance with subdivision 2 and their governmental employers are not required to pay omitted deductions and contributions under section 353.27, subdivision 12, for volunteer ambulance service rendered before July 1, 1989.

Subd. 4. COMPENSATION. Notwithstanding section 353.01, subdivision 10, compensation received for service rendered by volunteer ambulance service personnel to whom subdivision 1 applies who exercise their option in accordance with subdivision 2 shall be considered salary.

Sec. 24. [353.87] VOLUNTEER FIREFIGHTERS; PARTICIPATION; LIMITATION; AND REFUND.

Subdivision 1. PARTICIPATION. Except as provided in subdivision 2, a volunteer firefighter, as defined in section 353.01, subdivision 36, who, on June 30, 1989, was a member of, and a participant in, the public employees retirement fund or the public employees police and fire fund and was making contributions to either of those funds based, at least in part, on compensation for services performed as a volunteer firefighter shall continue as a member of, and a participant in, the public employees retirement fund or the public employees police and fire fund and compensation for services performed as a volunteer firefighter shall be considered salary.

Subd. 2. OPTION. A volunteer firefighter to whom subdivision 1 applies has the option to terminate membership and future participation in the public employees retirement fund or the public employees police and fire fund upon filing of a written notice of intention to terminate participation. Notice must be given on a form prescribed by the executive director of the association and must be filed in the offices of the association not later than June 30, 1990.

Subd. 3. LIMITATION. No volunteer firefighter to whom subdivision 1 applies or the governmental employer of the volunteer firefighter is required to make back contributions to the public employees retirement association for volunteer firefighter services rendered before July 1, 1989, notwithstanding the provisions of section 353.27, subdivision 12.

Subd. 4. REFUND. Upon timely filing of a valid notice of termination of participation in accordance with subdivision 2, a volunteer firefighter to whom subdivision 1 applies must be given a refund of all past employee contributions made on account of volunteer firefighter service with five percent interest compounded annually.

Subd. 5. FURTHER OPTION. A volunteer firefighter, as defined in section 353.01, subdivision 36, who is or becomes a member of, and a participant in, the public employees retirement fund or the public employees police and fire fund and makes contributions to either of those funds based on compensation

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for services other than services as a volunteer firefighter shall have the option of making contributions to the same fund for service performed as a volunteer firefighter with compensation received for those volunteer firefighter services considered salary, provided that the volunteer firefighter is not a participant in, or covered under, a local volunteer firefighter plan and notwithstanding the fact that the volunteer firefighter service is performed for one governmental unit and the nonvolunteer firefighter service is performed for another governmental unit.

Sec. 25. Laws 1985, chapter 11, section 12, subdivision 3, is amended to read:

Subdivision 3. **ELECTION PROCEDURES.** The board shall accept filings for one elected position on the board in November 1985 and shall conduct an election for that position in January 1986. The board shall accept filings for two elected positions on the board in November 1986 and shall conduct an election for those positions in January 1987. Notwithstanding the four-year term of office specified in Minnesota Statutes, section 353.03, subdivision 1, the term of office for the January 1986 elected position extends through January 1991, so that all three elected positions are four-year terms which begin and end at the same time. Thereafter, the board shall follow the election procedures described in Minnesota Statutes, section 353.03, subdivision 1, as necessary to fill the positions of elected trustees.

Sec. 26. **REPEALER.**

Minnesota Statutes 1988, sections 353.01, subdivision 2c; 353.661; and 353.662, are repealed.

Sec. 27. **EFFECTIVE DATE.**

(a) Sections 1 to 26 are effective July 1, 1989.

(b) The past due excess police state aid interest charge provided for in section 8 is retroactive to July 1, 1989.

ARTICLE 4

PURCHASE OF PRIOR SERVICE CREDIT

Section 1. **PURCHASE OF CREDIT FOR CERTAIN PRIOR SERVICE.**

Subdivision 1. HIGHLAND GOLF COURSE EMPLOYEE. A person who was born on October 1, 1925, who was a member of the public employees retirement association as of December 1, 1988, who is a seasonal employee of the city of St. Paul at the Highland golf course, and who was employed in that capacity between June 25, 1979, and July 31, 1984, is entitled to purchase allowable service credit from the public employees retirement association for

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that period of service if not otherwise credited as allowable service by the public employees retirement association.

Subd. 2. RAMSEY COUNTY COURT COMMISSIONER. A member of the public employees retirement association with prior service as an elected court commissioner in Ramsey county between January 1, 1963, and December 31, 1974, may purchase allowable service credit in the association for that period of service.

Subd. 3. HENNEPIN COUNTY EMPLOYEE. Notwithstanding the limitations in Minnesota Statutes, section 353.36, subdivision 2, a person whose employment with Hennepin county began in July 1973, but for whom no salary deductions were taken out for the public employees retirement association between October 1973 and July 1976, may purchase credit for the prior public service for which salary deductions were omitted.

Subd. 4. DAKOTA COUNTY RECORDER. A member of the public employees retirement association with prior service as an elected county recorder in Dakota county between January 1, 1983, and December 31, 1987, may purchase allowable service credit in the association for that period of service.

Subd. 5. BLOOMINGTON CITY EMPLOYEE. A person who was born on May 11, 1927, whose employment by the city of Bloomington began in March 1960 and continued during the years 1960 and 1961, and for whom no salary deductions were taken for the public employees retirement association may purchase credit for that service from the public employees retirement association.

Subd. 6. PURCHASE OF PRIOR SERVICE CREDIT FOR CERTAIN MINNEAPOLIS EMPLOYEES. Notwithstanding any law to the contrary, a person who was born on March 3, 1949, who was employed by the city of Minneapolis as an urban corps intern in August, 1976, who was employed in the unclassified service of the city of Minneapolis as an assistant to an alderman with substantially the same duties as performed during the internship on August 25, 1978, and who is currently employed in that position and is a member of the Minneapolis employees retirement fund may purchase credit in that retirement fund for service during that internship. Eligibility to make the purchase of prior service credit expires on June 30, 1989.

Subd. 6a. WHITE BEAR TOWNSHIP. A person who is a town board supervisor of White Bear township and who is or becomes a member of the public employees retirement association on or after the effective date of this act may purchase credit from the association for all prior service as a town board supervisor.

Subd. 7. CITY OF CRYSTAL COUNCIL MEMBER. A person who was born on April 20, 1928, who was a member of the public employees retirement association with prior service as an elected official on the city of Crystal's planning commission and city council, may purchase credit for the prior service for which salary deductions were omitted.

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Subd. 8. CITY OF SPRING LAKE PARK COUNCIL MEMBER. A person who was born on April 5, 1934, or April 4, 1932, may purchase credit for prior service from the public employees retirement association for the period when the person served on the city council of the city of Spring Lake Park during which no salary deductions were taken.

Subd. 9. PURCHASE PAYMENT AMOUNT. For a person eligible to purchase credit for prior service under subdivisions 1 to 8, there must be paid to the applicable fund an amount equal to the present value, on the date of payment, of the amount of the additional retirement annuity that would be obtained by virtue of the purchase of the additional service credit, using the preretirement interest rate specified in Minnesota Statutes, section 356.215, subdivision 4d, and the mortality table adopted for the fund and assuming continuous future service in the fund or association until, and retirement at, the age at which the minimum requirements of the retirement association for normal retirement or retirement with an annuity unreduced for retirement at an early age, including Minnesota Statutes, section 356.30, are met with the additional service credit purchased, and also assuming a future salary history that includes annual salary increases at the salary increase rate specified in Minnesota Statutes, section 356.215, subdivision 4d. The person requesting the purchase of prior service shall establish in the records of the fund or association proof of the service for which the purchase of prior service is requested. The manner of the proof of service must be in accordance with procedures prescribed by the executive director of the fund or association.

Subd. 10. PAYMENT; CREDITING SERVICE. Payment must be made in one lump sum, unless the executive director of the fund or association agrees to accept payment in installments over a period not to exceed three years from the date of the agreement, with interest at a rate deemed appropriate by the executive director. The period of allowable service may be credited to the account of the person only after receipt of full payment by the executive director.

Subd. 11. OPTIONAL EMPLOYER PARTIAL PAYMENT. Payment must be made by the person entitled to purchase prior service. However, the current or former employer of a person specified in subdivisions 1 to 8, may, at its discretion, pay all or any portion of the payment amount that exceeds an amount equal to the employee contribution rates in effect during the period or periods of prior service applied to the actual salary rates in effect during the period or periods of prior service, plus interest at the rate of six percent a year compounded annually from the date on which the contributions would otherwise have been made to the date on which the payment is made.

Sec. 2. Laws 1988, chapter 709, article 3, section 1, subdivision 4, is amended to read:

Subd. 4. OPTIONAL EMPLOYER PARTIAL PAYMENT. Payment must be made by the person entitled to purchase prior service. However, the current or former employer of a person specified in subdivision 1; ~~clause (1); (2); (4); (5);~~

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(6), or (7) may, at its discretion, ~~and the metropolitan sports facilities commission for a person specified in subdivision 1, clause (3),~~ shall pay all or any portion of the payment amount that exceeds an amount equal to the employee contribution rates in effect for the retirement fund during the period or periods of prior service applied to the actual salary rates in effect during the period or periods of prior service, plus interest at the rate of six percent a year compounded annually from the date on which the contributions would otherwise have been made to the date on which the payment is made.

Sec. 3. PURCHASE AMOUNT.

Notwithstanding Laws 1988, chapter 709, article 3, section 1, subdivision 2, the amounts required to purchase credit for prior service under Laws 1988, chapter 709, article 3, section 1, subdivision 1, clause (3), must be calculated assuming the affected employees will retire at age 65. Notwithstanding any contrary provision in Minnesota Statutes, section 352.116, if an employee who purchases service under Laws 1988, chapter 709, article 3, section 1, subdivision 1, clause (3) retires before age 65, the annuity must be reduced so that the reduced annuity is the actuarial equivalent of the annuity that would be payable if the employee deferred receipt from the day the annuity begins to accrue to age 65.

Sec. 4. EFFECTIVE DATE.

Sections 1 to 3 are effective the day following final enactment. Section 2 applies retroactively to May 4, 1988.

ARTICLE 5

OTHER RETIREMENT ISSUES

Section 1. Minnesota Statutes 1988, section 353.01, subdivision 2b, is amended to read:

Subd. 2b. **EXCLUDED EMPLOYEES.** (a) The following persons are excluded from the meaning of "public employee":

(1) persons employed for professional services where the service is incidental to regular professional duties, determined on the basis that compensation for the service amounts to no more than 25 percent of the person's total annual gross earnings for all professional duties;

(2) election officers;

(3) independent contractors and their employees;

(4) patient and inmate help in governmental subdivision charitable, penal, and correctional institutions;

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(5) members of boards, commissions, bands, and others who serve the governmental subdivision intermittently;

(6) employees whose employment is not expected to continue for a period longer than six consecutive months;

(7) part-time employees who receive monthly compensation from a governmental subdivision not exceeding \$425, and part-time employees and elected officials whose annual compensation from a governmental subdivision is stipulated in advance, in writing, to be not more than \$5,100 per calendar year or per school year for school employees for employment expected to be of a full year's duration or more than the prorated portion of \$5,100 per employment period for employment expected to be of less than a full year's duration, except that members continue their membership until termination of public service;

(8) persons who first occupy an elected office after July 1, 1988, the compensation for which does not exceed \$425 per month;

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

(10) employees who by virtue of their employment as an officer or employee of a governmental subdivision are required by law to be a member of and to contribute to any of the plans or funds administered by the state employees retirement system, the teachers retirement fund, the state patrol retirement fund, the Duluth teachers retirement fund association, the Minneapolis teachers retirement fund association, the St. Paul teachers retirement fund association, the Minneapolis employees retirement fund, the Minnesota state retirement system correctional officers retirement plan, or any police or firefighters relief association governed by section 69.77 that has not consolidated with the public employees police and fire fund and for which the employee has not elected coverage by the public employees police and fire fund benefit plan as provided in sections 353A.01 to 353A.10, other than as an act of the legislature has specifically enabled participation by employees of a designated governmental subdivision in a plan supplemental to the public employees retirement association;

(11) police matrons employed in a police department of a city who are transferred to the jurisdiction of a joint city and county detention and corrections authority;

(12) persons who are excluded from coverage under the federal old age, survivors, disability, and health insurance program for the performance of service as specified in United States Code, title 42, section 410(a) (8) (A), as amended through January 1, 1987;

(13) full-time students who are enrolled and are regularly attending classes at an accredited school, college, or university and who are not employed full time by a governmental subdivision;

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(14) resident physicians, medical interns, and pharmacist interns who are serving in public hospitals;

(15) appointed or elected officers, paid entirely on a fee basis, who were not members on June 30, 1971;

(16) persons holding a part-time adult supplementary technical institute license who render part-time teaching service in a technical institute if the service is incidental to the person's regular nonteaching occupation, the applicable technical institute stipulates annually in advance that the part-time teaching service will not exceed 300 hours in a fiscal year, and the part-time teaching service actually does not exceed 300 hours in a fiscal year; ~~and~~

(17) persons exempt from licensure under section 125.031; and

(18) persons employed by the Minneapolis community development agency.

(b) Immediately following the expiration of a six-month period of employment by an employee covered by paragraph (a), clause (6), if the employee continues in public service and earns more than \$425 from a governmental subdivision in any one calendar month, the department head shall report the employee for membership and cause employee contributions to be made on behalf of the employee in accordance with section 353.27, subdivision 4, and the employee remains a member until termination of public service. This paragraph may not be construed to exclude an employee from membership whose employment is expected to continue for more than six months but who is serving a probationary period.

(c) If compensation from a governmental subdivision to an employee covered by paragraph (a), clause (7), exceeds \$5,100 per calendar year or school year after being stipulated in advance, the stipulation is no longer valid and contributions must be made on behalf of the employee in accordance with section 353.27, subdivision 12, from the month in which the employee first exceeded \$425.

(d) Paragraph (a), clause (10), does not prevent a person from being a member of and contributing to the public employees retirement association and also belonging to or contributing to another public pension fund for other service occurring during the same period of time. A person who meets the definition of "public employee" in subdivision 2, by virtue of other service occurring during the same period of time shall become a member of the association unless contributions are made to another public retirement fund on the salary based on the other service or to the teachers retirement association in accordance with section 354.05, subdivision 2.

Sec. 2. Minnesota Statutes 1988, section 355.90, subdivision 3, is amended to read:

Subd. 3. **REFERENDUM.** A referendum on the question of extending the

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provisions of United States Code, title 42, sections 426, 426-1, and 1395c, must be held for each public employee pension plan listed in section 356.30, subdivision 3, except clauses (5) and (6), that has current members or participants who do not have coverage by the federal old age, survivors, and disability insurance program for the employment giving rise to that pension plan membership. The state agency shall supervise the referendum in accordance with United States Code, title 42, section 418, on the date or dates set by the governor for each pension plan. The notice of the referendum provided to each employee must contain a statement sufficient to inform the person of the rights available to the person as an employee in Medicare qualified government employment and the employee contribution rates applicable to the program. ~~The referendum is approved if a majority of the members or participants indicate their desire to have the coverage on a form prescribed by the state agency. If the referendum is approved, The referendum must permit each employee the opportunity to select or reject Medicare coverage.~~ The governor shall certify ~~that fact~~ to the Secretary of Health and Human Services, ~~and the~~ that the conditions specified in United States Code, title 42, section 418(d)(7) have been met. Coverage is effective for all members or participants of the plan who select it on the first of the month after the certification ~~unless the participant or member elects coverage effective retroactively to April 1, 1986.~~

Sec. 3. Minnesota Statutes 1988, section 355.90, subdivision 4, is amended to read:

Subd. 4. **EMPLOYEE AND EMPLOYER CONTRIBUTIONS.** (a) ~~If the referendum is approved,~~ Beginning on the first of the month after the certification of approval by the governor, the employer of each member or participant covered by selecting coverage under the referendum shall deduct from the wages of the employee an amount equal to the tax that would be imposed under United States Code, title 26, section 3101(b), if the services of the employee for which wages were paid constituted employment as defined in United States Code, title 26, section 3121.

(b) In addition to the deduction specified in paragraph (a), the employer of each member or participant covered by the referendum shall also pay an amount equal to the tax that would be imposed under United States Code, title 26, section 3111(b), on the same wage base specified in paragraph (a).

(c) The amounts under paragraphs (a) and (b) shall be paid by the employer to the Secretary of the Treasury in the manner required by the secretary.

Sec. 4. Minnesota Statutes 1988, section 356.30, subdivision 3, is amended to read:

Subd. 3. **COVERED FUNDS.** ~~The provisions of This section shall apply~~ applies to the following retirement funds:

- (1) state employees retirement fund established pursuant to chapter 352;

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(2) correctional employees retirement program, established pursuant to chapter 352;

(3) unclassified employees retirement plan, established pursuant to chapter 352D;

(4) state patrol retirement fund, established pursuant to chapter 352B;

(5) legislators' retirement plan, established pursuant to chapter 3A;

(6) elective state officers' retirement plan, established pursuant to chapter 352C;

(7) public employees retirement association, established pursuant to chapter 353;

(8) public employees police and fire fund, established pursuant to chapter 353;

(9) teachers retirement fund, established pursuant to chapter 354;

(10) Minneapolis employees retirement fund, established pursuant to chapter 422A;

(11) Minneapolis teachers retirement fund association, established pursuant to chapter 354A;

(12) St. Paul teachers retirement fund association, established pursuant to chapter 354A;

(13) Duluth teachers retirement fund association, established pursuant to chapter 354A;

(14) public employees local government correctional service retirement plan established by sections 353C.01 to 353C.10; and

(15) judges' retirement fund, established by sections 490.121 to 490.132.

Sec. 5. Minnesota Statutes 1988, section 356.302, subdivision 7, is amended to read:

Subd. 7. **COVERED RETIREMENT PLANS.** This section applies to the following retirement plans:

(1) state employees retirement fund, established by chapter 352;

(2) unclassified employees retirement plan, established by chapter 352D;

(3) public employees retirement association, established by chapter 353;

(4) teachers retirement fund, established by chapter 354;

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- (5) Duluth teachers retirement fund association, established by chapter 354A;
- (6) Minneapolis teachers retirement fund association, established by chapter 354A;
- (7) St. Paul teachers retirement fund association, established by chapter 354A;
- (8) Minneapolis employees retirement fund, established by chapter 422A;
- (9) correctional employees retirement plan, established by chapter 352;
- (10) state patrol retirement fund, established by chapter 352B; ~~and~~
- (11) public employees police and fire fund, established by chapter 353; and
- (12) judges' retirement fund, established by sections 490.121 to 490.132.

Sec. 6. Minnesota Statutes 1988, section 356.303, subdivision 4, is amended to read:

Subd. 4. **COVERED RETIREMENT PLANS.** This section applies to the following retirement plans:

- (1) legislators retirement plan, established by chapter 3A;
- (2) state employees retirement fund, established by chapter 352;
- (3) correctional employees retirement plan, established by chapter 352;
- (4) state patrol retirement fund, established by chapter 352B;
- (5) elective state officers retirement plan, established by chapter 352C;
- (6) unclassified employees retirement plan, established by chapter 352D;
- (7) public employees retirement association, established by chapter 353;
- (8) public employees police and fire fund, established by chapter 353;
- (9) teachers retirement fund, established by chapter 354;
- (10) Duluth teachers retirement fund association, established by chapter 354A;
- (11) Minneapolis teachers retirement fund association, established by chapter 354A;
- (12) St. Paul teachers retirement fund association, established by chapter 354A; ~~and~~
- (13) Minneapolis employees retirement fund, established by chapter 422A;
and

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(14) judges' retirement fund, established by sections 490.121 to 490.132.

Sec. 7. Minnesota Statutes 1988, section 490.124, subdivision 12, is amended to read:

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

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

Sec. 8. Laws 1980, chapter 595, section 2, subdivision 4, is amended to read:

Subd. 4. All employees of the agency shall be considered employees of the housing and redevelopment authority and not the city of Minneapolis for the purposes of exclusion from membership in the public employee retirement association. An employee of the agency or the Minneapolis housing and redevelopment authority who is transferred to employment of the department or agency or the Minneapolis industrial development commission or the city of Minneapolis shall elect one of the following options with respect to retirement programs within six months after the date of transfer:

(a) The employee may continue as a member of the retirement program established by the Minneapolis housing and redevelopment authority and in effect on the date of transfer, and the agency or department or the city of Minneapolis shall make the necessary employer contributions to the program instead of becoming a member of the public employees retirement association.

(b) The employee may become a member of the public employees retirement association.

An employee of the city of Minneapolis who is transferred to employment of the agency or the Minneapolis housing and redevelopment authority shall remain a member of the retirement fund to which the employee belonged prior to the transfer, during the employment. An employee of the city of Minneapolis who is a member of the Minneapolis municipal employees retirement fund who is transferred to employment of the agency shall remain a member of the fund during the employment.

Sec. 9. REFUND OF EXCESS EMPLOYEE CONTRIBUTIONS.

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A former employee of the bureau of health of the city of Saint Paul who, under Laws 1973, chapter 767, section 4, elected to retire with benefits calculated in accordance with Minnesota Statutes, chapter 425, as modified by Laws 1969, chapter 1102, may, upon application to the executive director of the public employees retirement association or a form prescribed by the executive director, receive a refund of excess employee contributions to the bureau of health pension fund. The amount to be refunded is the difference between the amount actually deducted from the employee's monthly pay from the effective date of Laws 1969, chapter 1102, to the effective date of Laws 1973, chapter 767, and an amount equal to six percent of the monthly salary of a health sanitarian in the employment of the city of Saint Paul on January 1, 1969, plus interest at the rate of six percent a year compounded annually. The refund is payable from the public employees retirement fund.

Sec. 10. PAYMENT OF REFUNDS BY ASSOCIATION.

The executive director of the public employees retirement association shall notify each former employee of the bureau of health of the city of Saint Paul covered by section 1 who is receiving a retirement annuity from the public employees retirement association of the person's right to apply for a refund of excess contributions under that section. Application must be made within 60 days following notice, or eligibility for the refund expires. Upon receipt of an application for a refund from a person, the executive director of the association shall pay to the person a refund calculated in accordance with section 1.

Sec. 11. EFFECTIVE DATE.

Sections 1 and 8 are effective upon approval by the city council of the city of Minneapolis and upon compliance with Minnesota Statutes, section 645.021, subdivision 3, and apply retroactively to July 13, 1980. Sections 2 to 7 are effective the day following final enactment. Sections 4, 5, and 6 apply retroactively to August 1, 1987. Sections 9 and 10 are effective July 1, 1989.

ARTICLE 6

Public Employees Insurance

Section 1. Minnesota Statutes 1988, section 43A.316, subdivision 9, is amended to read:

Subd. 9. **INSURANCE TRUST FUND.** An insurance trust fund is established in the state treasury. The deposits consist of the premiums received from employers participating in the plan and transfers from the public employees insurance reserve holding account established by section 353.65, subdivision 7. All money in the fund is appropriated to the commissioner to pay insurance premiums, approved claims, refunds, administrative costs, and other related service costs. The commissioner shall reserve an amount of money to cover the

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estimated costs of claims incurred but unpaid. The state board of investment shall invest the money according to section 11A.24. Investment income and losses attributable to the fund shall be credited to the fund.

Sec. 2. Minnesota Statutes 1988, section 69.031, subdivision 5, is amended to read:

Subd. 5. **DEPOSIT OF STATE AID.** (1) The municipal treasurer, on receiving the fire state aid, shall within 30 days after receipt transmit it to the treasurer of the duly incorporated firefighters' relief association if there is one organized and the association has filed a financial report with the municipality; but if there is no relief association organized, or if any association dissolve, be removed, or has heretofore dissolved, or has been removed as trustees of state aid, then the treasurer of the municipality shall keep the money in the municipal treasury as provided for in section 424A.08 and shall be disbursed only for the purposes and in the manner set forth in that section.

(2) The municipal treasurer, upon receipt of the police state aid, shall disburse the police state aid in the following manner:

(a) For a municipality in which a local police relief association exists and all peace officers are members of the association, the total state aid shall be transmitted to the treasurer of the relief association within 30 days of the date of receipt, and the treasurer of the relief association shall immediately deposit the total state aid in the special fund of the relief association;

(b) For a municipality in which police retirement coverage is provided by the public employees police and fire fund and all peace officers are members of the fund, the total state aid shall be applied toward the municipality's employer contribution to the public employees police and fire fund pursuant to section 353.65, subdivision 3, and any state aid in excess of the amount required to meet the employer's contribution pursuant to section 353.65, subdivision 3, shall also be contributed to the public employees police and fire fund and credited in the manner to be specified by the board of trustees of the public employees retirement association deposited in the public employees insurance reserve holding account of the public employees retirement association; or

(c) For a municipality in which both a police relief association exists and police retirement coverage is provided in part by the public employees police and fire fund, the municipality may elect at its option to transmit the total state aid to the treasurer of the relief association as provided in clause (a), to use the total state aid to apply toward the municipality's employer contribution to the public employees police and fire fund subject to all the provisions set forth in clause (b), or to allot the total state aid proportionately to be transmitted to the police relief association as provided in this subdivision and to apply toward the municipality's employer contribution to the public employees police and fire fund subject to the provisions of clause (b) on the basis of the respective number of active full-time peace officers, as defined in section 69.011, subdivision 1, clause (g).

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(3) The county treasurer, upon receipt of the police state aid for the county, shall apply the total state aid toward the county's employer contribution to the public employees police and fire fund pursuant to section 353.65, subdivision 3, and any state aid in excess of the amount required to meet the employer's contribution pursuant to section 353.65, subdivision 3, shall ~~also be contributed to the public employees police and fire fund and credited in the manner to be specified by the board of trustees of the public employees retirement association deposited in the public employees insurance reserve holding account of the public employees retirement association.~~

Sec. 3. Minnesota Statutes 1988, section 353.65, subdivision 1, is amended to read:

Subdivision 1. There is a special fund known as the "public employees police and fire fund." In that fund there shall be deposited employee contributions, employer contributions other than the excess contribution established by section 69.031, subdivision 5, paragraph (2), clauses (b) and (c), and paragraph (3), and other amounts authorized by law including all employee and employer contributions of members transferred. Within the public employees police and fire fund are accounts for each municipality known as the "local relief association consolidation accounts," which are governed by section 353A.09.

Sec. 4. Minnesota Statutes 1988, section 353.65, subdivision 6, is amended to read:

Subd. 6. All contributions other than the excess contribution established by section 69.031, subdivision 5, paragraph (2), clauses (b) and (c), and paragraph (3) shall be credited to the fund and all interest and other income of the fund shall be credited to said fund. The retirement fund shall be disbursed only for the purposes herein provided. The expenses of said fund and the annuities herein provided upon retirement shall be paid from said fund.

Sec. 5. Minnesota Statutes 1988, section 353.65, is amended by adding a subdivision to read:

Subd. 7. The public employees insurance reserve holding account is established in the public employees retirement association. Excess contributions established by section 69.031, subdivision 5, paragraph (2), clauses (b) and (c), and paragraph (3) must be deposited in the account. These contributions and all investment earnings associated with them must be regularly transferred to the insurance trust fund established by section 43A.316, subdivision 9.

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ARTICLE 7
MINNESOTA PUBLIC PENSION PLAN FIDUCIARY
RESPONSIBILITY AND LIABILITY ACT

Section 1. [356A.01] DEFINITIONS.

Subdivision 1. SCOPE. For purposes of this chapter, the following terms have the meanings given them in this section.

Subd. 2. BENEFIT. "Benefit" means an amount, other than an administrative expense, paid or payable from a pension plan, including a retirement annuity, service pension, disability benefit, survivor benefit, death benefit, funeral benefit, or refund.

Subd. 3. BENEFIT PROVISIONS. "Benefit provisions" means the portion of a pension plan that deals specifically with the benefit coverage provided by the plan, including the kinds of coverage, the eligibility for and entitlement to benefits, and the amount of benefits.

Subd. 4. BENEFIT RECIPIENT. "Benefit recipient" means a person who has received a benefit from a pension plan or to whom a benefit is payable under the terms of the plan document of the pension plan.

Subd. 5. CHIEF ADMINISTRATIVE OFFICER. "Chief administrative officer" means the person who has primary responsibility for the execution of the administrative or management affairs of a pension plan.

Subd. 6. COFIDUCIARY. "Cofiduciary" means a fiduciary of a pension plan, other than a fiduciary directly undertaking a fiduciary activity or directly and primarily responsible for a fiduciary activity.

Subd. 7. COVERED GOVERNMENTAL ENTITY. "Covered governmental entity" means a governmental subdivision or other governmental entity that employs persons who are plan participants in a covered pension plan and who are eligible for that participation because of their employment.

Subd. 8. COVERED PENSION PLAN. "Covered pension plan" means a pension plan or fund listed in section 356.20, subdivision 2, or 356.30, subdivision 3.

Subd. 9. COVERED PENSION PLAN OTHER THAN A STATEWIDE PLAN. "Covered pension plan other than a statewide plan" means a pension plan not included in the definition of a statewide plan in subdivision 24.

Subd. 10. DIRECT OR INDIRECT PROFIT. "Direct or indirect profit" means a payment of money, the provision of a service or an item of other than nominal value, an extension of credit, a loan, or any other special consideration to a fiduciary or a direct relative of a fiduciary on behalf of the fiduciary in consideration for the performance of a fiduciary activity or a failure to perform a fiduciary activity.

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Subd. 11. DIRECT RELATIVE. "Direct relative" means any of the persons or spouses of persons related to one another within the third degree of kindred under civil law.

Subd. 12. FIDUCIARY. "Fiduciary" means a person identified in section 356A.02.

Subd. 13. FIDUCIARY ACTIVITY. "Fiduciary activity" means an activity described in section 356A.02, subdivision 2.

Subd. 14. FINANCIAL INSTITUTION. "Financial institution" means a bank, savings institution, or credit union organized under federal or state law.

Subd. 15. GOVERNING BOARD OF A PENSION PLAN. "Governing board of a pension plan" means the body of a pension plan that is assigned or that undertakes the chief policy-making powers and management duties of the plan.

Subd. 16. INVESTMENT ADVISORY COUNCIL. "Investment advisory council" means the investment advisory council established by section 11A.08.

Subd. 17. LIABILITY. "Liability" means a secured or unsecured debt or an obligation for a future payment of money, including an actuarial accrued liability or an unfunded actuarial accrued liability, except where the context clearly indicates another meaning.

Subd. 18. OFFICE OF THE PENSION PLAN. "Office of the pension plan" means an administrative facility or portion of a facility where the primary business or administrative affairs of a pension plan are conducted and the primary and permanent records and files of the plan are retained.

Subd. 19. PENSION FUND. "Pension fund" means the assets amassed and held in a pension plan, other than the general fund, as reserves for present and future payment of benefits and administrative expenses.

Subd. 20. PENSION PLAN. "Pension plan" means all aspects of an arrangement between a public employer and its employees concerning the pension benefit coverage provided to the employees.

Subd. 21. PLAN DOCUMENT. "Plan document" means a written document or series of documents containing the eligibility requirements and entitlement provisions constituting the benefit coverage of a pension plan, including any articles of incorporation, bylaws, governing body rules and policies, municipal charter provisions, municipal ordinance provisions, or general or special state law.

Subd. 22. PLAN PARTICIPANT. "Plan participant" means a person who is an active member of a pension plan by virtue of the person's employment or who is making a pension plan member contribution.

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Subd. 23. STATE BOARD OF INVESTMENT. "State board of investment" means the Minnesota state board of investment created by the Minnesota Constitution, article XI, section 8.

Subd. 24. STATEWIDE PLAN. "Statewide plan" means any of the following pension plans:

(1) the Minnesota state retirement system or a pension plan administered by it;

(2) the public employees retirement association or a pension plan administered by it; and

(3) the teachers retirement association or a pension plan administered by it.

Sec. 2. [356A.02] FIDUCIARY STATUS AND ACTIVITIES.

Subdivision 1. FIDUCIARY STATUS. For purposes of this chapter, the following persons are fiduciaries:

(1) any member of the governing board of a covered pension plan;

(2) the chief administrative officer of a covered pension plan or of the state board of investment;

(3) any member of the state board of investment; and

(4) any member of the investment advisory council.

Subd. 2. FIDUCIARY ACTIVITY. The activities of a fiduciary identified in subdivision 1 that must be carried out in accordance with the requirements of section 356A.04 include, but are not limited to:

(1) the investment of plan assets;

(2) the determination of benefits;

(3) the determination of eligibility for membership or benefits;

(4) the determination of the amount or duration of benefits;

(5) the determination of funding requirements or the amounts of contributions;

(6) the maintenance of membership or financial records; and

(7) the expenditure of plan assets.

Sec. 3. [356A.03] PROHIBITION OF CERTAIN PERSONS FROM FIDUCIARY STATUS.

Subdivision 1. INDIVIDUAL PROHIBITION. For the prohibition period

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established by subdivision 2, a person, other than a constitutional officer of the state, who has been convicted of a violation listed in subdivision 3, may not serve in a fiduciary capacity identified in section 356A.02.

Subd. 2. PROHIBITION PERIOD. A prohibition under subdivision 1 is for a period of five years, beginning on the day following conviction for a violation listed in subdivision 3 or, if the person convicted is incarcerated, the day following unconditional release from incarceration.

Subd. 3. APPLICABLE VIOLATIONS. A prohibition under subdivision 1 is imposed as a result of any of the following violations of law:

(1) a violation of federal law specified in United States Code, title 29, section 1111, as amended;

(2) a violation of Minnesota law that is a felony under Minnesota law; or

(3) a violation of the law of another state, United States territory or possession, or federally recognized Indian tribal government, or of the Uniform Code of Military Justice, that would be a felony under the offense definitions and sentences in Minnesota law.

Subd. 4. DOCUMENTATION. In determining the applicability of this section, the appropriate appointing authority, the state board of investment, or the covered pension plan, as the case may be, may rely on a disclosure form meeting the requirements of the federal Investment Adviser Act of 1940, as amended through the effective date of this section, and filed with the state board of investment or the pension plan.

Sec. 4. [356A.04] GENERAL STANDARD OF FIDUCIARY CONDUCT.

Subdivision 1. DUTY. A fiduciary of a covered pension plan owes a fiduciary duty to:

(1) the active, deferred, and retired members of the plan, who are its beneficiaries;

(2) the taxpayers of the state or political subdivision, who help to finance the plan; and

(3) the state of Minnesota, which established the plan.

Subd. 2. PRUDENT PERSON STANDARD. A fiduciary identified in section 356A.02 shall act in good faith and shall exercise that degree of judgment and care, under the circumstances then prevailing, that persons of prudence, discretion, and intelligence would exercise in the management of their own affairs, not for speculation, considering the probable safety of the plan capital as well as the probable investment return to be derived from the assets.

Sec. 5. [356A.05] DUTIES APPLICABLE TO ALL ACTIVITIES.

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(a) The activities of a fiduciary of a covered pension plan must be carried out solely for the following purposes:

- (1) to provide authorized benefits to plan participants and beneficiaries;
- (2) to incur and pay reasonable and necessary administrative expenses; or
- (3) to manage a covered pension plan in accordance with the purposes and intent of the plan document.

(b) The activities of fiduciaries identified in section 356A.02 must be carried out faithfully, without prejudice, and in a manner consistent with law and the plan document.

Sec. 6. [356A.06] INVESTMENTS; ADDITIONAL DUTIES.

Subdivision 1. TITLE TO ASSETS. Assets of a covered pension plan may be held only by the plan treasurer, the state board of investment, the depository agent of the plan, or of the state board of investment. Legal title to plan assets must be vested in the plan, the state board of investment, the governmental entity that sponsors the plan, the nominee of the plan, or the depository agent. The holder of legal title shall function as a trustee for a person or entity with a beneficial interest in the assets of the plan.

Subd. 2. DIVERSIFICATION. The investment of plan assets must be diversified to minimize the risk of substantial investment losses unless the circumstances at the time an investment is made clearly indicate that diversification would not be prudent.

Subd. 3. ABSENCE OF PERSONAL PROFIT. No fiduciary may personally profit, directly or indirectly, as a result of the investment or management of plan assets. This subdivision, however, does not preclude the receipt by a fiduciary of reasonable compensation, including membership in or the receipt of benefits from a pension plan, for the fiduciary's position with respect to the plan.

Subd. 4. ECONOMIC INTEREST STATEMENT. Each member of the governing board of a covered pension plan and the chief administrative officer of the plan shall file with the plan a statement of economic interest. The statement must contain the information required by section 10A.09, subdivision 5, and any other information that the fiduciary or the governing board of the plan determines is necessary to disclose a reasonably foreseeable potential or actual conflict of interest. The statement must be filed annually with the chief administrative officer of the plan and be available for public inspection during regular office hours at the office of the pension plan. A disclosure form meeting the requirements of the federal Investment Advisers Act of 1940, United States Code, title 15, sections 80b-1 to 80b-21 as amended, and filed with the state board of investment or the pension plan meets the requirements of this subdivision.

Subd. 5. INVESTMENT BUSINESS RECIPIENT DISCLOSURE. The

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chief administrative officer of a covered pension plan, with respect to investments made by the plan, and the executive director of the state board of investment, with respect to investments of plan assets made by the board, shall annually disclose in writing the recipients of investment business placed with or investment commissions allocated among commercial banks, investment bankers, brokerage organizations, or other investment managers. The disclosure document must be prepared within 60 days after the close of the fiscal year of the plan and must be available for public inspection during regular office hours at the office of the plan. The disclosure document must also be filed with the executive director of the legislative commission on pensions and retirement within 90 days after the close of the fiscal year of the plan. For the state board of investment, a disclosure document included as part of a regular annual report of the board is considered to have been filed on a timely basis.

Subd. 6. LIMITED LIST OF AUTHORIZED INVESTMENT SECURITIES. (a) Except to the extent otherwise authorized by law, a covered pension plan may invest its assets only in investment securities authorized by this subdivision if the plan does not:

(1) have assets with a book value in excess of \$1,000,000;

(2) use the services of an investment advisor registered with the Securities and Exchange Commission in accordance with the Investment Advisors Act of 1940, or licensed as an investment advisor in accordance with sections 80A.04, subdivision 4, and 80A.14, subdivision 9, for the investment of at least 60 percent of its assets, calculated on book value;

(3) use the services of the state board of investment for the investment of at least 60 percent of its assets, calculated on book value; or

(4) use a combination of the services of an investment advisor meeting the requirements of clause (2) and the services of the state board of investment for the investment of at least 75 percent of its assets, calculated on book value.

(b) Investment securities authorized for a pension plan covered by this subdivision are:

(1) certificates of deposit issued, to the extent of available insurance or collateralization, by a financial institution that is a member of the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, is insured by the National Credit Union Administration, or is authorized to do business in this state and has deposited with the chief administrative officer of the plan a sufficient amount of marketable securities as collateral in accordance with section 118.01;

(2) savings accounts, to the extent of available insurance, with a financial institution that is a member of the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation;

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(3) governmental obligations, including bonds, notes, bills, or other fixed obligations, issued by the United States, an agency or instrumentality of the United States, an organization established and regulated by an act of Congress or by a state, state agency or instrumentality, municipality, or other governmental or political subdivision that:

(i) for the obligation in question, issues an obligation that equals or exceeds the stated investment yield of debt securities not exempt from federal income taxation and of comparable quality;

(ii) for an obligation that is a revenue bond, has been completely self-supporting for the last five years; and

(iii) for an obligation other than a revenue bond, has issued an obligation backed by the full faith and credit of the applicable taxing jurisdiction and has not been in default on the payment of principal or interest on the obligation in question or any other nonrevenue bond obligation during the preceding ten years;

(4) corporate obligations, including bonds, notes, debentures, or other regularly issued and readily marketable evidences of indebtedness issued by a corporation organized under the laws of any state that during the preceding five years has had on average annual net pretax earnings at least 50 percent greater than the annual interest charges and principal payments on the total issued debt of the corporation during that period and that, for the obligation in question, has issued an obligation rated in one of the top three quality categories by Moody's Investors Service, Incorporated, or Standard and Poor's Corporation; and

(5) shares in an open-end investment company registered under the federal Investment Company Act of 1940, if the portfolio investments of the company are limited to investments that meet the requirements of clauses (1) to (4).

Subd. 7. EXPANDED LIST OF AUTHORIZED INVESTMENT SECURITIES. Except to the extent otherwise authorized by law or bylaws, a covered pension plan not described by subdivision 6, paragraph (a), may invest its assets only in accordance with section 11A.24.

Subd. 8. MINIMUM LIQUIDITY REQUIREMENTS. A covered pension plan described by subdivision 6, paragraph (a), in order to pay benefits as they come due, shall invest a portion of its assets in authorized short-term debt obligations that can be immediately liquidated without accrual of a substantial determinable penalty or loss and that have an average maturity of no more than 90 days. The chief administrative officer of the plan shall determine the minimum liquidity requirement of the plan and shall retain appropriate documentation of that determination for three years from the date of determination.

Subd. 9. PROHIBITED TRANSACTIONS. (a) No fiduciary of a covered pension plan may engage in a prohibited transaction or allow the plan to engage in a transaction that the fiduciary knows or should know is a prohibited transaction.

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

(b) A prohibited transaction is any of the following transactions, whether direct or indirect:

(1) the sale, exchange, or lease of real estate between the pension plan and a fiduciary of the plan;

(2) the lending of money or other extension of credit between the plan and a fiduciary of the plan;

(3) the furnishing to a plan by a fiduciary for compensation or remuneration, of goods, services other than those performed in the capacity of fiduciary, or facilities;

(4) the furnishing to a fiduciary by a plan of goods, services, or facilities other than office and related space, equipment and office supplies, and administrative services appropriate to the recipient's fiduciary position;

(5) the transfer of plan assets to a plan fiduciary for use by or the benefit of the fiduciary, other than the payment of retirement plan benefits to which a fiduciary is entitled or the payment to a fiduciary of a reasonable salary and of necessary and reasonable expenses incurred by the fiduciary in the performance of the fiduciary's duties; and

(6) the sale, exchange, loan, or lease of any item of value between a plan and a fiduciary of the plan other than for a fair market value and as a result of an arms-length transaction.

Sec. 7. [356A.07] BENEFIT SUMMARY; ANNUAL REPORTS; ADDITIONAL DUTIES.

Subdivision 1. BENEFIT PROVISIONS SUMMARY. The chief administrative officer of a covered pension plan shall prepare and provide each active plan participant with a summary of the benefit provisions of the plan document. The summary must be provided within 30 days of the start or resumption of a participant's membership in the plan, or within 30 days of the date on which the start or resumption of membership was reported to a covered pension plan by a covered governmental entity, whichever is later. The summary must contain a notice that it is a summary of the plan document but is not itself the plan document, and that in the event of a discrepancy between the summary and the plan document as amended, the plan document governs. A copy of the plan document as amended must be furnished to a plan participant or benefit recipient upon request. The chief administrative officer may utilize the services of the covered governmental entity in providing the summary. The summary must be in a form reasonably calculated to be understood by an average plan participant.

Subd. 2. ANNUAL FINANCIAL REPORT. A covered pension plan shall provide each active plan participant and benefit recipient with a copy of the most recent annual financial report required by section 356.20 and a copy of the

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most recent actuarial evaluation, if any, required by section 69.77, 69.773, 356.215, or 356.216, or a summary of those reports.

Subd. 3. DISTRIBUTION. A covered pension plan may distribute the summaries required by this section through covered governmental entities so long as the plan has made arrangements with the entities to assure, with reasonable certainty, that the summaries will be distributed, or made easily available, to active plan participants.

Subd. 4. REVIEW PROCEDURE. If a review procedure is not specified by law for a covered pension plan, the chief administrative officer of the plan shall propose, and the governing board of the plan shall adopt and implement, a procedure for reviewing a determination of eligibility, benefits, or other rights under the plan that is adverse to a plan participant or benefit recipient. The review procedure must include provisions for timely notice to the plan participant or benefit recipient and reasonable opportunity to be heard in any review proceeding conducted and may, but need not be, a contested case under chapter 14.

Sec. 8. [356A.08] PLAN ADMINISTRATION; ADDITIONAL DUTIES.

Subdivision 1. PUBLIC MEETINGS. A meeting of the governing board of a covered statewide pension plan or of a committee of the governing board of the statewide plan is governed by section 471.705.

Subd. 2. LIMIT ON COMPENSATION. No fiduciary of a covered pension plan or a direct relative of a fiduciary may receive any direct or indirect compensation, fee, or other item of more than nominal value from a third party in consideration for a pension plan disbursement.

Sec. 9. [356A.09] FIDUCIARY BREACH; REMEDIES.

Subdivision 1. OCCURRENCE OF BREACH. A fiduciary breach occurs if a fiduciary violates the general standard of fiduciary conduct as specified in section 356A.04 in carrying out the activities of a fiduciary. A fiduciary breach also occurs if a fiduciary of a covered pension plan violates the provisions of section 356A.06, subdivision 9.

Subd. 2. REMEDIES. Remedies available for a fiduciary breach by a fiduciary are those specified by statute or available at common law.

Sec. 10. [356A.10] COFIDUCIARY RESPONSIBILITY AND LIABILITY.

Subdivision 1. COFIDUCIARY RESPONSIBILITY IN GENERAL. A cofiduciary has a general responsibility to oversee the fiduciary activities of all other fiduciaries unless the activity has been allocated or delegated in accordance with subdivision 3. A cofiduciary also has a general responsibility to correct or alleviate a fiduciary breach of which the cofiduciary had or ought to have had knowledge.

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Subd. 2. COFIDUCIARY LIABILITY. A cofiduciary is liable for a fiduciary breach committed by another fiduciary when the cofiduciary has a responsibility to oversee the fiduciary activities of the other fiduciary or to correct or alleviate a breach by that fiduciary.

Subd. 3. LIMITATION ON COFIDUCIARY RESPONSIBILITY. A cofiduciary may limit cofiduciary responsibility and liability through the allocation or delegation of fiduciary activities if the allocation or delegation:

- (1) follows appropriate procedures;
- (2) is made to an appropriate person or persons; and
- (3) is subject to continued monitoring of performance.

Subd. 4. BAR TO LIABILITY IN CERTAIN INSTANCES. A properly made delegation or allocation of a fiduciary activity is a bar to liability on the part of a fiduciary making the delegation or allocation unless the fiduciary has or ought to have knowledge of the breach and takes part in the breach, conceals it, or fails to take reasonable steps to remedy it.

Subd. 5. EXTENT OF COFIDUCIARY LIABILITY. Unless liability is barred under subdivision 4, cofiduciary liability is joint and several, but a cofiduciary has the right to recover from the responsible fiduciary for any damages paid by the cofiduciary.

Sec. 11. [356A.11] FIDUCIARY INDEMNIFICATION.

Subdivision 1. INDEMNIFIED FIDUCIARIES. A fiduciary who is a member of the governing board of a pension plan, the state board of investment or the investment advisory council, or who is an employee of a covered pension plan or of the state board of investment may be indemnified from liability for fiduciary breach. Indemnification is at the discretion of the governing board of the plan or of the state board of investment in the case of members of the state board or of the investment advisory council. A decision to indemnify a fiduciary must apply to all eligible fiduciaries of similar rank.

Subd. 2. ALLOWABLE INDEMNIFICATION. An indemnified fiduciary must be held harmless from reasonable costs or expenses incurred as a result of any actual or threatened litigation or other proceedings.

Sec. 12. [356A.12] JURISDICTION; SERVICE OF PROCESS; AND STATUTE OF LIMITATIONS.

Subdivision 1. JURISDICTION. The district court has jurisdiction over a challenge of a fiduciary action or inaction.

Subd. 2. SERVICE OF PROCESS. For a fiduciary or cofiduciary alleged in the complaint to be responsible for an alleged breach, personal service of process must be obtained.

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

Subd. 3. LIMITATIONS ON LEGAL ACTIONS. A legal action challenging a fiduciary action or inaction must be timely. Notwithstanding any limitation in chapter 541, an action is timely if it is brought within the earlier of the following periods:

(1) the period ending three years after the date of the last demonstrable act representing the alleged fiduciary breach or after the final date for performance of the act the failure to perform which constitutes the alleged breach; or

(2) the period ending one year after the date of the discovery of the alleged fiduciary breach.

Sec. 13. [356A.13] CONTINUING FIDUCIARY EDUCATION.

Subdivision 1. OBLIGATION OF FIDUCIARIES. A fiduciary of a covered pension plan shall make reasonable effort to obtain knowledge and skills sufficient to enable the fiduciary to perform fiduciary activities adequately. At a minimum, a fiduciary of a covered pension plan shall comply with the program established in accordance with subdivision 2.

Subd. 2. CONTINUING FIDUCIARY EDUCATION PROGRAM. The governing boards of covered pension plans shall each develop and periodically revise a program for the continuing education of any of their board members and any of their chief administrative officers who are not reasonably considered to be experts with respect to their activities as fiduciaries. The program must be designed to provide those persons with knowledge and skills sufficient to enable them to perform their fiduciary activities adequately.

Sec. 14. EFFECTIVE DATE.

Sections 1 to 13 are effective the day following final enactment.

ARTICLE 8

CONFORMING AMENDMENTS TO FIDUCIARY PROVISIONS.

Section 1. [3A.011] ADMINISTRATION OF PLAN.

The Minnesota state retirement system shall administer the legislators retirement plan in accordance with article 7.

Sec. 2. Minnesota Statutes 1988, section 11A.01, is amended to read:

11A.01 STATEMENT OF PURPOSE.

The purpose of ~~sections 11A.01 to 11A.25~~ this chapter is to establish standards ~~which will, in addition to the applicable standards of article 7,~~ to insure that state and pension assets subject to this legislation will be responsibly invested to maximize the total rate of return without incurring undue risk.

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Sec. 3. Minnesota Statutes 1988, section 11A.04, is amended to read:

11A.04 DUTIES AND POWERS.

The state board shall:

(1) Act as trustees for each fund for which it invests or manages money in accordance with the standard of care set forth in section 11A.09 if state assets are involved and in accordance with article 7 if pension assets are involved.

(2) Formulate policies and procedures deemed necessary and appropriate to carry out its functions. Procedures adopted by the board ~~shall~~ must allow fund beneficiaries and members of the public to become informed of proposed board actions. Procedures and policies of the board ~~shall~~ are not be subject to the administrative procedure act.

(3) Employ an executive director as provided in section 11A.07.

(4) Employ investment advisors and consultants as it deems necessary.

(5) Prescribe policies concerning personal investments of all employees of the board to prevent conflicts of interest.

(6) Maintain a record of its proceedings.

(7) As it deems necessary, establish advisory committees subject to ~~the provisions of~~ section 15.059 to assist the board in carrying out its duties.

(8) Not permit state funds to be used for the underwriting or direct purchase of municipal securities from the issuer or the issuer's agent.

(9) Direct the state treasurer to sell property other than money ~~which that~~ has escheated to the state when the board determines that sale of the property is in the best interest of the state. Escheated property ~~shall~~ must be sold to the highest bidder in the manner and upon terms and conditions prescribed by the board.

(10) Undertake any other activities necessary to implement the duties and powers set forth in this section.

(11) Establish a formula or formulas to measure management performance and return on investment. ~~All~~ Public pension funds in the state shall utilize the formula or formulas developed by the state board.

(12) Except as otherwise provided in article XI, section 8, of the constitution of the state of Minnesota, employ, at its discretion, qualified private firms to invest and manage the assets of funds over which the state board has investment management responsibility. There is annually appropriated to the state board, from the assets of the funds for which the state board utilizes a private investment manager, sums sufficient to pay the costs ~~therefor~~ of employing private firms. Each year, by January 15, the board shall report to the governor

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and legislature on the cost and the investment performance of each investment manager employed by the board.

(13) Adopt an investment policy statement that includes investment objectives, asset allocation, and the investment management structure for the retirement fund assets under its control. The statement may be revised at the discretion of the state board. The state board shall seek the advice of the council regarding its investment policy statement. Adoption of the statement is not subject to chapter 14.

Sec. 4. Minnesota Statutes 1988, section 11A.07, subdivision 4, is amended to read:

Subd. 4. **DUTIES AND POWERS.** The director, at the direction of the state board, shall:

(1) Plan, direct, coordinate and execute administrative and investment functions in conformity with the policies and directives of the state board and the requirements of this chapter and of article 7.

(2) Employ ~~such~~ professional and clerical staff as is necessary within the complement limits established by the legislature. Employees whose primary responsibility is to invest or manage money or employees who hold positions designated as unclassified ~~pursuant to~~ under section 43A.08, subdivision 1a ~~shall be~~ are in the unclassified service of the state. Other employees ~~shall be~~ are in the classified service.

(3) Report to the state board on all operations under the director's control and supervision.

(4) Maintain accurate and complete records of securities transactions and official activities.

(5) Establish a policy relating to the purchase and sale of ~~all~~ securities on the basis of competitive offerings or bids. The policy is subject to board approval.

(6) Cause ~~all~~ securities acquired to be kept in the custody of the state treasurer or ~~such~~ other depositories consistent with article 7, as the state board deems appropriate.

(7) Prepare and file with the director of the legislative reference library ~~on or before,~~ by December 31 of each year, a report summarizing the activities of the state board, the council, and the director during the preceding fiscal year. The report ~~shall~~ must be prepared so as to provide the legislature and the people of the state with a clear, comprehensive summary of the portfolio composition, the transactions, the total annual rate of return, and the yield to the state treasury and to each of the funds whose assets are invested by the state board, and the recipients of business placed or commissions allocated among the various commercial banks, investment bankers, and brokerage organizations. ~~This~~ The report ~~shall~~ must contain financial statements for funds managed by the board prepared in accordance with generally accepted accounting principles.

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(8) Require state officials from any department or agency to produce and provide access to any financial documents the state board deems necessary in the conduct of ~~their~~ its investment activities.

(9) Receive and expend legislative appropriations.

(10) Undertake any other activities necessary to implement the duties and powers set forth in this subdivision consistent with article 7.

Sec. 5. Minnesota Statutes 1988, section 11A.09, is amended to read:

11A.09 STANDARD OF CARE.

In the discharge of their respective duties, the members of the state board, director, board staff, and members of the council and any other person charged with the responsibility of investing money pursuant to the standards set forth in sections 11A.01 to 11A.25 shall act in good faith and shall exercise that degree of judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived therefrom. In addition, for the investment of pension fund assets, the members and director of the state board, and members of the investment advisory council shall act in accordance with article 7.

Sec. 6. Minnesota Statutes 1988, section 11A.13, subdivision 1, is amended to read:

Subdivision 1. **LEGAL TITLE TO FUND ASSETS.** Legal title to the assets of state funds to be invested by the state board ~~shall must~~ be in the state of Minnesota, or its nominees. Legal title to pension funds to be invested by the state board ~~shall must~~ be in the state board, or its nominees, as trustees for any person having a beneficial interest in the applicable fund subject to the rights of the particular funds maintaining shares, investment participation or units in the accounts to their credit as specified in article 7, section 6.

Sec. 7. Minnesota Statutes 1988, section 69.77, subdivision 2g, is amended to read:

Subd. 2g. The funds of the association ~~shall must~~ be invested in securities ~~which that are proper authorized~~ investments pursuant to under article 7, section 11A.24 6, subdivision 6 or 7. Notwithstanding the foregoing, up to 75 percent of the market value of the assets of the fund may be invested in open-end investment companies registered under the federal Investment Company Act of 1940, if the portfolio investments of the investment companies comply with the type of securities authorized for investment by section 11A.24, subdivisions 2 to 5. Securities held by the association before ~~March 20, 1986, which the~~ effective date of this section ~~that~~ do not meet the requirements of this ~~paragraph~~ subdivision may be retained after that date if they were proper investments for the association on that date.

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The governing board of the association may select and appoint investment agencies to act for and in its behalf or may certify funds for investment by the state board of investment under the provisions of section 11A.17. The governing board of the association may select and appoint a qualified private firm to measure management performance and return on investment, and the firm shall use the formula or formulas developed by the state board ~~pursuant to~~ under section 11A.04, clause (11).

Sec. 8. Minnesota Statutes 1988, section 69.775, is amended to read:

69.775 INVESTMENTS.

The special fund assets of the relief associations governed by sections 69.771 to 69.776 ~~shall must~~ be invested in securities ~~which that~~ are proper authorized investments ~~pursuant to under article 7, section 11A.24 6, subdivision 6 or 7.~~ Notwithstanding the foregoing, up to 75 percent of the market value of the assets of the fund may be invested in open-end investment companies registered under the federal Investment Company Act of 1940, if the portfolio investments of the investment companies comply with the type of securities authorized for investment by section 11A.24, subdivisions 2 to 5. Securities held by the associations before ~~March 20, 1986, which the effective date of this section that~~ do not meet the requirements of this section may be retained after that date if they were proper investments for the association on that date. The governing board of the association may select and appoint investment agencies to act for and in its behalf or may certify funds for investment by the state board of investment under the provisions of section 11A.17. The governing board of the association may select and appoint a qualified private firm to measure management performance and return on investment, and the firm shall use the formula or formulas developed by the state board under section 11A.04, clause (11).

Sec. 9. Minnesota Statutes 1988, section 136.84, is amended to read:

136.84 TITLE TO ASSETS, PERSONAL RIGHTS.

The right of a person who has shares to the credit of the person's employee's share account record to redeem the shares or any portion ~~thereof of the shares~~ is a personal right only and ~~shall is~~ not be assignable. Legal title to the assets of the supplemental retirement investment fund ~~shall be in the state of Minnesota or the state board of investment or the nominee of either is as specified in article 7, section 6, subdivision 1,~~ subject to the rights of the teachers retirement fund. ~~Any An~~ assignment or attempted assignment of shares to the credit of an employee's share account record ~~by any person~~ is null and void. ~~Such~~ Shares are exempt from garnishment or levy under attachment or execution and from all taxation by the state of Minnesota, ~~except that none shall be but are not~~ 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.

Sec. 10. Minnesota Statutes 1988, section 352.03, subdivision 7, is amended to read:

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Subd. 7. **DIRECTORS' FIDUCIARY OBLIGATION.** The board and the director shall ~~administer the law faithfully without prejudice and~~ undertake their activities 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 who aid in financing it, and the state employees who are its beneficiaries~~ article 7.

Sec. 11. Minnesota Statutes 1988, section 352.92, is amended by adding a subdivision to read:

Subd. 3. PLAN ADMINISTRATION. The Minnesota state retirement system shall administer the correctional employees retirement plan established by sections 352.90 to 352.951 in accordance with this chapter, chapter 356, and article 7.

Sec. 12. Minnesota Statutes 1988, section 352.96, subdivision 3, is amended to read:

Subd. 3. **EXECUTIVE DIRECTOR TO ADMINISTER SECTION.** This section shall must be administered by the executive director of the system under subdivision 4. Fiduciary activities of the deferred compensation plan must be undertaken in a manner consistent with article 7. If the state board of investment so elects, it may solicit bids for options under subdivision 2, clauses (2) and (3). All contracts must be approved before execution by the state board of investment. Contracts must provide that all options in subdivision 2 must: be presented in an unbiased manner; ~~be presented~~ and in a manner ~~conforming that conforms~~ to applicable rules adopted by the executive director, be reported on a periodic basis to all employees participating in the deferred compensation program, and not be the subject of unreasonable solicitation of state employees to participate in the program. The contract may not call for any person to jeopardize the tax-deferred status of money invested by state employees under this section. All costs or fees in relation to the options provided under subdivision 2, clause (3), must be paid by the underwriting companies ultimately selected by the state board of investment.

Sec. 13. Minnesota Statutes 1988, section 352B.03, subdivision 1, is amended to read:

Subdivision 1. **OFFICERS.** The policy-making, management, and administrative functions governing the operation of the state patrol retirement fund are vested in the board of directors and executive director of the Minnesota state retirement system with duties, authority, and responsibility as provided in chapter 352. Fiduciary activities of the fund must be undertaken in a manner consistent with article 7.

Sec. 14. Minnesota Statutes 1988, section 352C.091, subdivision 1, is amended to read:

Subdivision 1. **ADMINISTRATIVE AGENCY AND STANDARDS.** ~~The~~

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

~~provisions of This chapter shall~~ must be administered by the Minnesota state retirement system. The elected state officers retirement plan must be administered consistent with this chapter, chapter 356, and article 7.

Sec. 15. Minnesota Statutes 1988, section 352D.09, subdivision 1, is amended to read:

Subdivision 1. **ADMINISTRATIVE AGENCY AND STANDARDS.** The unclassified employees retirement plan and the provisions of this chapter ~~shall~~ must be administered by the Minnesota state retirement system. The provisions of chapter 352 ~~shall~~ govern in all instances where not inconsistent with the provisions of this chapter. Fiduciary activities of the unclassified employees retirement plan must be undertaken in a manner consistent with article 7.

Sec. 16. Minnesota Statutes 1988, section 353.03, subdivision 1, is amended to read:

Subdivision 1. **MANAGEMENT; COMPOSITION; ELECTION.** The management of the public employees retirement fund is vested in a board of trustees consisting of the state auditor and eight members. The governor shall appoint five trustees to four-year terms, one of whom shall be designated to represent school boards, one to represent cities, one to represent counties, one who ~~shall be is~~ a retired annuitant, and one who is a public member knowledgeable in pension matters. The membership of the association shall elect three trustees for terms of four years. Trustees elected by the membership of the association must be public employees and members of the association. For seven days beginning October 1 of each year preceding a year in which an election is held, the association shall accept at its office filings in person or by mail of candidates for the board of trustees. A candidate shall submit at the time of filing a nominating petition signed by 25 or more members of the fund. No name may be withdrawn from nomination by the nominee after October 15. At the request of a candidate for an elected position on the board of trustees, the board shall mail a statement of up to 300 words prepared by the candidate to all persons eligible to vote in the election of the candidate. The board may adopt policies to govern form and length of these statements, timing of mailings, and deadlines for submitting materials to be mailed. These policies must be approved by the secretary of state. The secretary of state shall resolve disputes between the board and a candidate concerning application of these policies to a particular statement. A candidate who:

(1) receives contributions or makes expenditures in excess of \$100; or

(2) has given implicit or explicit consent for any other person to receive contributions or make expenditures in excess of \$100 for the purpose of bringing about the candidate's election, ~~must~~ shall file a report with the ethical practices board disclosing the source and amount of all contributions to the candidate's campaign. The ethical practices board shall prescribe forms governing these disclosures. Expenditures and contributions have the meaning defined in section 10A.01. These terms do not include the mailing made by the association

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board on behalf of the candidate. A candidate ~~must~~ shall file a report within 30 days from the day that the results of the election are announced. The ethical practices board shall maintain these reports and make them available for public inspection in the same manner as the board maintains and makes available other reports filed with it. By January 10 of each year in which elections are to be held the board shall distribute by mail to the members ballots listing the candidates. No member may vote for more than one candidate for each board position to be filled. A ballot indicating a vote for more than one person for any position is void. No special marking may be used on the ballot to indicate incumbents. The last day for mailing ballots to the fund is January 31. Terms expire on January 31 of the fourth year, and positions are vacant until newly elected members are qualified. The ballot envelopes must be so designed and the ballots counted in a manner that ensures that each vote is secret.

The secretary of state shall supervise the elections. The board of trustees and the executive director shall faithfully administer the law without prejudice and undertake their activities consistent with the expressed intent of the legislature. ~~Board members shall act as trustees with a fiduciary obligation to the state of Minnesota, which created the fund, the taxpayers of the governmental subdivisions that aid in financing it, and the public employees who are its beneficiaries. They shall act in good faith and shall exercise that degree of judgment and care, under circumstances then prevailing, that persons of prudence, discretion, and intelligence exercise in the management of their own affairs~~ article 7.

Sec. 17. Minnesota Statutes 1988, section 354.06, subdivision 1, is amended to read:

Subdivision 1. The management of the fund ~~shall be~~ is vested in a board of eight trustees ~~which shall be~~ known as the board of trustees of the teachers retirement fund. It ~~shall be~~ is composed of the following persons: the commissioner of education, the commissioner of finance, the commissioner of commerce, four members of the fund ~~who shall be~~ elected by the members of the fund, and one retiree ~~who shall be~~ elected by the retirees of the fund. The five elected members of the board of trustees ~~shall~~ must be chosen by mail ballot in a manner ~~which shall be~~ fixed by the board of trustees of the fund. In every odd-numbered year there shall be elected two members of the fund to the board of trustees for terms of four years commencing on the first of July next succeeding their election. In every odd-numbered year ~~there shall be~~ one retiree of the fund must be elected to the board of trustees for a term of two years commencing on the first of July next succeeding the election. The filing of candidacy for a retiree election must include a petition of endorsement signed by at least ten retirees of the fund. Each election ~~shall~~ must be completed by June first of each succeeding odd-numbered year. In the case of elective members, any vacancy ~~shall~~ must be filled by appointment by the remainder of the board, and the appointee shall serve until the members or retirees of the fund at the next regular election have elected a trustee to serve for the unexpired term caused by the vacancy. No member or retiree ~~shall~~ may be appointed by the board, or elected by the members of the fund as a trustee, if the person is not a

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member or retiree of the fund in good standing at the time of the appointment or election.

Subd. 1a. FIDUCIARY DUTY. ~~It shall be~~ is the duty of the board of trustees and the executive director to faithfully administer the law without prejudice and undertake their activities consistent with the expressed intent of the legislature. ~~They shall act as trustees with a fiduciary obligation to the state of Minnesota which created the fund, the taxpayers which aid in financing it and the teachers who are its beneficiaries~~ article 7.

Sec. 18. Minnesota Statutes 1988, section 354A.021, subdivision 6, is amended to read:

Subd. 6. TRUSTEES' FIDUCIARY OBLIGATION. ~~It is the duty of~~ The trustees or directors of each teachers retirement fund association ~~to shall~~ administer each fund in accordance with the applicable portions of this chapter, of the articles of incorporation, ~~and of the bylaws, and of~~ article 7. ~~They shall act as trustees with a fiduciary obligation to the state of Minnesota which created the fund, the taxpayers which aid in financing it, and the teachers who are its beneficiaries.~~ The purpose of this subdivision is to establish each teachers retirement fund association as a trust under the laws of the state of Minnesota for all purposes related to section 401(a) of the Internal Revenue Code of the United States, including all amendments.

Sec. 19. Minnesota Statutes 1988, section 422A.05, subdivision 2a, is amended to read:

Subd. 2a. FIDUCIARY DUTY. In the discharge of their respective duties, the members of the board, the executive director, the board staff, and any other person charged with the responsibility of investing money pursuant to the standards set forth in this chapter shall act in good faith and shall exercise that degree of judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived therefrom. In addition, the members of the board and the chief administrative officer shall act in a manner consistent with article 1.

Sec. 20. Minnesota Statutes 1988, section 422A.05, subdivision 2d, is amended to read:

Subd. 2d. ACCOUNT TRANSFERS. Notwithstanding any law to the contrary, the retirement board, subject to the standards of subdivision 2a of this section and article 7, may transfer assets between accounts established by section 422A.06.

Sec. 21. Minnesota Statutes 1988, section 423.374, is amended to read:

423.374 OFFICERS OF ASSOCIATION.

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

The officers of the relief association shall be a president, one or more vice-presidents, a secretary and a treasurer. The offices of assistant secretary and assistant treasurer may be created by the bylaws of any such associations. The affairs of each association ~~shall~~ must be managed in accordance with article 7 by a board of directors elected in the manner prescribed by the articles of incorporation of the association.

The secretary and treasurer of each relief association shall each furnish a corporate bond to the association for the faithful performance of their duties, in such amounts as the association from time to time may determine. Each relief association shall and is hereby authorized to pay the premiums on such bonds from its special fund.

Sec. 22. Minnesota Statutes 1988, section 423.45, is amended to read:

423.45 OFFICERS; DIRECTORS; BOND.

The officers of the relief association shall be a president, one or more vice-presidents, a secretary and a treasurer. The offices of assistant secretary and assistant treasurer may be created by the bylaws of any such associations. The affairs of each association ~~shall~~ must be managed in accordance with article 7 by a board of directors elected in the manner prescribed by the articles of incorporation of the association.

The secretary and treasurer of each relief association shall each furnish a corporate bond to the association for the faithful performance of their duties, in such amounts as the association from time to time may determine. Each relief association shall and is hereby authorized to pay the premiums on such bonds from its special fund.

Sec. 23. Minnesota Statutes 1988, section 423.805, is amended to read:

423.805 POLICE PENSION FUND.

The association shall establish a police pension fund or continue to maintain the police pension fund now existing in the city and shall ~~have the management~~ manage and control of the fund. Fiduciary activities of the fund must be undertaken in a manner consistent with article 7.

Sec. 24. Minnesota Statutes 1988, section 423A.21, subdivision 4, is amended to read:

Subd. 4. **FIDUCIARY RESPONSIBILITY.** In the discharge of their respective duties, the officers and trustees shall be held to the standard of care enumerated in section 11A.09. In addition, the trustees must act in accordance with article 7.

Each member of the board is a fiduciary and shall undertake all fiduciary activities in accordance with the standard of care of section 11A.09, and in a manner consistent with article 7. No fiduciary of a relief association shall cause

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a relief association to engage in a transaction if the fiduciary knows or should know that a transaction constitutes one of the following direct or indirect transactions:

(1) sale or exchange or leasing of any real property between the relief association and a board member;

(2) lending of money or other extension of credit between the relief association and a board member or member of the relief association;

(3) furnishing of goods, services, or facilities between the relief association and a board member; or

(4) transfer to a board member, or use by or for the benefit of a board member, of any assets of the relief association. Transfer of assets does not mean the payment of relief association benefits or administrative expenses permitted by law.

Sec. 25. Minnesota Statutes 1988, section 424.06, is amended to read:

424.06 OFFICERS; TRUSTEES.

The officers of the relief association shall be a president, one or more vice-presidents, a secretary, and a treasurer. The offices of assistant secretary and assistant treasurer may be created by the bylaws of any such associations. The affairs of each association ~~shall~~ must be managed in accordance with article 7 by a board of trustees elected in the manner prescribed by the articles of incorporation of the association.

The secretary and treasurer of each relief association shall each furnish a corporate bond to the association for the faithful performance of their duties, in amounts as the association from time to time may determine. Each relief association shall be and is hereby authorized to pay the premiums on such bonds from its general fund.

Sec. 26. Minnesota Statutes 1988, section 424A.001, subdivision 7, is amended to read:

Subd. 7. **FIDUCIARY RESPONSIBILITY.** In the discharge of their respective duties, the officers and trustees shall be held to the standard of care enumerated in section 11A.09. In addition, the trustees must act in accordance with article 7.

Each member of the board is a fiduciary and shall undertake all fiduciary activities in accordance with the standard of care of section 11A.09, and in a manner consistent with article 7. No fiduciary of a relief association shall cause a relief association to engage in a transaction if the fiduciary knows or should know that a transaction constitutes one of the following direct or indirect transactions:

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- (1) sale or exchange or leasing of any real property between the relief association and a board member;
- (2) lending of money or other extension of credit between the relief association and a board member or member of the relief association;
- (3) furnishing of goods, services, or facilities between the relief association and a board member; or
- (4) transfer to a board member, or use by or for the benefit of a board member, of any assets of the relief association. Transfer of assets does not mean the payment of relief association benefits or administrative expenses permitted by law.

Sec. 27. Minnesota Statutes 1988, section 424A.04, subdivision 2, is amended to read:

Subd. 2. **FIDUCIARY DUTY.** ~~It shall be the duty of The board of trustees to faithfully administer any provisions of statute or special law applicable to the relief association without prejudice and shall undertake their activities consistent with the expressed intent of the legislature. The members of the board shall act as trustees with a fiduciary obligation to the state of Minnesota which authorized the creation of the relief association, to the taxpayers who aid in its financing, and to the firefighters who are its beneficiaries article 7.~~

Sec. 28. **[490.021] ADMINISTRATION OF VARIOUS JUDGES RETIREMENT PLANS.**

The Minnesota state retirement system shall administer the judges retirement plans established by sections 490.025 to 490.12 in accordance with article 7.

Sec. 29. Minnesota Statutes 1988, section 490.122, is amended to read:

490.122 ADMINISTRATION OF JUDGES' RETIREMENT.

The policy-making, management, and administrative functions governing the operation of the judges' retirement fund and the administration of sections ~~490.025~~ 490.121 to 490.132 ~~shall be are~~ vested in the board of directors and executive director of the Minnesota state retirement system with such duties, authority, and responsibility as are provided in chapter 352. Except as otherwise specified, no provision of chapter 352 ~~shall apply~~ applies to the judges' retirement fund or any judge. Fiduciary activities of the uniform retirement and survivors' annuities for judges must be undertaken in a manner consistent with article 7.

Sec. 30. **EFFECTIVE DATE.**

Sections 1 to 29 are effective the day following final enactment.

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ARTICLE 9

OTHER TEACHERS' RETIREMENT ASSOCIATIONS PROVISIONS

Section 1. Minnesota Statutes 1988, section 11A.19, is amended by adding a subdivision to read:

Subd. 9. Effective June 30, 1989, all assets of the variable annuity investment fund must be transferred to the Minnesota combined investment funds to the credit of the teachers retirement fund established under chapter 354.

Sec. 2. Minnesota Statutes 1988, section 354.50, is amended by adding a subdivision to read:

Subd. 5. Notwithstanding section 354.62, subdivision 5, clause (4), a member who received a refund of variable account accumulations may repay this refund to the member's formula account under this section.

Sec. 3. Minnesota Statutes 1988, section 354.62, subdivision 2, is amended to read:

Subd. 2. **INDIVIDUAL ELECTION.** Each member of the teachers retirement association may elect to participate in the variable annuity division by filing a written notice with the board of trustees on forms provided by the board.

(1) Employee variable annuity contributions to the variable annuity division shall be pursuant to the option available in section 354.44, subdivision 7, the employee variable annuity contributions shall be an amount equal to one-half of the employee rates specified in section 354.42, subdivision 2.

(2) Employer variable annuity contributions shall be an amount equal to the employee variable annuity contributions provided in clause (1). The deficiency in equal employer variable annuity contributions which shall exist prior to July 1, 1975 shall be recovered from the additional employer contributions made prior to July 1, 1975 pursuant to section 354.42, subdivision 5.

(3) There shall be provided for members participating in the variable annuity division a separate account for each member which will show the member's variable account accumulations as defined in section 354.05, subdivision 23. The board shall establish such other accounts in the variable annuity division as it deems necessary for the operation of this provision.

(4) After June 30, 1974 there shall be no new participants in this program.

(5) Any active member currently participating in the variable annuity division may elect to cease participation in the variable annuity division effective the July 1 following the filing of a written notice with the board of trustees on forms provided by the board. If this election is made, all future contributions will go to the formula program.

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(6) Effective May 16, 1989, all active and inactive members with variable account accumulations must have their formula service credit covered by the full formula program percentages specified in section 354.44, subdivision 6. Each active and inactive member's variable account accumulations must be transferred to the member's formula account and this amount must become part of the member's accumulated deductions. An equal employer contribution amount must be transferred to the regular fund of the association. These transfers must include any employee and employer contributions made after June 30, 1988.

Sec. 4. Minnesota Statutes 1988, section 354.62, is amended by adding a subdivision to read:

Subd. 7. TRANSFER. Effective June 30, 1989, all persons receiving benefits from the variable annuity reserve account must have the full amount of their required reserves transferred to the Minnesota postretirement investment fund. Benefit payments from the Minnesota postretirement investment fund must be in the same amount as benefit payments from the variable annuity reserve account but any future increases on these amounts must be based on the increases applicable to the Minnesota postretirement investment fund as determined under section 11A.18. The first increase must be paid January 1, 1990. The additional required reserves, including the required reserves for the first increase, that must be transferred from the variable annuity fund to the Minnesota postretirement investment fund must be transferred from the turnover account of the variable annuity fund. After this transfer of additional required reserves, any remaining balance in the turnover account of the variable annuity fund must be transferred to the regular fund of the association.

Sec. 5. ENTITLEMENT TO ANNUITY.

Notwithstanding any requirement of prior law that a member or former member have 20 years of service credit in order for a surviving spouse to receive a joint and survivor annuity under the teachers' retirement association formula program established in Minnesota Statutes, section 354.46, a surviving spouse of a person who met the following qualifications is entitled to receive the second portion of a 100 percent joint and survivor annuity under the formula program:

- (1) the person was age 55 or older at the time of death;
- (2) the person had at least 19 years of service credit in the teachers' retirement association; and
- (3) the sum of the person's service credit in the teachers' retirement association plus the person's employment at the University of Minnesota exceeds 20 years.

The payments due under this section do not include postretirement adjustments that would have been granted between the time of the member or former member's death and the effective date of this section.

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The teachers' retirement association shall transfer to the state board of investment, for deposit in the postretirement investment fund, money equal to the reserves required to fund the benefits payable under this section.

Sec. 6. **EFFECTIVE DATE.**

Sections 1 to 5 are effective the day following final enactment. Section 5 applies retroactively to the surviving spouses of persons who died after January 1, 1977. Annuity payments due under section 5 must begin after the date of final enactment. No payments are due for the period of time before the effective date of section 5.

ARTICLE 10

VOLUNTEER FIREFIGHTERS

Section 1. Minnesota Statutes 1988, section 423A.01, subdivision 2, is amended to read:

Subd. 2. **OPERATION OF LOCAL RELIEF ASSOCIATION UPON MODIFICATION OF RETIREMENT COVERAGE FOR NEWLY HIRED POLICE OFFICERS AND FIREFIGHTERS.** The following provisions shall govern the operation of a local relief association upon the modification of retirement coverage for newly hired police officers or firefighters:

(1) The minimum obligation of a municipality in which the retirement coverage for newly hired police officers or salaried firefighters has been modified pursuant to subdivision 1 with respect to the local relief association shall be determined and governed in accordance with the provisions of sections 69.77, 356.215 and 356.216, except that the normal cost calculation for the relief association shall be computed as a percentage of the compensation paid to the active members of the relief association. The compensation paid to persons with retirement coverage modified pursuant to subdivision 1 shall not be included in any of the computations made in determining the obligation of the municipality with respect to the local relief association.

(2) The contribution rate of members of the local relief association shall be governed by section 69.77, unless a special law establishing a greater member contribution rate is applicable whereupon it shall continue to govern. The member contribution rate of persons with retirement coverage modified pursuant to subdivision 1 shall be governed by section 353.65.

(3) Unless otherwise provided for by law, when every active member of the local relief association retires or terminates from active duty, the local relief association shall cease to exist as a legal entity and the assets of the special fund of the relief association shall be transferred to a trust fund to be established by the appropriate municipality for the purpose of paying service pensions and

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retirement benefits to recipient beneficiaries. Recipient beneficiaries who are competent to act on their own behalf shall be entitled to select the prescribed number of trustees of the trust fund as provided in this clause, subject to the approval of the governing body of the municipality. If there are at least five recipient beneficiaries, the trust fund shall be managed by a board of trustees composed of five persons selected by the recipient beneficiaries of the fund. When there are fewer than five recipient beneficiaries, the number of trustees selected by the recipient beneficiaries shall be equal to the number of the remaining recipient beneficiaries. The governing body of the municipality shall select the additional trustees. The term of the elected members of the board of trustees shall be indefinite and shall continue until a vacancy occurs in one of the board of trustee member positions. Board of trustee members shall not be compensated for their services, but shall be reimbursed for any expenses actually and necessarily incurred as a result of the performance of their duties in their capacity as board of trustee members. The municipality shall perform whatever services are necessary to administer the trust fund. When all obligations of the trust fund are paid, the balance of the assets remaining in the trust fund shall revert to the municipality for expenditure for law enforcement or firefighting purposes, whichever is applicable.

(4) The financial requirements of the trust fund and the minimum obligation of the municipality with respect to the trust fund shall be determined in accordance with sections 69.77, 356.215 and 356.216 until the unfunded accrued liability of the trust fund is fully amortized in accordance with section 69.77, subdivision 2b. The municipality shall provide in its annual budget for at least the aggregate amount of service pensions, disability benefits, survivorship benefits and refunds which are projected as payable for the following calendar year, as determined by the board of trustees of the trust fund, less the amount of assets in the trust fund as of the end of the most current calendar year for which figures are available, valued pursuant to section 356.20, subdivision 4, clause (1)(a), if the difference between those two figures is a positive number.

(5) In calculating the amount of service pensions and other retirement benefits payable from the local relief association and in calculating the amount of any automatic post retirement increases in those service pensions and retirement benefits based on the salary paid or payable to active members or escalated in any fashion, the salary for use as the base for the service pension or retirement benefit calculation and the post retirement increase calculation for the local relief association shall be the salary for the applicable position as specified in the articles of incorporation or bylaws of the relief association as of the date immediately prior to the effective date of the modification of retirement coverage for newly hired personnel pursuant to subdivision 1, as the applicable salary is reset by the municipality periodically, irrespective of whether retirement coverage for persons holding the applicable position used in calculations is provided by the relief association or by the public employees police and fire fund. If for a local salaried firefighters relief association, the specified position no longer exists because of a reorganization of the fire department as a volunteer fire department, the percentage increase in the salary of the position of a top grade

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patrol officer in the police department of the municipality must be the basis for service pension and retirement benefit postretirement increase calculations.

(6) If the modification of retirement coverage implemented pursuant to subdivision 1 is applicable to a local police relief association, the police state aid received by the municipality shall be disbursed pursuant to section 69.031, subdivision 5, clause (2)(c). If the modification of retirement coverage implemented pursuant to subdivision 1 is applicable to a local firefighters' relief association, the fire state aid received by the applicable municipality shall be disbursed as the municipality at its option may elect. The municipality may elect: (a) to transmit the total fire state aid to the treasurer of the local relief association for immediate deposit in the special fund of the relief association; or (b) to apply the total fire state aid toward the employer contribution of the municipality to the public employees police and fire fund pursuant to section 353.65, subdivision 3; or (c) to allocate the total fire state aid proportionately between the special fund of the local relief association and employer contribution of the municipality to the public employees police and fire fund on the basis of the respective number of active full time salaried firefighters receiving retirement coverage from each.

Sec. 2. Minnesota Statutes 1988, section 424A.01, subdivision 2, is amended to read:

Subd. 2. **STATUS OF SUBSTITUTE OR PROBATIONARY VOLUNTEER FIREFIGHTERS.** No person who is serving as a substitute ~~or a probationary~~ volunteer firefighter shall be deemed to be a firefighter for purposes of chapter 69 or this chapter nor shall be authorized to be a member of any volunteer firefighters' relief association governed by chapter 69 or this chapter.

Sec. 3. Minnesota Statutes 1988, section 424A.02, subdivision 1, is amended to read:

Subdivision 1. **AUTHORIZATION.** ~~Any~~ A relief association, when its articles of incorporation or bylaws so provide, may pay out of the assets of its special fund a service pension to each of its members who: (1) separates from active service with the fire department; (2) reaches ~~the age of 50 years;~~ (3) completes at least ~~ten~~ five years of active service as an active member of the municipal fire department to which the relief association is associated; (4) completes at least ~~ten~~ five years of active membership with the relief association ~~prior to~~ before separation from active service; and (5) complies with any additional conditions as to age, service, and membership ~~which that~~ that are prescribed by the bylaws of the relief association. The service pension may be paid whether or not the municipality or nonprofit firefighting corporation to which the relief association is associated qualifies for fire state aid under chapter 69. In the case of a member who has completed at least ~~ten~~ five years of active service as an active member of the fire department to which the relief association is associated on the date that the relief association is established and incorporated, the requirement that the member complete at least ~~ten~~ five years of active member-

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ship with the relief association ~~prior to~~ before separation from active service may be waived by the board of trustees of the relief association if the member completes at least ~~ten~~ five years of inactive membership with the relief association ~~prior to before~~ the payment of the service pension. During the period of inactive membership, the member ~~shall is~~ not be entitled to receive ~~any~~ disability benefit coverage, ~~shall is~~ not be entitled to receive ~~any~~ additional service credit towards computation of a service pension, and ~~shall be deemed is~~ considered to have the status of a person entitled to a deferred service pension ~~pursuant to~~ under subdivision 7.

No municipality or nonprofit firefighting corporation is ~~authorized to~~ may delegate the power to take final action in setting a service pension or ancillary benefit amount or level to the board of trustees of the relief association or to approve in advance a service pension or ancillary benefit amount or level equal to the maximum amount or level ~~which~~ that this chapter would allow rather than a specific dollar amount or level.

No relief association as defined in section 424A.001, subdivision 4, ~~shall~~ may pay a service pension or disability benefit to ~~any~~ a former member of the relief association if that person has not separated from active service with the fire department to which the relief association is directly associated.

For the purposes of this chapter, "to separate from active service" means to cease to perform fire suppression duties and to cease to supervise fire suppression duties.

Sec. 4. Minnesota Statutes 1988, section 424A.02, subdivision 2, is amended to read:

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

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

Completed Years of Service	Nonforfeitable Percentage of Pension Amount
<u>5</u>	<u>40 percent</u>
<u>6</u>	<u>44 percent</u>
<u>7</u>	<u>48 percent</u>
<u>8</u>	<u>52 percent</u>
<u>9</u>	<u>56 percent</u>
10	60 percent

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11	64 percent
12	68 percent
13	72 percent
14	76 percent
15	80 percent
16	84 percent
17	88 percent
18	92 percent
19	96 percent
20 and thereafter.	100 percent

Sec. 5. Minnesota Statutes 1988, section 424A.02, subdivision 7, is amended to read:

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

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

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

(3) separates from active service and membership ~~prior to~~ before reaching ~~the age of 50 years~~ or the minimum age for retirement and commencement of a service pension specified in the bylaws governing the relief association if that age is greater than ~~the age of 50 years~~. The deferred service pension ~~shall commence~~ starts when the former member reaches ~~the age of 50 years~~ or the minimum age specified in the bylaws governing the relief association if that age is greater than ~~the age of 50 years~~ and when the former member makes a valid written application. Any A relief association ~~which that~~ provides a lump sum service pension may, when its governing bylaws so provide, pay interest on the deferred lump sum service pension during the period of deferral. If provided for, interest ~~shall~~ must be paid at the rate actually earned by the relief association, but not to exceed the interest rate specified in section 356.215, subdivision 4d, and ~~shall~~ must be compounded annually based on calendar year balances. The deferred service pension ~~shall be~~ is governed by and ~~shall~~ must be calculated ~~pursuant to~~ any under the general statute, special law, relief association articles of incorporation, or relief association bylaw provisions applicable ~~as of~~ on the date on which the member separated from active service with the fire department and active membership in the relief association.

Sec. 6. Minnesota Statutes 1988, section 424A.02, subdivision 13, is amended to read:

Subd. 13. **COMBINED SERVICE PENSIONS.** If the articles of incorporation or bylaws of the associations so provide, a volunteer firefighter with total service credit of ten years or more, if every affected relief association does not require only a five-year service vesting requirement, or five years or more, if

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every affected relief association requires only a five-year service vesting requirement, as a member of two or more relief associations is entitled, when otherwise qualified, to a prorated service pension from each association in which the member has ~~two years~~ one year or more of service credit. The prorated service pension must be based on the service pension amount in effect for the relief association on the date volunteer firefighting services covered by that relief association terminate. To receive a service pension under this subdivision, the firefighter must become a member of the second or succeeding association and give notice of membership to the prior association within two years of termination of active service with the prior association. The notice must be attested to by the association secretary.

Sec. 7. Minnesota Statutes 1988, section 424A.10, is amended to read:

424A.10 STATE SUPPLEMENTAL BENEFIT; VOLUNTEER FIREFIGHTERS.

Subdivision 1. **DEFINITION.** For purposes of this section, "qualified recipient" means an individual who receives ~~an involuntary~~ a lump sum distribution of pension or retirement benefits from a firefighters' relief association for service performed as a volunteer firefighter.

Subd. 2. **PAYMENT OF SUPPLEMENTAL BENEFIT.** Upon the payment by a firefighters' relief association of ~~an involuntary~~ a lump sum distribution to a qualified recipient, the association must pay a supplemental benefit to the qualified recipient. Notwithstanding any law to the contrary, the relief association may pay the supplemental benefit out of its special fund. The amount of this benefit equals ten percent of the regular ~~involuntary~~ lump sum distribution that is paid on the basis of service as a volunteer firefighter. In no case may the amount of the supplemental benefit exceed \$1,000.

Subd. 3. **STATE REIMBURSEMENT.** By February 15 of each year, the relief association shall apply to the commissioner of revenue for state reimbursement of the amount of supplemental benefits paid under subdivision 2 during the preceding calendar year. By March 15 the commissioner shall reimburse the relief association for the amount of the supplemental benefits paid to qualified recipients. The commissioner of revenue shall prescribe the form of and supporting information that must be supplied as part of the application for state reimbursement. The reimbursement payment must be deposited in the special fund of the relief association.

Subd. 4. **IN LIEU OF INCOME TAX EXCLUSION.** The supplemental benefit provided by this section is in lieu of the state income tax exclusion for ~~involuntary~~ lump sum distributions of retirement benefits paid to volunteer firefighters. If the law is modified to exclude or exempt volunteer firefighters' lump sum distributions from state income taxation, the supplemental benefits under this section may no longer be paid beginning with the first calendar year in which the exclusion or exemption is effective. This subdivision does not apply to exemption of all or part of a lump sum distribution under section 290.032 or 290.0802.

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Sec. 8. REPEALER.

Minnesota Statutes 1988, section 424A.01, subdivision 3a, is repealed.

ARTICLE 11**LOCAL POLICE AND FIREFIGHTERS**

Section 1. Minnesota Statutes 1988, section 353.64, is amended by adding a subdivision to read:

Subd. 9. PENSION COVERAGE FOR CERTAIN SHERIFFS' ASSOCIATION EMPLOYEES. A former member of the association who is an employee of the Minnesota sheriffs' association may elect to be a police and fire fund member with respect to service with the sheriffs' association, if written election to be covered is delivered to the board within 60 days after the effective date of this section or within 60 days after commencement of employment, whichever is later.

Employee and employer contributions for past service are the obligation of the employee, except that the Minnesota sheriffs' association may pay the employer contributions. The employer shall, in any event, deduct necessary future contributions from the employee's salary and remit all contributions to the association as required by this chapter.

Persons who become association members under this section shall not be eligible for election to the board of trustees.

Sec. 2. Laws 1955, chapter 151, section 13, as amended by Laws 1963, chapter 271, section 7; Laws 1971, chapter 549, section 2; Laws 1980, chapter 600, section 14; and Laws 1983, chapter 47, section 1, is amended to read:

Sec. 13. The association shall pay a pension to the surviving spouse or any child under 18 years of age of any pensioned and retired member, or to the surviving spouse or any child under 18 years of age of any member who dies while in the service of the city police department, or to the surviving spouse or any child under 18 years of age of any member who, after being a member of the city police department for not less than 20 years, severs his or her connection with the department, and dies before attaining the age of 50 years. The association shall pay to any such surviving spouse a pension of ~~20~~ not less than 22-1/2 units nor more than 27-1/2 units per month, as the bylaws of the association provide, subject to Minnesota Statutes, section 69.77, subdivision 2i. The association shall pay to any such child under 18 years of age a pension of five units per month until the child attains the age of 18 years, provided, however, that if such child is married at the time of the death of the member or marries or becomes legally adopted after the death of the member, the child shall not be entitled to such benefits. If the surviving spouse and children reside together,

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the pension payable to the children shall be paid to the surviving spouse and shall be used for the support of the children. If a surviving spouse remarries, the pension immediately ceases and the association shall not make any further pension payments; provided further that if the remarriage terminates for any reason, the surviving spouse, whose benefit terminated solely because of remarriage, shall be entitled upon reapplication to a surviving spouse's benefit; provided, however, that such person shall not be entitled to retroactive payments for any period of time, prior to the effective date of this act or reapplication, whichever is later. For the purposes of this section, all provisions governing a child under 18 shall be extended to include a full time student under the age of 23.

Sec. 3. AMENDMENT AUTHORIZED.

Subdivision 1. AUTHORIZATION. Subject to Minnesota Statutes, section 69.77, subdivision 2i, the Mankato fire department relief association may amend its constitution and bylaws to provide for payment of disability benefits to active regular salaried firefighters who, because of medically determinable sickness or injury, are unable to perform their duties as firefighters, regardless of whether the sickness was caused in the performance of duty or the injury occurred while on duty.

Subd. 2. REGULAR SALARIED FIREFIGHTER NONDUTY DISABILITY BENEFIT AMOUNT. The nonduty disability benefit for regular salaried firefighters must not exceed the amount of the duty disability benefit.

Sec. 4. Laws 1982, chapter 574, section 5, as amended by Laws 1985, chapter 261, section 16, is amended to read:

Sec. 5. VIRGINIA POLICE; BENEFIT CHANGES FOR PARTICIPANTS.

If the bylaws so authorize, the following changes shall be effective:

(a) The service pension payable to persons who retired from the police department on or before January 12, 1966, shall be supplemented by ~~+\$100~~ \$200 per month.

(b) For any participant who terminated employment after 20 ~~or more~~ years of service, the amount of the monthly service pension payable after the participant has attained the age of at least 50 years shall be equal to ~~one-half~~ 50 percent of the prevailing pay of a police officer of the rank and position held by the participant for a period of at least six months prior to termination of service, or to the rank and position most analogous thereto, plus an additional one percent for each full year of service in excess of 20 years to a maximum of 60 percent, payable by the police department in each month during which the retired participant receives a service pension.

(c) The amount of a monthly disability pension shall be equal to one-half of

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the prevailing pay of a police officer of the rank and position held by the participant for a period of at least six months prior to his or her disability or the rank and position most analogous thereto, payable by the police department in each month during the period of the participant's disability, subject to any integration of benefits. Disability pensions payable for disabilities incurred on or before January 11, 1967, are increased by \$100 per month.

(d) The benefit paid to the surviving spouse of a participant who died on or before January 11, 1967, shall be increased by ~~\$50~~ \$100 per month, with benefits payable until the surviving spouse's death or remarriage.

(e) The benefit paid to a surviving child shall be increased to \$50 per child per month, subject to any limitation placed on the total amount of survivor's benefits.

Sec. 5. MINNETONKA VOLUNTEER FIREFIGHTERS RELIEF ASSOCIATION; INCREASED NONFORFEITABLE SERVICE PENSION PERCENTAGE.

Notwithstanding any provision of Minnesota Statutes, section 424A.02, subdivision 2; to the contrary, if the articles of incorporation or the bylaws of the relief association so provide, subject to Minnesota Statutes, section 424A.02, subdivision 10, the Minnetonka volunteer firefighters relief association may pay a service pension to a retiring member who meets the minimum age, service, and other requirements of Minnesota Statutes, section 424A.02, subdivision 1. The amount of the service pension is that portion of a service pension payable with 20 years of service that full years of service credited by the relief association bear to 20 years of service.

Sec. 6. EVELETH POLICE AND FIREFIGHTERS; BENEFIT INCREASE.

Notwithstanding any general or special law to the contrary, in addition to other benefits payable, retirement benefits payable to retired police officers and firefighters and their surviving spouses by the Eveleth police and fire trust fund may be increased by \$100 a month. Increases may be made retroactive to January 1, 1989.

Sec. 7. BLOOMINGTON VOLUNTEER FIREFIGHTERS RELIEF ASSOCIATION; DUTY DISABILITY BENEFIT.

Notwithstanding any provision of Minnesota Statutes, section 424A.02, subdivision 9, or any other law to the contrary, the Bloomington firefighters relief association may provide a duty disability benefit to a volunteer firefighter who:

(1) becomes disabled from a medically determinable injury or illness arising out of or occurring in the course of the line of duty;

(2) is not entitled to the immediate receipt of a service pension equal to the amount of a service pension payable to a retiring firefighter with 20 years of service; and

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(3) complies with any other requirement specified in the bylaws of the association.

The duty disability benefit must be equal to the amount of the service pension payable to a retiring firefighter with 20 years of service.

A Bloomington volunteer firefighter who has received a duty-related disability benefit and who returns to active firefighting duties with the Bloomington fire department must accrue service credit towards a service pension for the period of the receipt of the duty-related disability benefit.

Sec. 8. NONDUTY DISABILITY BENEFIT.

The Bloomington firefighters relief association may provide a volunteer firefighter who becomes disabled from an injury or illness not arising out of or not occurring in the course of the line of duty with a disability benefit as the bylaws of the relief association specify, subject to the provisions of Minnesota Statutes, section 424A.02, subdivision 9.

Sec. 9. Laws 1965, chapter 446, section 2, is amended to read:

Sec. 2. DUTY-RELATED DEATH SURVIVOR BENEFITS.

Notwithstanding Minnesota Statutes, section 424A.02, subdivision 9, or any other provision of law to the contrary and in lieu of the widows pension surviving spouse benefit provided in Minnesota Statutes, Section 424.24, the firemen's firefighters relief association in the city of Bloomington may provide a pension surviving spouse benefit to the widow surviving spouse of a volunteer fireman firefighter who dies as the result of an injury or illness arising out of or in the course of the line of duty, if the surviving spouse qualifies under the terms of Minnesota Statutes, Section 424.24; of not more than a sum. The surviving spouse benefit must not exceed an amount equal to one fourth of the salary as payable from time to time during the period of pension payment to policemen of the highest grade, not including officers of the police department, in the employ of the city, such pension to three-quarters of the amount of the service pension payable to a retiring firefighter with 20 years of service. The surviving spouse benefit must be paid as the bylaws of the association provide for her natural life; provided that if she remarries, such pension shall upon remarriage, the surviving spouse benefit must cease to accrue and terminate as of the date of her remarriage.

In event if there is a surviving child or there are surviving children of a deceased firefighter who suffered a duty-related death as provided in Minnesota Statutes, Section 424.24, the firemen's relief association of the city of Bloomington may provide for a pension of not more than four percent of the monthly salary as payable from time to time during the period of pension payment to policemen of the highest grade, not including officers of the department, in the employ of the city; surviving child benefit. The surviving child benefit must not exceed an amount equal to 12 percent of the amount of the service pension

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payable to a retiring firefighter with 20 years of service for each child up to the time each child reaches the age of not less than 16 years or more than 18 years as the bylaws of the association provide; ~~provided,~~ The total ~~pension hereunder survivor benefits~~ for the ~~widow surviving spouse~~ and children of the deceased member shall not exceed ~~one third of the monthly salary of a policeman of the highest grade, not including officers of the police department, in the employ of the municipality~~ the amount of the service pension payable to a retiring firefighter with 20 years of service during the period of the ~~pension~~ payment.

Sec. 10. Laws 1965, chapter 446, section 3, is amended to read:

Sec. 3. **DUTY-RELATED DEATH SURVIVING CHILD BENEFITS IN CERTAIN INSTANCES.** ~~The firemen's Bloomington firefighters relief association of the city of Bloomington may provide a pension surviving child benefit for the child or the children of a deceased members member with a duty-related death after the death of their mothers the surviving spouse, of such the amount as the board of trustees of the association shall deem considers necessary to properly support such the child or the children until they reach an the age of not more than 18, as the bylaws of the association provide; provided,~~ The total ~~pension hereunder surviving child benefit~~ for the child or the children of the deceased member shall not exceed ~~a sum an amount~~ an amount equal to ~~one third of the monthly salary of a policeman of the highest grade, not including officers of the police department, in the employ of the municipality~~ the amount of the service pension payable to a retiring firefighter with 20 years of service during the period of the ~~pension survivor benefit~~ payment.

Sec. 11. **NONDUTY-RELATED DEATH SURVIVOR BENEFITS.**

The Bloomington firefighters relief association may provide the surviving spouse, surviving child or surviving children of a volunteer firefighter who dies from an injury or illness not arising out of or not occurring in the course of the line of duty with a survivor benefit as the bylaws of the relief association specify, subject to the provisions of Minnesota Statutes, section 424A.02, subdivision 9.

Sec. 12. **BYLAW AMENDMENT.**

The St. Paul police relief association and the St. Paul fire department relief association shall amend their articles of incorporation and bylaws to ensure that retired members of the police department and fire department are represented on the board of directors of the St. Paul police relief association and the board of trustees of the St. Paul fire department relief association in the same proportion that the number of retired members in each relief association bears to the total membership of each relief association. However, retired members of the St. Paul police relief association and the St. Paul fire department relief association are never entitled under the articles of incorporation or bylaws to more seats on the board of directors than the active members of the respective associations.

Sec. 13. **REPEALER.**

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

Laws 1967, chapter 815; Laws 1978, chapter 683; and Laws 1981, chapter 224, sections 2 and 5, are repealed.

Sec. 14. **EFFECTIVE DATES.**

Subdivision 1. Section 2 is effective upon approval by the St. Paul city council and compliance with Minnesota Statutes, section 645.021, subdivision 3.

Subd. 2. Section 3 is effective upon approval by the Mankato city council and compliance with Minnesota Statutes, section 645.021, subdivision 3.

Subd. 3. Section 4 is effective upon approval by the Virginia city council and compliance with Minnesota Statutes, section 645.021, subdivision 3.

Subd. 4. Section 5 is effective upon approval by the governing body of the city of Minnetonka and compliance with Minnesota Statutes, section 645.021, subdivision 3.

Subd. 5. Section 6 is effective upon approval by the Eveleth city council and compliance with Minnesota Statutes, section 645.021, subdivision 3.

Subd. 6. Sections 7 to 11 are effective upon approval by the governing body of the city of Bloomington and compliance with Minnesota Statutes, section 645.021, subdivision 3.

Subd. 7. Sections 12 and 13 are effective the day following final enactment.

Subd. 8. Section 1 is effective July 1, 1989.

ARTICLE 12

HIGHER EDUCATION SUPPLEMENTAL PLAN

Section 1. Minnesota Statutes 1988, section 136.80, subdivision 1, is amended to read:

Subdivision 1. A ~~The~~ supplemental retirement plan for personnel employed by the state university board and the state board for community colleges who are in the unclassified service of the state commencing July 1 following the completion of the second year of their full time contract is hereby established and shall be governed pursuant to sections 136.81 to 136.85. ~~Any~~ An unclassified employee who is employed by the state university board or the state board for community colleges in subsidized on-the-job training, work experience, or public service employment as an enrollee under the federal comprehensive employment and training act ~~shall may~~ not be included in the supplemental retirement plan provided for in sections 136.81 to 136.85 ~~from and~~ after March 30, 1978, unless the unclassified employee has as of the later of March 30, 1978, or the date of employment sufficient service credit in the retirement fund providing

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primary retirement coverage to meet the minimum vesting requirements for a deferred retirement annuity, or the board agrees in writing to make the employer contribution required by section 136.81 on account of that unclassified employee from revenue sources other than funds provided under the federal comprehensive employment and training act, or the unclassified employee agrees in writing to make the employer contribution required by section 136.81 in addition to the member contribution.

Sec. 2. Minnesota Statutes 1988, section 136.81, subdivision 1, is amended to read:

Subdivision 1. **DEDUCTIONS.** ~~There shall be deducted~~ The state university board and the state board for community colleges shall deduct from the salary of each person described in section 136.80, subdivision 1, a sum equal to five percent of the ~~portion of the person's annual salary paid between \$6,000 and \$15,000.~~ The deduction ~~is to~~ must be made in the same manner as other retirement deductions are made from the salary of the person ~~only after the first \$6,000 has been paid in a fiscal year.~~ The state employer shall make a contribution to the plan on behalf of every covered person in an amount equal to the deductions made from the salary of the person. If an agreement is made under section 356.24 for additional employer contributions, an amount equal to the additional employer contribution must be deducted from the person's annual salary above \$15,000 as specified in this subdivision. ~~The moneys so~~ money deducted and the state contribution ~~shall~~ must be deposited to the credit of the state university and community college supplemental retirement plan account of the teachers retirement fund. ~~The account is hereby established and shall~~ must be separate and distinct from other funds, accounts, or assets of the teachers retirement fund. The money required to meet the obligation of the state employer as provided in this subdivision ~~shall~~ must be contributed to the executive director of the teachers retirement association by the state employer.

~~Any Deductions which are~~ taken from the salary of a person for the supplemental retirement plan in error ~~shall~~ must, upon discovery and verification, be refunded to the person. The retirement board shall establish a reserve ~~which shall reflect~~ reflecting any gains or losses realized due to the purchase and redemption of shares representing salary deductions and state employer contributions ~~which were~~ made in error. The balance of the reserve ~~shall~~ must be credited annually to the cancellation reserve established ~~pursuant to~~ under section 136.82, subdivision 1, clause (5).

~~If any payroll deductions which are~~ required ~~pursuant to~~ under this section are omitted, the deductions ~~shall~~ must be remitted to the supplemental retirement plan investment account of the teachers retirement association within one year from the end of the fiscal year in which the deductions were due, and, at the time of the receipt of the omitted deductions, the required state contribution ~~shall then~~ must be made.

Sec. 3. Minnesota Statutes 1988, section 356.24, is amended to read: .

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356.24 SUPPLEMENTAL PENSION OR DEFERRED COMPENSATION PLANS, RESTRICTIONS UPON GOVERNMENT UNITS.

(a) It is unlawful for a school district or other governmental subdivision or state agency to levy taxes for, or contribute public funds to a supplemental pension or deferred compensation plan that is established, maintained, and operated in addition to a primary pension program for the benefit of the governmental subdivision employees other than:

(1) to a supplemental pension plan that was established, maintained, and operated before May 6, 1971;

(2) to a plan that provides solely for group health, hospital, disability, or death benefits, to the individual retirement account plan established by sections 354B.01 to 354B.04;

(3) to a plan that provides solely for severance pay under section 465.72 to a retiring or terminating employee; ~~or~~

(4) for employees other than personnel employed by the state university board or the community college board and covered by section 136.80, subdivision 1, to the state of Minnesota deferred compensation plan under section 352.96, if provided for in a personnel policy or in the collective bargaining agreement of the public employer with the exclusive representative of public employees in an appropriate unit, in an amount matching employee contributions on a dollar for dollar basis, but not to exceed an employer contribution of \$2,000 a year per employee; or

(5) for personnel employed by the state university board or the community college board and covered by section 136.80, subdivision 1, to the supplemental retirement plan under sections 136.80 to 136.85, if provided for in a personnel policy or in the collective bargaining agreement of the public employer with the exclusive representative of the covered employees in an appropriate unit, in an amount matching employee contributions on a dollar for dollar basis, but not to exceed an employer contribution of \$2,000 a year for each employee.

(b) No change in benefits or employer contributions in a supplemental pension plan to which this section applies after May 6, 1971, is effective without prior legislative authorization.

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ARTICLE 13
BENEFIT CHANGES

Section 1. Minnesota Statutes 1988, section 352.01, subdivision 19, is amended to read:

Subd. 19. **RETIREMENT.** "Retirement" means the time after a state employee is entitled to an accrued annuity, as defined in subdivision 21, payable under an 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 that employee reaches normal retirement age 65.

Sec. 2. Minnesota Statutes 1988, section 352.01, is amended by adding a subdivision to read:

Subd. 25. **NORMAL RETIREMENT AGE.** "Normal retirement age" means age 65 for a person who first became a covered employee before July 1, 1989. For a person who first becomes a covered employee after June 30, 1989, normal retirement age means the higher of age 65 or "retirement age," as defined in United States Code, title 42, section 416(l), as amended.

Sec. 3. Minnesota Statutes 1988, section 352.04, subdivision 2, is amended to read:

Subd. 2. **EMPLOYEE CONTRIBUTIONS.** The employee contribution to the fund must be equal to ~~3.73~~ 4.34 percent of salary, beginning with the first full pay period after June 30, ~~1984~~ 1989. These contributions must be made by deduction from salary as provided in subdivision 4.

Sec. 4. Minnesota Statutes 1988, section 352.04, subdivision 3, is amended to read:

Subd. 3. **EMPLOYER CONTRIBUTIONS.** The employer contribution to the fund must be equal to ~~3.90~~ 4.51 percent of salary beginning with the first full pay period after June 30, ~~1984~~ 1989.

Sec. 5. Minnesota Statutes 1988, section 352.113, subdivision 1, is amended to read:

Subdivision 1. **AGE AND SERVICE REQUIREMENTS.** Any employee covered by the system who is less than ~~65 years old~~ normal retirement age who becomes totally and permanently disabled after ~~five~~ three or more years of allowable service is entitled to a disability benefit in an amount provided in subdivision 3. If the disabled employee's state service has terminated at any time, the employee must have at least ~~three~~ two years of allowable service after last becoming a state employee covered by the system.

Sec. 6. Minnesota Statutes 1988, section 352.113, subdivision 12, is amended to read:

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Subd. 12. **RETIREMENT STATUS AT NORMAL RETIREMENT AGE 65**. The disability benefit paid to a disabled employee under this section ends when the employee reaches normal retirement age 65. If the disabled employee is still totally and permanently disabled when the employee reaches normal retirement age 65, the employee shall be considered to be a retired employee. If the employee had chosen an optional annuity under subdivision 3, the employee shall receive an annuity in accordance with the terms of the optional annuity previously chosen. If the employee had not chosen an optional annuity pursuant to subdivision 3, the employee may then choose to receive either a normal retirement annuity equal in amount to the disability benefit paid before the employee reached normal retirement age 65 or an optional annuity as provided in section 352.116, subdivision 3. The choice of an optional annuity must be made before reaching normal retirement age 65. If an optional annuity is chosen, the choice is effective on the date the employee ~~becomes 65 years old~~ attains normal retirement age and the optional annuity shall begin to accrue the first of the month following the month in which the employee attains 65 this age.

Sec. 7. Minnesota Statutes 1988, section 352.115, subdivision 1, is amended to read:

Subdivision 1. **AGE AND SERVICE REQUIREMENTS**. After separation from state service, any employee (1) who has attained the age of at least 55 years and who is entitled to credit for at least ~~five~~ three years allowable service, or (2) who has received credit for at least 30 years allowable service regardless of age, is entitled upon application to a retirement annuity.

Sec. 8. Minnesota Statutes 1988, section 352.115, subdivision 2, is amended to read:

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

For each year of allowable service, "average salary" of an employee in determining a retirement annuity means the average of the highest five successive years of salary upon which the employee has made contributions to the retirement fund by payroll deductions. Average salary must be based upon all allowable service if this service is less than five years.

"Average salary" does not include the payment of accrued unused annual leave or overtime paid at time of final separation from state service if paid in a lump sum nor does it include the reduced salary, if any, paid during the period the employee is entitled to workers' compensation benefit payments for temporary disability.

Sec. 9. Minnesota Statutes 1988, section 352.115, subdivision 3, is amended to read:

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Subd. 3. **RETIREMENT ANNUITY FORMULA.** (a) This paragraph, in conjunction with section 352.116, subdivision 1, applies to a person who became a covered employee before July 1, 1989, unless paragraph (b), in conjunction with section 352.116, subdivision 1a, produces a higher annuity amount, in which case paragraph (b) will apply. The employee's average salary, as defined in subdivision 2, multiplied by one percent per year of allowable service for the first ten years and 1.5 percent for each later year of allowable service and pro rata for completed months less than a full year shall determine the amount of the retirement annuity to which the employee is entitled.

(b) This paragraph applies to a person who first became a covered employee after June 30, 1989, and to any other employee whose annuity amount, when calculated under this paragraph and in conjunction with section 352.116, subdivision 1a, is higher than it is when calculated under paragraph (a), in conjunction with section 352.116, subdivision 1. The employee's average salary, as defined in subdivision 2, multiplied by 1.5 percent for each year of allowable service and pro rata for months less than a full year shall determine the amount of the retirement annuity to which the employee is entitled.

Sec. 10. Minnesota Statutes 1988, section 352.116, is amended to read:

352.116 ANNUITIES UPON RETIREMENT.

Subdivision 1. **REDUCED ANNUITY BEFORE NORMAL RETIREMENT AGE 65.** This subdivision applies only to a person who first became a covered employee before July 1, 1989, and whose annuity is higher when calculated under section 352.115, subdivision 3, paragraph (a), in conjunction with this subdivision than when calculated under section 352.115, subdivision 3, paragraph (b), in conjunction with subdivision 1a.

(a) Any employee who is eligible for a retirement annuity under section 352.115, subdivision 1, and who retires before normal retirement age 65 with credit for less than at least three but less than 30 years of allowable service shall be paid the normal retirement annuity provided in section 352.115, subdivisions 2 and 3, paragraph (a), reduced so that the reduced annuity is the actuarial equivalent of the annuity that would be payable to by one-quarter of one percent for each month that the employee if the employee deferred receipt of the annuity from the day the annuity begins to accrue to is under normal retirement age 65 at the time of retirement. Any An employee who is eligible for a retirement annuity under section 352.115, subdivision 1, and who retires prior to age 62 with credit for at least 30 years of allowable service shall be paid the normal retirement annuity provided in section 352.115, subdivisions 2 and 3, paragraph (a), reduced so that the reduced annuity is the actuarial equivalent of the annuity that would be payable to the employee if the employee deferred receipt of the annuity from the day the annuity begins to accrue to by one-quarter of one percent for each month that the employee is under age 62 at the time of retirement.

(b) Any person whose attained age plus credited allowable service totals 90 years is entitled, upon application, to a retirement annuity in an amount equal

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to the normal annuity provided in section 352.115, subdivisions 2 and 3, paragraph (a), without any reduction by reason of early retirement.

Subd. 1a. ACTUARIAL REDUCTION FOR EARLY RETIREMENT. This subdivision applies to a person who first became a covered employee after June 30, 1989, and to any other employee whose annuity is higher when calculated under section 352.115, subdivision 3, paragraph (b), in conjunction with this subdivision than when calculated under section 352.115, subdivision 3, paragraph (a), in conjunction with subdivision 1. An employee who retires before the normal retirement age shall be paid the normal retirement annuity provided in section 352.115, subdivisions 2 and 3, paragraph (b), reduced so that the reduced annuity is the actuarial equivalent of the annuity that would be payable to the employee if the employee deferred receipt of the annuity and the annuity amount were augmented at an annual rate of three percent compounded annually from the day the annuity begins to accrue until the normal retirement age.

Subd. 2. NORMAL ANNUITY AT NORMAL RETIREMENT AGE 65. Any employee who retires after reaching normal retirement age 65 shall be paid the annuity provided in section 352.115.

Subd. 3. OPTIONAL ANNUITIES. The board shall establish an optional retirement annuity in the form of a joint and survivor annuity. The board may also establish an optional annuity in the form of an annuity payable for a period certain and for life thereafter ~~or establish an optional annuity which takes the form of a joint and survivor annuity providing that, if after the joint and survivor annuity becomes payable, the person with the designated remainder interest in the annuity dies before the former member, the annuity amount must be reinstated to a normal single life annuity amount as of the first day of the month after the day the person dies.~~ In addition, the board may also establish an optional annuity that takes the form of an annuity calculated on the basis of the age of the retired employee at retirement and payable for the period before the retired employee becomes eligible for social security old age retirement benefits in a greater amount than the amount of the annuity calculated under subdivision 2 on the basis of the age of the retired employee at retirement but equal so far as possible to the social security old age retirement benefit and the adjusted retirement annuity amount payable immediately after the retired employee becomes eligible for social security old age retirement benefits and payable for the period after the retired employee becomes eligible for social security old age retirement benefits in an amount less than the amount of the annuity calculated under subdivisions 2 and 3. The social security leveling option may be calculated based on broad average social security old age retirement benefits. Except as provided in subdivision 3a, the optional forms must be actuarially equivalent to the normal single life annuity forms provided in sections 352.115 and 352.116, whichever applies.

Subd. 3a. BOUNCE-BACK ANNUITY. (a) If a retired employee or dis-
abilitant selects a joint and survivor annuity option under subdivision 3, the
retired employee or disabilitant must receive a normal single-life annuity if the

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designated optional annuity beneficiary dies before the retired employee or dis-
abilitant. Under this option, no reduction may be made in the annuity to
provide for restoration of the normal single-life annuity in the event of the death
of the designated optional annuity beneficiary.

(b) A retired employee or disabilitant who selected an optional joint and
survivor annuity before July 1, 1989, but did not choose an option that provides
that the normal single-life annuity is payable to the retired employee or the
disabilitant if the designated optional annuity beneficiary dies first, is eligible for
restoration of the normal single-life annuity if the designated optional annuity
beneficiary dies first, without further actuarial reduction of the person's annuity.
A retired employee or disabilitant who selected an optional joint and survivor
annuity, but whose designated optional annuity beneficiary died before July 1,
1989, shall receive a normal single-life annuity after that date, but shall not
receive retroactive payments for periods before that date.

(c) A retired employee or disabilitant who took a further actuarial reduction
to elect an optional joint and survivor annuity that provides that the normal
annuity is payable to the retired employee or disabilitant if the designated
optional beneficiary died before July 1, 1989, shall have the annuity increased as
of July 1, 1989, to the amount the person would have received if, at the time of
retirement or disability, the person had selected only optional survivor coverage
that would not have provided for restoration of the normal annuity upon the
death of the designated optional annuity beneficiary. Any annuity or benefit
increase under this paragraph is effective only for payments made after June 30,
1989, and is not retroactive for payments made before July 1, 1989.

Subd. 4. **DETERMINING ACTUARIAL EQUIVALENCY.** In establishing the procedure for determining the actuarial equivalency of early retirement annuities as required under subdivision 1 or in establishing actuarial equivalent optional retirement annuity forms as required under subdivision 3, the board shall obtain the written recommendation of the commission-retained actuary. The recommendations shall be a part of the permanent records of the board.

Sec. 11. Minnesota Statutes 1988, section 352.12, subdivision 1, is amended to read:

Subdivision 1. **DEATH BEFORE TERMINATION OF SERVICE.** If an employee dies before state service has terminated and neither a survivor annuity nor a reversionary annuity is payable, or if a former employee who has sufficient service credit to be entitled to an annuity dies before the benefit has become payable, the director shall make a refund to the last designated beneficiary or, if there is none, to the surviving spouse or, if none, to the employee's surviving children in equal shares or, if none, to the employee's surviving parents in equal shares or, if none, to the representative of the estate in an amount equal to the accumulated employee contributions plus interest thereon to the date of death at the rate of ~~five~~ six percent per annum compounded annually. Upon the death of

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an employee who has received a refund that was later repaid in full, interest must be paid on the repaid refund only from the date of repayment. If the repayment was made in installments, interest must 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 is not entitled to interest upon any balance remaining to the decedent's credit in the fund at the time of death.

Sec. 12. Minnesota Statutes 1988, section 352.12, subdivision 2, is amended to read:

Subd. 2. **SURVIVING SPOUSE BENEFIT.** If an employee or former employee is at least 50 years old and has credit for at least ~~five~~ three years allowable service or who has credit for at least 30 years of allowable service, regardless of age, dies before an annuity or disability benefit has become payable, notwithstanding any designation of beneficiary to the contrary, the surviving spouse of the employee may elect to receive, in lieu of the refund with interest provided in subdivision 1, an annuity equal to the joint and 100 percent survivor annuity which the employee could have qualified for had the employee terminated service on the date of death. The surviving spouse may apply for the annuity at any time after the date on which the deceased employee would have attained the required age for retirement based on the employee's allowable service. The annuity must be computed as provided in sections 352.115, subdivisions 1, 2, and 3, and 352.116, subdivisions 1, 1a, and 3. Sections 352.22, subdivision 3, and 352.72, subdivision 2, apply to a deferred annuity payable under this subdivision. The annuity must cease with the last payment received by the surviving spouse in the lifetime of the surviving spouse. An amount equal to the excess, if any, of the accumulated contributions credited to the account of the deceased employee in excess of the total of the benefits paid and payable to the surviving spouse must be paid to the deceased employee's last designated beneficiary or, if none, to the surviving children of the deceased spouse in equal shares or, if none, to the surviving parents of the deceased spouse or, if none, to the representative of the estate of the deceased spouse. Any employee may request in writing that this subdivision not apply and that payment be made only to a designated beneficiary as otherwise provided by this chapter.

Sec. 13. Minnesota Statutes 1988, section 352.12, subdivision 6, is amended to read:

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

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compounded annually. The interest must be computed to the first day of the month in which the refund is processed and be based on fiscal year balances.

Sec. 14. Minnesota Statutes 1988, section 352.22, subdivision 2, is amended to read:

Subd. 2. **AMOUNT OF REFUND.** Except as provided in subdivision 3, any person who ceased to be a state employee after June 30, 1973, by reason of termination of state service shall receive a refund in an amount equal to employee accumulated contributions plus interest at the rate of ~~five~~ six percent per year compounded annually. Interest must be computed to the first day of the month in which the refund is processed and must be based on fiscal year balances.

Sec. 15. Minnesota Statutes 1988, section 352.22, subdivision 3, is amended to read:

Subd. 3. **DEFERRED ANNUITY.** (a) Any employee with at least ~~five~~ three years of allowable service when termination occurs may elect to leave the accumulated contributions in the fund and thereby be entitled to a deferred retirement annuity. This annuity must be computed as provided by the law in effect when state service terminated, on the basis of allowable service before termination of service.

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

(c) No application for a deferred annuity shall be made more than 60 days before the time the former employee reaches the required age for entitlement to the payment of the annuity. The deferred annuity shall begin to accrue no earlier than 60 days before the date the application is filed in the office of the system, but not (1) before the date the employee reaches the required age for entitlement to the annuity nor (2) before the day following the termination of state service in a position not covered by the retirement system nor (3) before the day following the termination of employment in a position that requires the employee to be a member of either the public employees retirement association or the teachers retirement association.

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

Sec. 16. Minnesota Statutes 1988, section 352.72, subdivision 1, is amended to read:

Subdivision 1. **ENTITLEMENT TO ANNUITY.** (a) Any person who has been an employee covered by a retirement system listed in paragraph (b) is entitled when qualified to an annuity from each fund if total allowable service in all funds or in any two of these funds totals ~~five~~ three or more years.

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(b) This section applies to the Minnesota state retirement system, the public employees retirement association including the public employees retirement association police and firefighters fund, the teachers retirement association, the state patrol retirement association, or any other public employee retirement system in the state with a similar provision, except as noted in paragraph (c).

(c) This section does not apply to other funds providing benefits for police officers or firefighters.

(d) No portion of the allowable service upon which the retirement annuity from one fund is based shall be again used in the computation for benefits from another fund. No refund may have been taken from any one of these funds since service entitling the employee to coverage under the system or the employee's membership in any of the associations last terminated. The annuity from each fund must be determined by the appropriate provisions of the law except that the requirement that a person must have at least ~~five~~ three years allowable service in the respective system or association does not apply for the purposes of this section if the combined service in two or more of these funds equals ~~five~~ three or more years.

Sec. 17. Minnesota Statutes 1988, section 352.72, subdivision 2, is amended to read:

Subd. 2. **COMPUTATION OF DEFERRED ANNUITY.** The deferred annuity, if any, accruing under subdivision 1, or section 352.22, subdivision 3, must be computed as provided in section 352.22, subdivision 3, on the basis of allowable service before termination of state service and augmented as provided herein. The required reserves applicable to a deferred annuity or to an annuity for which a former employee was eligible but had not applied or to any deferred segment of an annuity must be determined as of the date the benefit begins to accrue and 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 must be five percent compounded annually until January 1, 1981, and ~~after that date~~ three percent compounded annually thereafter until January 1 of the year following the year in which the former employee attains age 55. From that date to the effective date of retirement, the rate is five percent compounded annually. If a person has more than one period of uninterrupted service, the required reserves related to each period must be augmented by interest under this subdivision. The sum of the augmented required reserves so determined is the present value of the annuity. "Uninterrupted service" for the purpose of this subdivision means 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 refund, the service restored by the repayment must be considered 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 must be those applicable to a new employee. The mortality table and

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interest assumption used to compute the annuity must be those in effect when the employee files application for annuity. This section shall not reduce the annuity otherwise payable under this chapter.

Sec. 18. Minnesota Statutes 1988, section 352.72, subdivision 5, is amended to read:

Subd. 5. **EARLY RETIREMENT.** The requirements and provisions for retirement before normal retirement age ~~65~~ in sections 352.115, subdivision 1, and 352.116 also apply to an employee fulfilling the requirements with a combination of service as provided in subdivision 1.

Sec. 19. Minnesota Statutes 1988, section 352.85, subdivision 1, is amended to read:

Subdivision 1. **ELIGIBILITY; RETIREMENT ANNUITY.** Any person who is employed by the department of military affairs other than as a full-time firefighter, who is covered by the general employee retirement plan of the system as provided in section 352.01, subdivision 23, who is ordered to active duty under section 190.08, subdivision 3, who elects this special retirement coverage under subdivision 4, who is required to retire from federal military status at an age earlier than normal retirement age ~~65~~ by applicable federal laws or regulations and who terminates employment as a state employee upon attaining that mandatory retirement age is entitled, upon application, to a retirement annuity computed in accordance with section 352.115, subdivisions 2 and 3, without any reduction for early retirement under section 352.116, subdivision 1 or la.

Sec. 20. Minnesota Statutes 1988, section 352.93, subdivision 1, is amended to read:

Subdivision 1. **BASIS OF ANNUITY; WHEN TO APPLY.** After separation from state service an employee covered under section 352.91 who has reached age 55 years and has credit for at least ~~five~~ three years of covered correctional service and regular Minnesota state retirement system service is entitled upon application to a retirement annuity under this section based only on covered correctional employees' service. Application may be made no earlier than 60 days before the date the employee is eligible to retire by reason of both age and service requirements.

In this section, "average salary" means the average of the monthly salary during the employees' highest five successive years of salary as an employee covered by the Minnesota state retirement system. Average salary must be based upon all allowable service if this service is less than five years.

Sec. 21. Minnesota Statutes 1988, section 352.93, subdivision 3, is amended to read:

Subd. 3. **PAYMENTS; DURATION AND AMOUNT.** The annuity under this section shall begin to accrue as provided in section 352.115, subdivision 8,

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and must be paid for an additional 84 full calendar months or to the first of the month following the month in which the employee ~~becomes~~ attains normal retirement age ~~65~~, whichever occurs first, except that payment must not cease before the first of the month following the month in which the employee becomes 62. It must then be reduced to the amount as calculated under section 352.115, except that if this amount, when added to the social security benefit based on state service the employee is eligible to receive at the time, is less than the benefit payable under subdivision 2, the retired employee shall receive an amount that when added to the social security benefit will equal the amount payable under subdivision 2.

When an annuity is reduced under this subdivision, the percentage adjustments, if any, that have been applied to the original annuity under section 11A.18, before the reduction, must be compounded and applied to the reduced annuity. A former correctional employee employed by the state in a position covered by the regular plan between the ages age of 58 and ~~65~~ normal retirement age shall receive a partial return of correctional contributions at retirement with five six percent interest based on the following formula:

Employee contributions contributed as a correctional employee in excess of the contributions the employee would have contributed as a regular employee	X	Years and complete months of regular service between <u>ages</u> <u>age</u> 58 and 65 <u>the</u> <u>normal retirement age</u> 7 <u>number of years between</u> <u>age 58 and normal</u> <u>retirement age</u>
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Sec. 22. Minnesota Statutes 1988, section 352.95, subdivision 2, is amended to read:

Subd. 2. **NONJOB-RELATED DISABILITY.** Any covered correctional employee who, after at least ~~five~~ three years of covered correctional service, before reaching the age of 55 becomes disabled and physically unfit to perform the duties of the position because of sickness or injury occurring while not engaged in covered employment, is entitled to a disability benefit based on covered correctional service only. The disability benefit must be computed as provided in section 352.93, subdivisions 1 and 2, and computed as though the employee had at least ten years of covered correctional service.

Sec. 23. Minnesota Statutes 1988, section 352.95, subdivision 5, is amended to read:

Subd. 5. **RETIREMENT STATUS AT NORMAL RETIREMENT AGE 65.** The disability benefit paid to a disabled correctional employee under this section shall terminate at the end of the month in which the employee

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reaches age 62. If the disabled correctional employee is still disabled when the employee reaches age 62, the employee shall be deemed to be a retired employee. If the employee had elected an optional annuity under subdivision 1a, the employee shall receive an annuity in accordance with the terms of the optional annuity previously elected. If the employee had not elected an optional annuity under subdivision 1a, the employee may then either elect to receive a normal retirement annuity computed in the manner provided in section 352.115 or elect to receive an optional annuity as provided in section 352.116, subdivision 3, based on the same length of service as used in the calculation of the disability benefit. Election of an optional annuity must be made before reaching age 62. The reduction for retirement before normal retirement age ~~65~~ as provided in section 352.116, subdivision 1 or 1a, does not apply. The savings clause provision of section 352.93, subdivision 3, applies. If an optional annuity is elected, the optional annuity shall begin to accrue on the first of the month following the month in which the employee reaches age 62.

Sec. 24. Minnesota Statutes 1988, section 352B.01, subdivision 11, is amended to read:

Subd. 11. **AVERAGE SALARY.** "Average monthly salary" means the average of the highest monthly salaries for five years of service as a member. Average monthly salary must be based upon all allowable service if this service is less than five years. It does not include any amounts of severance pay or any reduced salary paid during the period the person is entitled to workers' compensation benefit payments for temporary disability.

Sec. 25. Minnesota Statutes 1988, section 352B.08, subdivision 1, is amended to read:

Subdivision 1. **WHO IS ELIGIBLE; WHEN TO APPLY; ACCRUAL.** Every member who is credited with ~~five~~ three or more years of allowable service is entitled to separate from state service and upon becoming 55 years old, is entitled to receive a life annuity, upon separation from state service. Members shall apply for an annuity in a form and manner prescribed by the executive director. No application may be made more than 60 days before the date the member is eligible to retire by reason of both age and service requirements. An annuity begins to accrue no earlier than 90 days before the date the application is filed with the executive director.

Sec. 26. Minnesota Statutes 1988, section 352B.11, subdivision 1, is amended to read:

Subdivision 1. **REFUND OF PAYMENTS.** A member who has not received other benefits under this chapter is entitled to a refund of payments made by salary deduction, plus interest, if the member is separated, either voluntarily or involuntarily, from state service that entitled the member to membership. In the event of the member's death, the member's estate is entitled to the refund. Interest must be computed at the rate of ~~five~~ six percent a year, compounded annually. To receive a refund, the member must apply on a form prescribed by the executive director.

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Sec. 27. Minnesota Statutes 1988, section 352B.11, subdivision 2, is amended to read:

Subd. 2. **DEATH; PAYMENT TO SPOUSE AND CHILDREN.** If a member serving actively as a member, a member receiving the disability benefit provided by section 352B.10, subdivision 1, or a former member receiving a disability benefit as provided by section 352B.10, subdivision 3 2, dies from any cause, the surviving spouse and dependent children are entitled to benefit payments as follows:

(a) A member with at least ~~five~~ three years of allowable service or a former member with at least 20 years of allowable service is deemed to have elected a 100 percent joint and survivor annuity payable to a surviving spouse only on or after the date the member or former member became or would have become 55.

(b) The surviving spouse of a member who had credit for less than ~~five~~ three years of service shall receive, for life, a monthly annuity equal to 20 percent of that part of the average monthly salary of the member from which deductions were made for retirement. If the surviving spouse remarries, the annuity shall cease as of the date of the remarriage.

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

(d) The surviving spouse of any member who had credit for ~~five~~ three years or more and who was not 55 years of age at death, shall receive the benefit equal to 20 percent of the average monthly salary as described in clause (b) until the deceased member would have reached the age of 55 years, and beginning the first of the month following that date, may elect to receive the 100 percent joint and survivor annuity. If the surviving spouse remarries before the deceased member's 55th birthdate, benefits or annuities shall cease as of the date of remarriage. Remarriage after the deceased member's 55th birthday shall not affect the payment of the benefit.

(e) Each dependent child shall receive a monthly annuity equal to ten percent of that part of the average monthly salary of the former member from which deductions were made for retirement. A dependent child over 18 and under 22 years of age also may receive the monthly benefit provided in this section, if the child is continuously attending an accredited school as a full-time student during the normal school year as determined by the director. If the child does not continuously attend school but separates from full-time attendance during any part of a school year, the annuity shall cease at the end of the month of separation. In addition, a payment of \$20 per month shall be prorated equally to surviving dependent children when the former member is survived by one or more dependent children. Payments for the benefit of any qualified dependent child must be made to the surviving spouse, or if there is none, to the legal guardian of the child. The maximum monthly benefit must not exceed 40 percent of the average monthly salary for any number of children.

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

(g) The surviving spouse of a deceased former member who had credit for five ~~three~~ or more years of allowable service, but not the spouse of a former member receiving a disability benefit under section 352B.10, subdivision 3, is entitled to receive the 100 percent joint and survivor annuity at the time the deceased member would have reached the age of 55 years, if the surviving spouse has not remarried before that date. If a former member dies who does not qualify for other benefits under this chapter, the surviving spouse or, if none, the children or heirs are entitled to a refund of the accumulated deductions left in the fund plus interest at the rate of ~~five~~ six percent per year compounded annually.

Sec. 28. Minnesota Statutes 1988, section 352B.30, subdivision 1, is amended to read:

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 police and firefighters' fund, or the teachers retirement association, or the state patrol retirement fund, or any other public employee retirement system in Minnesota having a like provision but excluding all other funds providing benefits for police or firefighters is entitled when qualified to an annuity from each fund if total allowable service in all funds or in any two of these funds totals ~~five~~ three or more years. No part of the allowable service upon which the retirement annuity from one fund is based may again be used in the computation for benefits from another fund. The member must not have taken a refund from any one of these funds since service entitling the member to coverage under the system or membership in any of the associations last terminated. The annuity from each fund must be determined by the appropriate law except that the requirement that a person must have at least ~~five~~ three years allowable service in the respective system or association does not apply for the purposes of this section if the combined service in two or more of these funds equals ~~five~~ three or more years.

Sec. 29. Minnesota Statutes 1988, section 353.01, is amended by adding a subdivision to read:

Subd. 37. NORMAL RETIREMENT AGE. "Normal retirement age" means age 65 for a person who first became a public employee before July 1, 1989. For a person who first becomes a public employee after June 30, 1989, "normal retirement age" means the higher of age 65 or "retirement age," as defined in United States Code, title 42, section 416(l), as amended.

Sec. 30. Minnesota Statutes 1988, section 353.27, subdivision 2, is amended to read:

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Subd. 2. **EMPLOYEE CONTRIBUTION.** The employee contribution shall be an amount (a) for a "basic member" equal to ~~eight~~ 8.23 percent of total salary; and (b) for a "coordinated member" equal to ~~four~~ 4.23 percent of total salary. These contributions shall be made by deduction from salary in the manner provided in subdivision 4. Where any portion of a member's salary is paid from other than public funds, such member's employee contribution shall be based on the total salary received from all sources.

Sec. 31. Minnesota Statutes 1988, section 353.29, subdivision 1, is amended to read:

Subdivision 1. **AGE AND ALLOWABLE SERVICE REQUIREMENTS.** Upon separation from public service any person who has attained ~~the normal retirement age of at least 65 years~~ and who received credit for not less than ~~five~~ three years of allowable service is entitled upon application to a retirement annuity. Such retirement annuity is known as the "normal" retirement annuity.

Sec. 32. Minnesota Statutes 1988, section 353.29, subdivision 2, is amended to read:

Subd. 2. **AVERAGE SALARY.** In calculating the annuity under subdivision 3, "average salary" means an amount equivalent to the average of a member's highest salary upon which employee contributions were paid for any five successive years of allowable service, based on dates of salary periods as listed on salary deduction reports. Average salary must be based upon all allowable service if this service is less than five years. The ~~five successive years~~ average salary may not include any reduced salary paid during a period in which the employee is entitled to benefit payments from workers' compensation for temporary disability, unless the average salary is higher, including this period.

Sec. 33. Minnesota Statutes 1988, section 353.29, subdivision 3, is amended to read:

Subd. 3. **RETIREMENT ANNUITY FORMULA.** (a) This paragraph, in conjunction with section 353.30, subdivisions 1, 1a, 1b, and 1c, applies to any member who first became a public employee before July 1, 1989, unless paragraph (b), in conjunction with section 353.30, subdivision 5, produces a higher annuity amount, in which case paragraph (b) will apply. The average salary as defined in subdivision 2, multiplied by two percent for each year of allowable service for the first ten years and thereafter by 2.5 percent per year of allowable service and completed months less than a full year for the "basic member", and one percent for each year of allowable service for the first ten years and thereafter by 1.5 percent per year of allowable service and completed months less than a full year for the "coordinated member," shall determine the amount of the "normal" retirement annuity.

(b) This paragraph applies to a member who first became a public employee after June 30, 1989, and to any other member whose annuity amount, when calculated under this paragraph and in conjunction with section 353.30, subdivision 5, is higher than it is when calculated under paragraph (a), in conjunction with section 353.30, subdivisions 1, 1a, 1b, and 1c. The average salary, as defined in subdivision 2, multiplied by 2.5 percent for each year of allowable service and completed months less than a full year for a basic member and 1.5

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percent per year of allowable service and completed months less than a full year for a coordinated member, shall determine the amount of the normal retirement annuity.

Sec. 34. Minnesota Statutes 1988, section 353.30, is amended to read:

353.30 ANNUITIES UPON RETIREMENT.

Subdivision 1. Upon separation from public service any person who first became a public employee before July 1, 1989, and who has attained the age of at least 58 years but not more than ~~65 years~~ normal retirement age and who received credit for not less than 20 years of allowable service is entitled upon application to a retirement annuity in an amount equal to the normal annuity provided in section 353.29, subdivisions 2 and 3, paragraph (a), reduced by one-quarter of one percent for each month that the member is under normal retirement age 65 at the time of retirement.

Subd. 1a. Any person who first became a public employee before July 1, 1989, and whose attained age plus credited allowable service totals 90 years is entitled upon application to a retirement annuity in an amount equal to the normal annuity provided in section 353.29, subdivisions 2 and 3, paragraph (a), without any reduction in annuity by reason of such early retirement.

Subd. 1b. Any person who first became a public employee before July 1, 1989, with 30 years or more of allowable service credit, who elects early retirement under subdivision 1, shall receive an annuity in an amount equal to the normal annuity provided under section 353.29, subdivisions 2 and 3, paragraph (a), reduced by one-quarter of one percent for each month that the member is under age 62 at the time of retirement.

Subd. 1c. Any person who first became a public employee before July 1, 1989, and who has received credit for at least 30 years of allowable service or ~~any person~~ who has attained the age of at least 55 years but not ~~more than 65 years~~ normal retirement age, and ~~who has~~ has received credit for at least ~~five~~ three years of allowable service is entitled upon application to a retirement annuity in an amount equal to the normal annuity provided in section 353.29, subdivisions 2 and 3, paragraph (a), reduced by one-quarter of one percent for each month that the member is under normal retirement age 65 at the time of retirement, except that for any member who has 30 or more years of allowable service the reduction shall be applied only for each month that the member is under age 62 at the time of retirement.

Subd. 3. **OPTIONAL RETIREMENT ANNUITY FORMS.** The board of trustees shall establish optional annuities which shall take the form of a joint and survivor annuity. Except as provided in subdivision 3a, the optional annuity forms shall be actuarially equivalent to the forms provided in section 353.29 and subdivisions 1, 1a, 1b, ~~and 1c of this section,~~ and 5. In establishing those optional forms, the board shall obtain the written recommendation of the commission-retained actuary. The recommendations shall be a part of the perma-

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ment records of board. A member or former member may select an optional form of annuity in lieu of accepting any other form of annuity which might otherwise be available.

Subd. 3a. BOUNCE-BACK ANNUITY. (a) If a former member or disabilitant selects a joint and survivor annuity option under subdivision 3, the former member or disabilitant must receive a normal single-life annuity if the designated optional annuity beneficiary dies before the former member or disabilitant. Under this option, no reduction may be made in the person's annuity to provide for restoration of the normal single-life annuity in the event of the death of the designated optional annuity beneficiary.

(b) A former member or disabilitant who selected an optional joint and survivor annuity before July 1, 1989, but did not choose an option that provides that the normal single-life annuity is payable to the former member or the disabilitant if the designated optional annuity beneficiary dies first, is eligible for restoration of the normal single-life annuity if the designated optional annuity beneficiary dies first, without further actuarial reduction of the person's annuity. A former member or disabilitant who selected an optional joint and survivor annuity, but whose designated optional annuity beneficiary died before July 1, 1989, shall receive a normal single-life annuity after that date, but shall not receive retroactive payments for periods before that date.

(c) A former member or disabilitant who took a further actuarial reduction to elect an optional joint and survivor annuity that provides that the normal annuity is payable to the former member or disabilitant if the designated optional beneficiary died before July 1, 1989, shall have their annuity increased as of July 1, 1989, to the amount the person would have received if, at the time of retirement or disability, the person had selected only optional survivor coverage that would not have provided for restoration of the normal annuity upon the death of the designated optional annuity beneficiary. Any annuity or benefit increase under this paragraph is effective only for payments made after June 30, 1989, and is not retroactive for payments made before July 1, 1989.

Subd. 4. Any monthly payments to which any person may be entitled under this chapter may be reduced in amount upon application of the person entitled thereto to the association, provided that ~~such~~ the person shall first relinquish in writing all claim to that part of the full monthly payment which is the difference between the monthly payment which that person would be otherwise entitled to receive and the monthly payment which that person will receive. The reduced monthly payment shall be payment in full of all amounts due under this chapter for the month for which the payment is made and acceptance of the reduced monthly payment releases the retirement association from all obligation to pay to ~~such~~ the person the difference between the amount of the reduced monthly payment and the full amount of the monthly payment which ~~such~~ the person would otherwise have received. Upon application of the person who is entitled to such monthly payment, it may be increased prospectively to not more than the amount to which ~~such~~ the person would have been entitled had no portion thereof been waived.

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Subd. 5. ACTUARIAL REDUCTION FOR EARLY RETIREMENT. This subdivision applies to a member who first became a public employee after June 30, 1989, and to any other member whose annuity is higher when calculated under section 353.29, subdivision 3, paragraph (b), in conjunction with this subdivision than when calculated under section 353.29, subdivision 3, paragraph (a), in conjunction with subdivision 1, 1a, 1b, or 1c. An employee who retires before normal retirement age shall be paid the retirement annuity provided in section 353.29, subdivision 3, paragraph (b), reduced so that the reduced annuity is the actuarial equivalent of the annuity that would be payable to the employee if the employee deferred receipt of the annuity and the annuity amount were augmented at an annual rate of three percent compounded annually from the day the annuity begins to accrue until the normal retirement age.

Sec. 35. Minnesota Statutes 1988, section 353.32, subdivision 1, is amended to read:

Subdivision 1. **BEFORE RETIREMENT.** If a member or former member who terminated public service dies before retirement or before receiving any retirement annuity and no other payment of any kind is or may become payable to any person, a refund shall be paid to the designated beneficiary or, if there be none, to the surviving spouse, or, if none, to the legal representative of the decedent's estate. Such refund shall be in an amount equal to accumulated deductions plus interest thereon at the rate of ~~five~~ six percent per annum compounded annually less the sum of any disability or survivor benefits, if any, that may have been paid by the fund; provided that a survivor who has a right to benefits pursuant to section 353.31 may waive such benefits in writing, except such benefits for a dependent child under the age of 18 years may only be waived pursuant to an order of the district court.

Sec. 36. Minnesota Statutes 1988, section 353.32, subdivision 1a, is amended to read:

Subd. 1a. **SURVIVING SPOUSE OPTIONAL ANNUITY.** If a member or former member who has attained at least age 50 and has credit for not less than ~~five~~ three years of allowable service or who has credit for not less than 30 years of allowable service, regardless of age attained, dies before the annuity or disability benefit begins to accrue in accordance with section 353.29, subdivision 7, or 353.33, subdivision 2, notwithstanding any designation of beneficiary to the contrary, the surviving spouse may elect to receive, instead of a refund with interest provided in subdivision 1, or survivor benefits otherwise payable under section 353.31, an annuity equal to the 100 percent joint and survivor annuity that the member could have qualified for had the member terminated service on the date of death. The surviving spouse may apply for the annuity at any time after the date on which the deceased employee would have attained the required age for retirement based on the employee's allowable service. The annuity must be computed as provided in sections 353.29, subdivisions 2 and 3; and 353.30, subdivisions 1, 1a, 1b, ~~and 1c,~~ and 5. Sections 353.34, subdivision 3, and 353.71, subdivision 2, apply to a deferred annuity payable under this subdivi-

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sion. No payment may accrue beyond the end of the month in which entitlement to the annuity has terminated. An amount equal to any excess of the accumulated contributions that were credited to the account of the deceased employee over and above the total of the annuities paid and payable to the surviving spouse must be paid to the deceased member's last designated beneficiary or, if none, to the legal representative of the estate of the deceased member. A member may specify in writing that this subdivision does not apply and that payment may be made only to the designated beneficiary as otherwise provided by this chapter.

Sec. 37. Minnesota Statutes 1988, section 353.33, subdivision 1, is amended to read:

Subdivision 1. **AGE, SERVICE AND SALARY REQUIREMENTS.** Any member who becomes totally and permanently disabled before normal retirement age ~~65~~ and after ~~five~~ three years of allowable service shall be entitled to a disability benefit in an amount provided in subdivision 3. If such disabled person's public service has terminated at any time, at least ~~three~~ two of the required ~~five~~ three years of allowable service must have been rendered after last becoming a member. Any member whose average salary is less than \$75 per month shall not be entitled to a disability benefit. No repayment of a refund otherwise authorized pursuant to section 353.34 and no purchase of prior service or payment made in lieu of salary deductions otherwise authorized pursuant to section 353.01, subdivision 16, 353.017, subdivision 4, or 353.36, subdivision 2, may be made after the occurrence of the disability for which an application pursuant to this section is filed.

Sec. 38. Minnesota Statutes 1988, section 353.33, subdivision 3, is amended to read:

Subd. 3. **COMPUTATION OF BENEFITS.** This disability benefit is an amount equal to the normal annuity payable to a member who has reached ~~65~~ normal retirement age with the same number of years of allowable service and the same average salary, as provided in section 353.29, subdivisions 2 and 3. A "basic member" shall receive in addition 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

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If the disability benefits provided in this subdivision exceed the average salary as defined in section 353.29, subdivision 2, the disability benefits shall be reduced to an amount equal to said average salary.

Sec. 39. Minnesota Statutes 1988, section 353.33, subdivision 11, is amended to read:

Subd. 11. **RETIREMENT STATUS AT NORMAL RETIREMENT AGE 65**. No person shall be entitled to receive disability benefits and a retirement annuity at the same time. The disability benefits paid to a person hereunder shall terminate when the person reaches normal retirement age 65. If the person is still totally and permanently disabled when the person attains the normal retirement age of 65 years, the person shall be deemed to be on retirement status and, if the person had elected an optional annuity pursuant to subdivision 3a, shall receive an annuity in accordance with the terms of the optional annuity previously elected, or, if the person had not elected an optional annuity pursuant to subdivision 3a, may at the option of the person either elect to receive either a normal retirement annuity as provided in section 353.29 or normal retirement annuity equal to the disability benefit paid before the person reached normal retirement age 65, whichever amount is greater, or elect to receive an optional annuity as provided in section 353.30, subdivision 3. Any disabled person who ~~becomes~~ attains normal retirement age shall have the annuity computed in accordance with the law in effect upon attainment of that age 65. Election of an optional annuity shall be made prior to the person attaining the normal retirement age of 65 years. If an optional annuity is elected, the election shall be effective on the date on which the person attains ~~the age of 65 years~~ normal retirement age and the optional annuity shall begin to accrue on the first day of the month next following the month in which the person attains ~~the~~ that age of 65 years.

Sec. 40. Minnesota Statutes 1988, section 353.34, subdivision 2, is amended to read:

Subd. 2. **REFUND WITH INTEREST**. Except as provided in subdivision 1, any person who ceases to be a public employee shall receive a refund in an amount equal to accumulated deductions with interest to the first day of the month in which the refund is processed at the rate of ~~five~~ six percent per annum compounded annually based on fiscal year balances.

Sec. 41. Minnesota Statutes 1988, section 353.34, subdivision 3, is amended to read:

Subd. 3. **DEFERRED ANNUITY; ELIGIBILITY; COMPUTATION**. A member with at least ~~five~~ three years of allowable service when termination of public service occurs has the option of leaving the accumulated deductions in the fund and being entitled to a deferred retirement annuity commencing at normal retirement age 65 or to a deferred early retirement annuity under section 353.30, subdivision 1, 1a, 1b, ~~or 1c~~ or 5. The deferred annuity must be computed under section 353.29, subdivisions 2 and 3, on the basis of the law in

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effect on the date of termination of public service and must be augmented as provided in section 353.71, subdivision 2. A former member qualified to apply for a deferred retirement annuity may revoke this option at any time before the commencement of deferred annuity payments by making application for a refund. The person is entitled to a refund of accumulated member contributions within 30 days following date of receipt of the application by the executive director.

Sec. 42. Minnesota Statutes 1988, section 353.34, subdivision 3a, is amended to read:

Subd. 3a. **DEFERRED ANNUITY; CERTAIN HOSPITAL EMPLOYEES.** Any member employed by a public hospital, as defined in section 355.71, subdivision 3, who has at least ~~five~~ three years of allowable service credit on the date the public hospital is taken over by a private corporation or organization, may elect to receive a deferred annuity pursuant to subdivision 3 notwithstanding the length of service requirement contained therein.

Sec. 43. Minnesota Statutes 1988, section 353.651, subdivision 1, is amended to read:

Subdivision 1. **AGE AND ALLOWABLE SERVICE REQUIREMENTS.** Upon separation from public service, any police officer or firefighter member who has attained the age of at least 55 years and who received credit for not less than ~~five~~ three years of allowable service is entitled upon application to a retirement annuity. Such retirement annuity is known as the "normal" retirement annuity.

Sec. 44. Minnesota Statutes 1988, section 353.651, subdivision 2, is amended to read:

Subd. 2. **AVERAGE SALARY.** In calculating the annuity under subdivision 3, "average salary" means an amount equivalent to the average of the highest salary earned as a police officer or firefighter upon which employee contributions were paid for any five successive years of allowable service. Average salary must be based upon all allowable service if this service is less than five years.

The ~~five successive years~~ average salary may not include any reduced salary paid during a period in which the employee is entitled to benefit payments from workers' compensation for temporary disability unless the average salary is higher, including this period.

Sec. 45. Minnesota Statutes 1988, section 353.657, subdivision 2a, is amended to read:

Subd. 2a. **DEATH WHILE ELIGIBLE SURVIVOR BENEFIT.** If a member or former member who has attained the age of at least 50 years and has credit for not less than ~~five~~ three years allowable service or who has credit for at least 30 years of allowable service, regardless of age attained, dies before public

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service has terminated, or if an employee who has filed a valid application for an annuity or disability benefit prior to termination of public service dies before the annuity or benefit has become payable, notwithstanding any designation of beneficiary to the contrary, the surviving spouse may elect to receive a death while eligible survivor benefit. The benefit shall be in lieu of a refund with interest provided in section 353.32, subdivision 1, or survivor benefits otherwise payable pursuant to subdivisions 1 and 2. The benefit must be an annuity equal to the 100 percent joint and survivor annuity which the member could have qualified for on the date of death, computed as provided in sections 353.651, subdivisions 2 and 3, and 353.30, subdivision 3. The surviving spouse may apply for the annuity at any time after the date on which the deceased employee would have attained the required age for retirement based on the employee's allowable service. Sections 353.34, subdivision 3, and 353.71, subdivision 2, apply to a deferred annuity payable under this subdivision. No payment shall accrue beyond the end of the month in which entitlement to such annuity has terminated. 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 annuities paid and payable to the surviving spouse shall be paid to the deceased member's last designated beneficiary or, if none, to the legal representative of the estate of such deceased member. Any member may request in writing that this subdivision not apply and that payment be made only to the designated beneficiary, as otherwise provided by this chapter. For a member who is employed as a full-time firefighter by the department of military affairs of the state of Minnesota, allowable service as a full-time state military affairs department firefighter credited by the Minnesota state retirement system may be used in meeting the minimum allowable service requirement of this subdivision.

Sec. 46. Minnesota Statutes 1988, section 353.71, subdivision 1, is amended to read:

Subdivision 1. **ELIGIBILITY.** Any person who has been a member of the public employees retirement association, or the Minnesota state retirement system, or the teachers retirement association, or any other public retirement system in the state of Minnesota having a like provision, except a fund providing benefits for police officers or firefighters governed by sections 69.77 or 69.771 to 69.776, shall be entitled when qualified to an annuity from each fund if the total allowable service in all funds or in any two of these funds totals ~~five~~ three 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 the person has not taken a refund from any one of these funds since the person's membership in that association or system 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 ~~five~~ three years of allowable service in the respective association or system shall not apply for the purposes of this section provided the combined service in two or more of these funds equals ~~five~~ three or more years.

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Sec. 47. Minnesota Statutes 1988, section 353.71, subdivision 2, is amended to read:

Subd. 2. **DEFERRED ANNUITY COMPUTATION; AUGMENTATION.** The deferred annuity, if any, accruing under subdivision 1, or sections 353.34, subdivision 3, and 353.68, subdivision 4, shall be computed in the manner provided in said sections, on the basis of allowable service prior to termination of public service and augmented as provided herein. The required reserves applicable to a deferred annuity, or to an annuity for which a former member was eligible but had not applied, or to any deferred segment of an annuity shall be determined as of the date the annuity begins to accrue and shall be augmented from the first day of the month following the month in which the former member ceased to be a public employee, or July 1, 1971, whichever is later, to the first day of the month in which the annuity begins to accrue, at the rate of five percent per annum compounded annually until January 1, 1981, and ~~thereafter~~ at the rate of three percent thereafter until January 1 of the year following the year in which the former member attains age 55. From that date to the effective date of retirement, the rate is five percent per annum compounded annually. 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 public service for more than two years. If a person repays a refund, the service restored thereby shall be considered as continuous with the next period of service for which the employee has credit with this association. The formula percentages used for each period of uninterrupted service shall be those as would be applicable to a new employee. This section shall not reduce the annuity otherwise payable under this chapter. This subdivision shall apply to deferred annuitants of record on July 1, 1971 and to employees who thereafter become deferred annuitants; it shall also apply from July 1, 1971 to former members who make application for an annuity after July 1, 1973.

Sec. 48. Minnesota Statutes 1988, section 353.71, subdivision 5, is amended to read:

Subd. 5. **EARLY RETIREMENT.** The requirements and provisions for retirement prior to normal retirement age ~~65~~ contained in section 353.30, shall also apply to a person fulfilling such requirements with a combination of service as provided in subdivision 1.

Sec. 49. Minnesota Statutes 1988, section 353C.06, subdivision 1, is amended to read:

Subdivision 1. **ELIGIBILITY REQUIREMENTS.** After separation from public employment, an employee covered under section 353C.02 who has attained the age of at least 55 years and has credit for not less than ~~five~~ three years of

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coverage in the local government correctional service plan is entitled, upon application, to a normal retirement annuity. Instead of a normal retirement annuity, a retiring employee may elect to receive the optional annuity provided in section 353.30, subdivision 3.

Sec. 50. Minnesota Statutes 1988, section 353C.06, subdivision 2, is amended to read:

Subd. 2. **AVERAGE SALARY BASE.** In calculating the annuity under subdivision 3, "average salary" means an amount equivalent to the average of the highest salary earned as a local government correctional employee upon which employee contributions were paid for any five successive years of allowable service. Average salary must be based on all allowable service if this service is less than five years.

Sec. 51. Minnesota Statutes 1988, section 353C.06, subdivision 4, is amended to read:

Subd. 4. **ACCRUAL AND DURATION.** The annuity under this section begins to accrue as provided in section 353.29, subdivision 7. The annuity is payable for the life of the recipient, or in accordance with the terms of any optional annuity form selected, and is payable for 84 full calendar months or to the first of the month following the month in which the employee ~~becomes~~ attains the normal retirement age 65, whichever occurs first. After a recipient has received the annuity calculated under this formula for 84 full calendar months or to the first of the month following the month in which the employee ~~becomes~~ attains the normal retirement age 65, whichever occurs first, the benefit must be recomputed in accordance with the coordinated formula in sections 353.29 and 353.30, except that if this amount, when added to the social security benefit based on public service the employee is eligible to receive at that time, is less than the benefit payable under subdivision 3, the retired employee is entitled to receive an amount payable under subdivision 3, less any amount payable from social security based on public service used in the benefit calculation. When an annuity is reduced under this subdivision, any percentage of adjustments that have been applied to the original annuity under section 11A.18, before the reduction, must be compounded and applied to the reduced annuity.

Sec. 52. Minnesota Statutes 1988, section 353C.08, subdivision 5, is amended to read:

Subd. 5. **DISABILITY BENEFIT TERMINATION.** The disability benefit paid to a disabled local government correctional employee terminates at the end of the month in which the employee reaches age 62. If the disabled local government correctional employee is still disabled when the employee reaches age 62, the employee is deemed to be a retired employee and, if the employee had elected an optional annuity under subdivision 3, must receive an annuity in accordance with the terms of the optional annuity previously elected. If the employee had not elected an optional annuity under subdivision 3, the employee may elect either to receive a normal retirement annuity computed on the coordi-

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nated formula in the manner provided in section 353.29 or to receive an optional annuity as provided in section 353.30, subdivision 3, based on the same length of service as used in the calculation of the disability benefit. Election of an optional annuity must be made before attaining the age of 62 years. The reduction for retirement prior to normal retirement age 65 as provided in section 353.30, subdivisions 1 ~~and~~, 1c, ~~and~~ 5, is not applicable. The savings clause provision of section 353C.06, subdivision 4, is applicable.

Sec. 53. Minnesota Statutes 1988, section 354.05, is amended by adding a subdivision to read:

Subd. 38. NORMAL RETIREMENT AGE. "Normal retirement age" means age 65 for a person who first became a member of the fund before July 1, 1989. For a person who first becomes a member of the fund after June 30, 1989, normal retirement age means the higher of age 65 or "retirement age," as defined in United States Code, title 42, section 416(l), as amended.

Sec. 54. Minnesota Statutes 1988, section 354.35, is amended to read:

354.35 RETIREMENT BEFORE BECOMING ELIGIBLE FOR SOCIAL SECURITY.

Any coordinated member who retires before becoming eligible for social security retirement benefits, may elect to receive an optional retirement annuity from the association which provides for different annuity amounts over different periods of retirement. The election of this optional retirement annuity shall be exercised by making an application to the board on a form provided by the board. The optional annuity shall take the form of an annuity payable for the period before the member attains the normal retirement age of 65 years in a greater amount than the amount of the annuity calculated under section 354.44 on the basis of the age of the member at retirement but equal insofar as possible to the social security old age retirement benefit and the adjusted retirement annuity amount payable immediately after the annuitant becomes eligible for social security old age retirement benefits in an amount less than the amount of the annuity calculated under section 354.44 on the basis of the age of the member at retirement. The social security leveling option may be calculated based on broad average social security old age retirement benefits. The optional annuity shall be the actuarial equivalent of the member's annuity computed on the basis of the member's age at retirement. The greater amount shall be paid until the member reaches the normal retirement age of 65 at which time the payment from the association shall be reduced. The method of computing the optional retirement annuity provided in this section shall be established by the board of trustees. In establishing the method of computing the optional retirement annuity, the board of trustees shall obtain the written recommendation of the commission-retained actuary. The recommendations shall be a part of the permanent records of the board of trustees.

Sec. 55. Minnesota Statutes 1988, section 354.41, subdivision 3, is amended to read:

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Subd. 3. (1) Each annuitant, age 60 or over, who is drawing an annuity pursuant to Minnesota Statutes 1953, section 135.10 and Minnesota Statutes 1965, sections 354.44 and 354.33 shall have the right to have membership in the fund restored upon resumption of teaching service, for the purpose of having deductions made in accordance with sections 354.42 and 355.48. Upon completion of ~~five~~ three years of allowable service, under this subdivision the member shall be entitled to a coordinated annuity provided in section 354.44, subdivision 6. This annuity is in addition to any annuity previously granted under this chapter.

(2) Any annuitant qualifying for membership in the fund under clause (1) may file a written notice with the executive director of the teachers retirement association requesting that deductions provided for in section 354.42 be made from compensation paid for subsequent teaching services. Such notice shall remain in effect until the annuitant requests in writing that this membership be revoked. After July 1, 1967, deductions pursuant to section 355.48 are required for any annuitant eligible for membership in the fund under clause (1). Teaching service rendered by an annuitant for which no deductions were made pursuant to section 354.42, shall not be included in any additional annuity granted pursuant to clause (1) ~~of this subdivision.~~

(3) Teachers retirement deductions made prior to July 1, 1973 from the salary of any annuitant who was qualified for membership in the fund under clause (1) ~~of this subdivision~~ at the time such deductions were made, shall be applicable to the computation of an annuity as provided under clause (1) ~~of this subdivision~~ even if the written notice required in clause (2) ~~of this subdivision~~ has not been filed. The teaching service related to such retirement deductions shall be deemed to be allowable service credit which is applicable to the completion of the ~~five~~ three years of allowable service required in clause (2) ~~of this subdivision.~~

Sec. 56. Minnesota Statutes 1988, section 354.44, subdivision 1, is amended to read:

Subdivision 1. **REQUIREMENTS AS TO AGE AND SERVICE.** Any member or former member who ceases or has ceased to render teaching services in any school or institution covered by the provisions of this chapter, and who has attained the age of at least 55 years with not less than ~~five~~ three years allowable service, or who has received credit for not less than 30 years allowable service regardless of age, is entitled upon written application to a retirement annuity.

Sec. 57. Minnesota Statutes 1988, section 354.44, subdivision 1a, is amended to read:

Subd. 1a. **MANDATORY RETIREMENT.** Notwithstanding the provisions of sections 43A.11 or 197.455 to 197.48, a member who is serving as a faculty member or administrator under a contract of unlimited tenure or similar arrangement providing for unlimited tenure at an institution of higher education, as defined in section 1201(a) of the federal Higher Education Act of 1965,

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as amended through January 1, 1987, shall terminate employment at the end of the academic year in which the member reaches the age of 70. For purposes of this subdivision, an academic year shall be deemed to end August 31. No other member shall be subject to a mandatory retirement age provision. A member who terminates employment at any time during the academic year at the end of which the person is at the normal retirement age 65 or older shall, for the purpose of determining eligibility for a proportionate retirement annuity, be considered to have been required to terminate employment at normal retirement age 65 or older pursuant to section 356.32. Nothing contained in this subdivision shall preclude an employing unit covered by this chapter from employing a retired teacher as a substitute or part time teacher. Any person who has attained the normal retirement age of at least 65 years, who is employed as a substitute or part-time teacher and who earns an amount equal to the annual maximum earnings allowable for that age for the continued receipt of full benefit amounts monthly under the federal old age, survivors and disability insurance program as set by the secretary of health and human services pursuant to the provisions of United States Code, title 42, section 403, in any academic year from employment as a substitute or part-time teacher, shall terminate employment for the remainder of that academic year. No person who has attained the normal retirement age of at least 65 years and who has retired under this chapter may resume membership in the retirement association as a result of subsequent employment as a substitute or part-time teacher.

Sec. 58. Minnesota Statutes 1988, section 354.44, subdivision 6, is amended to read:

Subd. 6. COMPUTATION OF FORMULA PROGRAM RETIREMENT ANNUITY. (1) The formula retirement annuity hereunder shall be computed in accordance with the applicable provisions of the ~~formula~~ formulas stated in clause (2) ~~hereof~~ or (4) on the basis of each member's average salary for the period of the member's formula service credit. For the purposes of computing the formula benefits under the formula and variable program, if a combination of these formulas is used, the formula percentages used will be those percentages in each formula as continued for the respective years of service from one formula to the next.

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

(2) This clause, in conjunction with clause (3), applies to a person who first became a member of the fund before July 1, 1989, unless clause (4), in conjunction with clause (5), produces a higher annuity amount, in which case clause

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(4) applies. The average salary as defined in clause (1), multiplied by the following percentages per year of formula service credit shall determine the amount of the annuity to which the member qualifying therefor is entitled:

	Coordinated Member	Basic Member
Each year of service during first ten	1.0 percent per year	2.0 percent per year
Each year of service thereafter	1.5 percent per year	2.5 percent per year

(3) (i) This clause applies only to a person who first became a member of the fund before July 1, 1989, and whose annuity is higher when calculated under clause (2), in conjunction with this clause than when calculated under clause (4), in conjunction with clause (5).

(ii) Where any member retires prior to normal retirement age 65 under a formula annuity, the member shall be paid a retirement annuity in an amount equal to the normal annuity provided in ~~this subdivision~~ clause (2) and subdivision 7, paragraph (a), reduced by ~~one-half~~ one-quarter of one percent for each month that the member is under normal retirement age 65 ~~to and including age 60~~ and reduced by ~~one-fourth of one percent~~ for each month under age 60 at the time of retirement except that for any member who has 30 or more years of allowable service credit, the reduction shall be applied only for each month ~~which~~ that the member is under age 62.

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

(4) This clause applies to a member who first became a member of the fund after June 30, 1989, and to any other member whose annuity amount when calculated under this clause and in conjunction with clause (5), is higher than it is when calculated under clause (2), in conjunction with clause (3). The average salary, as defined in clause (1) multiplied by 2.5 percent for each year of service for a basic member and by 1.5 percent for each year of service for a coordinated member shall determine the amount of the retirement annuity to which the member is entitled.

(5) This clause applies to a person who first becomes a member of the fund after June 30, 1989, and to any other member whose annuity is higher when calculated under clause (4) in conjunction with this clause than when calculated under clause (2), in conjunction with clause (3). An employee who retires under the formula annuity before the normal retirement age shall be paid the normal annuity provided in clause (4) and subdivision 7, paragraph (b), reduced so that the reduced annuity is the actuarial equivalent of the annuity that would be payable to the employee if the employee deferred receipt of the annuity and the annuity amount were augmented at an annual rate of three percent compounded annually from the day the annuity begins to accrue until the normal retirement age.

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Sec. 59. Minnesota Statutes 1988, section 354.44, subdivision 7, is amended to read:

Subd. 7. **COMPUTATION OF FORMULA AND VARIABLE PROGRAM RETIREMENT ANNUITY.** (a) This paragraph applies to a person who first became a member of the fund before July 1, 1989, unless paragraph (b) produces a higher annuity amount, in which case paragraph (b) applies. The benefits provided in this ~~subdivision~~ paragraph are the sum of the benefits provided by the following:

(1) The benefits provided in subdivision 6, clause (2) for formula service credit prior to the effective date of the original election of this subdivision and subsequent to June 30, 1978 unless the member elects continued participation in the variable program pursuant to Minnesota Statutes 1984, section 354.621, and

(2) The benefits for service credit subsequent to the effective date of the formula and variable program but prior to July 1, 1978 and the benefits for service credit subsequent to June 30, 1978 if the member elects continued participation in the variable program pursuant to Minnesota Statutes 1984, section 354.621, shall be the average salary as defined in subdivision 6, clause (1) of any member multiplied by the following percentages per year of formula service credit,

	Coordinated Member	Basic Member
Each year of service during first ten	.5 percent per year	1.0 percent per year
Each year of service thereafter	.75 percent per year	1.25 percent per year, and

(3) The benefits provided in section 354.62, subdivision 5.

(b) This paragraph applies to a person who first became a member of the fund before July 1, 1989, but whose annuity amount, when calculated under this paragraph, is higher than it is when calculated under paragraph (a). The benefits provided in this paragraph are the sum of the benefits provided by the following:

(1) the benefits provided in subdivision 6, clause (4), for formula service credit before the effective date of the original election of this subdivision and subsequent to June 30, 1978, unless the member elects continued participation in the variable program pursuant to Minnesota Statutes 1984, section 354.621;

(2) the benefits for service credit subsequent to the effective date of the formula and variable program but before July 1, 1978, and the benefits for service credit subsequent to June 30, 1978, if the member elects continued participation in the variable program pursuant to Minnesota Statutes 1984, section 354.621, shall be the average salary as defined in subdivision 6, clause (1), of any member multiplied by 1.25 percent for each year of service for a basic member and by 0.75 percent for each year of service for a coordinated member; and

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(3) the benefits provided in section 354.62, subdivision 5.

Sec. 60. Minnesota Statutes 1988, section 354.45, subdivision 1, is amended to read:

Subdivision 1. **OPTIONAL ANNUITY FORMS.** The retirement board shall establish optional annuities at retirement which shall take the form of an annuity payable for a period certain and for life thereafter or the form of a joint and survivor annuity. The board shall also establish an optional annuity which shall take the form of a guaranteed refund annuity paying the annuitant a fixed amount for life with the guarantee that in the event of death the balance of the accumulated deductions and interest accrued to the date of retirement will be paid to the designated beneficiary. Except as provided in subdivision 1a, any optional annuity forms shall be actuarially equivalent to the normal forms provided in section 354.44. In establishing these optional annuity forms, the board shall obtain the written recommendation of the commission-retained actuary. The recommendations shall be a part of the permanent records of the board.

Sec. 61. Minnesota Statutes 1988, section 354.45, is amended by adding a subdivision to read:

Subd. 1a. BOUNCE-BACK ANNUITY. (a) If a former member or disabilitant selects a joint and survivor annuity option under subdivision 1, the former member or disabilitant must receive a normal single-life annuity if the designated optional annuity beneficiary dies before the former member or disabilitant. Under this option, no reduction may be made in the person's annuity to provide for restoration of the normal single-life annuity in the event of the death of the designated optional annuity beneficiary.

(b) A former member or disabilitant who selected an optional joint and survivor annuity before July 1, 1989, but did not choose an option that provides that the normal single-life annuity is payable to the former member or the disabilitant if the designated optional annuity beneficiary dies first, is eligible for restoration of the normal single-life annuity if the designated optional annuity beneficiary dies first, without further actuarial reduction of the person's annuity. A former member or disabilitant who selected an optional joint and survivor annuity, but whose designated optional annuity beneficiary died before July 1, 1989, shall receive a normal single-life annuity after that date, but shall not receive retroactive payments for periods before that date.

Sec. 62. Minnesota Statutes 1988, section 354.46, subdivision 2, is amended to read:

Subd. 2. **DEATH WHILE ELIGIBLE DESIGNATED BENEFICIARY BENEFIT.** The surviving spouse of any member or former member who has attained the age of at least 50 years and has credit for at least ~~five~~ three years of allowable service or who has credit for at least 30 years of allowable service irrespective of age shall be entitled to joint and survivor annuity coverage in the event of death of the member prior to retirement. If the surviving spouse does

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not elect to receive a surviving spouse benefit provided pursuant to subdivision 1, if applicable, or does not elect to receive a refund of accumulated member contributions provided pursuant to section 354.47, subdivision 1, or 354.62, subdivision 5, clause (3), whichever is applicable, the surviving spouse shall be entitled to receive, upon written application on a form prescribed by the executive director, a benefit equal to the second portion of a 100 percent joint and survivor annuity as provided pursuant to section 354.45 and computed pursuant to section 354.44, subdivision 2, 6 or 7, whichever is applicable. The surviving spouse may apply for the annuity at any time after the date on which the deceased employee would have attained the required age for retirement based on the employee's allowable service. Sections 354.44, subdivisions 6 and 7, and 354.60 apply to a deferred annuity payable under this section. If the member was a participant in the variable annuity division, the applicable portion of the benefit shall be computed pursuant to section 354.62, subdivision 5, clause (1). The benefit shall be payable for life.

Sec. 63. Minnesota Statutes 1988, section 354.47, subdivision 1, is amended to read:

Subdivision 1. **DEATH BEFORE RETIREMENT.** (1) If a member dies before retirement and is covered pursuant to the provisions of section 354.44, subdivision 2, and neither an optional annuity, nor a reversionary annuity, nor a benefit pursuant to section 354.46, subdivision 1 is payable to the survivors if the member was a basic member, the surviving spouse, or if there is no surviving spouse, the designated beneficiary shall be entitled to an amount equal to the member's accumulated deductions with interest credited to the account of the member to the date of death.

(2) If a member dies before retirement and is covered pursuant to the provisions of section 354.44, subdivisions 6 and 7, and neither an optional annuity, nor reversionary annuity, nor the benefit described in section 354.46, subdivision 1 is payable to the survivors if the member was a basic member, the surviving spouse, or if there is no surviving spouse, the designated beneficiary shall be entitled to an amount equal to the member's accumulated deductions credited to the account of the member as of June 30, 1957 and from July 1, 1957 to the date of death the member's accumulated deductions plus interest at the rate of ~~five~~ six percent per annum compounded annually.

(3) The amounts payable in clause (1) or (2) are in addition to the amount payable in section 354.62, subdivision 5, for the member's variable annuity account.

Sec. 64. Minnesota Statutes 1988, section 354.48, subdivision 1, is amended to read:

Subdivision 1. **AGE, SERVICE AND SALARY REQUIREMENTS.** Any member who became totally and permanently disabled after at least ~~five~~ three years of allowable service shall be entitled to a disability benefit in an amount provided in subdivision 3. If such disabled person's teaching service has termi-

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nated at any time, at least ~~three~~ two of the required ~~five~~ three years of allowable service must have been rendered after last becoming a member. Any member whose average salary is less than \$75 per month shall not be entitled to disability benefits.

Sec. 65. Minnesota Statutes 1988, section 354.48, subdivision 3, is amended to read:

Subd. 3. **COMPUTATION OF BENEFITS.** (1) The amount of the disability benefit granted to members covered under section 354.44, subdivision 2, clauses (1) and (2), is an amount equal to double the annuity which could be purchased by the member's accumulated deductions plus interest on the amount computed as though the teacher were at normal retirement age ~~65~~ at the time the benefit begins to accrue and in accordance with the law in effect when the disability application is received. Any member who applies for a disability benefit after June 30, 1974, and who failed to make an election pursuant to Minnesota Statutes 1971, section 354.145, shall have the disability benefit computed under this clause or clause (2), whichever is larger.

The benefit granted shall be determined by the following:

- (a) the amount of the accumulated deductions;
- (b) interest actually earned on these accumulated deductions to the date the benefit begins to accrue;
- (c) interest for the years from the date the benefit begins to accrue to the date the member attains normal retirement age ~~65~~ at the rate of three percent;
- (d) annuity purchase rates based on an appropriate annuity table of mortality established by the board as provided in section 354.07, subdivision 1, and using the applicable postretirement interest rate assumption specified in section 356.215, subdivision 4d.

In addition, a supplementary monthly benefit shall be paid to basic members only in accordance with the following table:

Age When Benefit Begins to Accrue	Supplementary Benefit
Under Age 56	\$50
56	45
57	40
58	35
59	30
60	25
61	20
62	15
63	10
64	5

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(2) The disability benefit granted to members covered under section 354.44, subdivision 6 or 7 shall be computed in the same manner as the annuity provided in section 354.44, subdivision 6 or 7 ~~of that section~~, whichever is applicable. The disability benefit shall be the formula annuity without the reduction for each month the member is under normal retirement age ~~65~~ when the benefit begins to accrue.

(3) For the purposes of computing a retirement annuity when the member becomes eligible, the amounts paid for disability benefits shall not be deducted from the individual member's accumulated deductions. If the disability benefits provided in this subdivision exceed the monthly average salary of the disabled member, the disability benefits shall be reduced to an amount equal to the disabled member's average salary.

Sec. 66. Minnesota Statutes 1988, section 354.48, subdivision 10, is amended to read:

Subd. 10. **RETIREMENT STATUS AT NORMAL RETIREMENT AGE 65**. No person shall be entitled to receive both a disability benefit and a retirement annuity provided by this chapter. The disability benefit paid to a person hereunder shall terminate at the end of the month in which the person attains the normal retirement age ~~of 65 years~~. If the person is still totally and permanently disabled at the beginning of the month next following the month in which the person attains the normal retirement age ~~of 65 years~~, the person shall be deemed to be on retirement status and, if the person had elected an optional annuity pursuant to subdivision 3a, shall receive an annuity in accordance with the terms of the optional annuity previously elected, or, if the person had not elected an optional annuity pursuant to subdivision 3a, may at the option of the person elect to receive either a straight life retirement annuity computed pursuant to section 354.44 or a straight life retirement annuity equal to the disability benefit paid prior to the date on which the person attained the age of 65 years, whichever amount is greater, or elect to receive an optional annuity as provided in section 354.45, subdivision 1. Election of an optional annuity shall be made prior to the person attaining the normal retirement age ~~of 65 years~~. If an optional annuity is elected, the election shall be effective on the date on which the person attains the normal retirement age ~~of 65 years~~ and the optional annuity shall begin to accrue on the first day of the month next following the month in which the person attains ~~the~~ that age ~~of 65 years~~.

Sec. 67. Minnesota Statutes 1988, section 354.49, subdivision 2, is amended to read:

Subd. 2. Except as provided in section 354.44, subdivision 1, any person who ceases to be a member by reason of termination of teaching service, shall receive a refund in an amount equal to the accumulated deductions credited to the account as of June 30, 1957, and after July 1, 1957, the accumulated deductions with interest at the rate of ~~five~~ six percent per annum compounded annually plus any variable annuity account accumulations payable pursuant to

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section 354.62, subdivision 5, clause (4). For the purpose of this subdivision, interest shall be computed on fiscal year end balances to the first day of the month in which the refund is issued.

Sec. 68. Minnesota Statutes 1988, section 354.49, subdivision 3, is amended to read:

Subd. 3. Any person who has attained ~~the~~ normal retirement age of ~~at least 65~~ with less than ~~five~~ three years of credited allowable service shall be entitled to receive a refund in an amount equal to the person's accumulated deductions plus interest in lieu of a proportionate annuity pursuant to section 356.32 except those covered under the provisions of section 354.44, subdivision 6 or 7 in which case the refund shall be an amount equal to the accumulated deductions credited to the person's account as of June 30, 1957, and after July 1, 1957, the accumulated deductions plus interest at the rate of ~~five~~ six percent compounded annually.

Sec. 69. Minnesota Statutes 1988, section 354.55, subdivision 11, is amended to read:

Subd. 11. **DEFERRED ANNUITY; AUGMENTATION.** Any person covered under section 354.44, subdivisions 6 and 7, who ceases to render teaching service may leave the person's accumulated deductions in the fund for the purpose of receiving a deferred annuity at retirement. Eligibility for an annuity under this subdivision shall be governed pursuant to section 354.44, subdivision 1, or 354.60.

The amount of the deferred retirement annuity shall be determined by section 354.44, subdivisions 6 and 7, and augmented as provided in this subdivision. The required reserves related to that portion of the annuity which had accrued when the member ceased to render teaching service shall be augmented by interest compounded annually from the first day of the month following the month during which the member ceased to render teaching service to the effective date of retirement. There shall be no augmentation if this period is less than three months or if this period commences prior to July 1, 1971. The rates of interest used for this purpose shall be five percent compounded annually commencing July 1, 1971, until January 1, 1981, and three percent compounded annually thereafter until January 1 of the year following the year in which the former member attains age 55. From that date to the effective date of retirement, the rate is five percent compounded annually. If a person has more than one period of uninterrupted service, a separate average salary determined under section 354.44, subdivision 6, must be used for each period and 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 basis for purchasing the deferred annuity. If a person repays a refund, the service restored by the repayment must be considered as continuous with the next period of service for which the person has credit with this fund. If a person does not render teaching service in any one fiscal year or more consecutive fiscal

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years and then resumes teaching service, the formula percentages used from the date of the resumption of teaching service shall be those applicable to new members. The mortality table and interest assumption used to compute the annuity shall be the applicable mortality table established by the board under section 354.07, subdivision 1, and the interest rate assumption under section 356.215 in effect when the member retires. A period of uninterrupted service for the purposes of this subdivision means a period of covered teaching service during which the member has not been separated from active service for more than one fiscal year.

The provisions of this subdivision shall not apply to variable account accumulations as defined in section 354.05, subdivision 23.

In no case shall the annuity payable under this subdivision be less than the amount of annuity payable pursuant to section 354.44, subdivisions 6 and 7.

The requirements and provisions for retirement before normal retirement age ~~65~~ contained in section 354.44, subdivision 6, clause ~~(2)~~ (3) or (5), shall also apply to an employee fulfilling the requirements with a combination of service as provided in section 354.60.

The augmentation provided by this subdivision applies to the benefit provided in section 354.46, subdivision 2.

The augmentation provided by this subdivision shall not apply to any period in which a person is on an approved leave of absence from an employer unit covered by the provisions of this chapter.

Sec. 70. Minnesota Statutes 1988, section 354.60, is amended to read:

354.60 SERVICE IN OTHER PUBLIC RETIREMENT FUNDS; ANNUITY.

Any person who has been a member of the Minnesota state retirement system or the public employees retirement association including the public employees retirement association police and fire fund or the teachers retirement association or the Minnesota state patrol 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 police officers or firefighters shall be entitled when qualified to an annuity from each fund if the person's total allowable service in all three funds or in any two of these funds totals ~~five~~ three 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 the person has not taken a refund from any one of these three funds since the person's membership in that association has terminated. The annuity from each fund shall be determined by the appropriate provisions of the law except that the requirement that an annuitant have at least ~~five~~ three years' membership service or ~~five~~ three years of allowable service in the respective association shall not apply for the

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purposes of this section provided the combined service in two or more of these funds equals ~~five~~ three or more years.

Sec. 71. Minnesota Statutes 1988, section 354A.011, is amended by adding a subdivision to read:

Subd. 15a. NORMAL RETIREMENT AGE. "Normal retirement age" means age 65 for a person who first became a member of the coordinated program of the Minneapolis or St. Paul teachers retirement fund association or the new law coordinated program of the Duluth teachers retirement fund association before July 1, 1989. For a person who first became a member of the coordinated program of the Minneapolis or St. Paul teachers retirement fund association or the new law coordinated program of the Duluth teachers retirement fund association after June 30, 1989, normal retirement age means the higher of age 65 or retirement age, as defined in United States Code, title 42, section 416(l), as amended. For a person who is a member of the basic program of the Minneapolis or St. Paul teachers retirement fund association or the old law coordinated program of the Duluth teachers retirement fund association, normal retirement age means the age at which a teacher becomes eligible for a normal retirement annuity computed upon meeting the age and service requirements specified in the applicable provisions of the articles of incorporation or bylaws of the respective teachers retirement fund association.

Sec. 72. Minnesota Statutes 1988, section 354A.011, subdivision 20, is amended to read:

Subd. 20. REDUCED RETIREMENT ANNUITY. "Reduced retirement annuity" means for a coordinated member the retirement annuity computed pursuant to section 354A.31, subdivision 4, reduced pursuant to section 354A.31, subdivision 6 or 7, and paid or payable to a member upon meeting the minimum age and service requirements specified in section 354A.31, subdivision 1, but prior to meeting the age and service requirements specified in section 354A.31, subdivision 5, and for a basic member the retirement annuity computed pursuant to and paid or payable to a member upon meeting the minimum age and service requirements specified in but prior to meeting the age and service requirements for a normal retirement annuity specified in the applicable provisions of the articles of incorporation or bylaws of the respective teachers retirement fund association.

Sec. 73. Minnesota Statutes 1988, section 354A.21, is amended to read:

354A.21 PROPORTIONATE ANNUITY.

A teacher who terminates employment at any time during the academic year at the end of which the teacher is required to terminate employment pursuant to this section shall be entitled upon application to a proportionate retirement annuity pursuant to section 356.32. Nothing contained in this section shall preclude a district from employing a retired teacher as a substitute teacher but upon having earned an amount equal to the annual maximum

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earnings allowable for that age for the continued receipt of full benefit amounts monthly under the federal old age, survivors and disability insurance program as set by the secretary of health and human services pursuant to the provisions of United States Code, title 42, section 403, in any academic year from employment as a substitute teacher, any person over the age of 70 years shall terminate employment for the remainder of that academic year. No person employed as a substitute teacher after reaching the normal retirement age of ~~at least 65 years~~ and who has retired under this chapter shall resume membership in the teachers retirement fund association by virtue of the employment as a substitute teacher.

Sec. 74. Minnesota Statutes 1988, section 354A.31, subdivision 1, is amended to read:

Subdivision 1. **AGE AND SERVICE REQUIREMENTS.** Any coordinated member or former coordinated member who has ceased to render teaching service for the school district in which the teachers retirement fund association exists and who has either attained the age of at least 55 years with not less than ~~five~~ three years of allowable service credit or received credit for not less than 30 years of allowable service regardless of age, shall be entitled upon written application to a retirement annuity.

Sec. 75. Minnesota Statutes 1988, section 354A.31, subdivision 4, is amended to read:

Subd. 4. **COMPUTATION OF THE NORMAL COORDINATED RETIREMENT ANNUITY.** (a) The normal coordinated retirement annuity shall be an amount equal to a retiring coordinated member's average salary multiplied by the retirement annuity formula percentage. Average salary for purposes of this section shall mean an amount equal to the average salary upon which contributions were made for the highest five successive years of service credit, but which shall not in any event include any more than the equivalent of 60 monthly salary payments. Average salary must be based upon all years of service credit if this service credit is less than five years.

(b) This paragraph, in conjunction with subdivision 6, applies to a person who first became a member before July 1, 1989, unless paragraph (c), in conjunction with subdivision 7, produces a higher annuity amount, in which case paragraph (c) will apply. The retirement annuity formula percentage for purposes of this section ~~shall mean~~ paragraph is one percent per year for each year of coordinated service for the first ten years and 1-1/2 percent for each year of coordinated service thereafter.

(c) This paragraph applies to a person who first becomes a member after June 30, 1989, and to any other member whose annuity amount, when calculated under this paragraph and in conjunction with subdivision 7 is higher than it is when calculated under paragraph (b), in conjunction with the provisions of subdivision 6. The retirement annuity formula percentage for purposes of this paragraph is 1-1/2 percent for each year of coordinated service.

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Sec. 76. Minnesota Statutes 1988, section 354A.31, subdivision 5, is amended to read:

Subd. 5. **UNREDUCED NORMAL RETIREMENT ANNUITY.** Upon retirement at normal retirement age 65 with at least ~~five~~ three years of service credit or ~~at age 62 with at least 30 years of service credit~~, a coordinated member shall be entitled to a normal retirement annuity calculated pursuant to subdivision 4.

Sec. 77. Minnesota Statutes 1988, section 354A.31, subdivision 6, is amended to read:

Subd. 6. **REDUCED RETIREMENT ANNUITY.** This subdivision applies only to a person who first became a coordinated member before July 1, 1989, and whose annuity is higher when calculated using the retirement annuity formula percentage in subdivision (4), paragraph (b), in conjunction with this subdivision than when calculated under subdivision 4, paragraph (c), in conjunction with subdivision 7.

(a) Upon retirement at an age prior to normal retirement age 65 with ~~five~~ three years of service credit or prior to age 62 with at least 30 years of service credit, a coordinated member shall be entitled to a retirement annuity in an amount equal to the normal retirement annuity calculated using the retirement annuity formula percentage in subdivision (4), paragraph (b), reduced by ~~one-half one-quarter~~ one-half one-quarter of one percent for each month that the coordinated member is under ~~the normal retirement age of 65~~ if the coordinated member has less than 30 years of service credit or is under the age of 62 if the coordinated member has at least 30 years of service credit ~~but is over the age of 59, and reduced by one-fourth of one percent for each month that the coordinated member is under the age of 60.~~

(b) Any coordinated member whose attained age plus credited allowable service totals 90 years is entitled, upon application, to a retirement annuity in an amount equal to the normal retirement annuity calculated using the retirement annuity formula percentage in subdivision (4), paragraph (b), without any reduction by reason of early retirement.

Sec. 78. Minnesota Statutes 1988, section 354A.31, is amended by adding a subdivision to read:

Subd. 7. **ACTUARIAL REDUCTION FOR EARLY RETIREMENT.** This subdivision applies to a person who first becomes a coordinated member after June 30, 1989, and to any other coordinated member whose annuity is higher when calculated using the retirement annuity formula percentage in subdivision 4, paragraph (c), in conjunction with this subdivision than when calculated under subdivision 4, paragraph (b), in conjunction with subdivision 6. A coordinated member who retires before the full benefit age shall be paid the retirement annuity calculated using the retirement annuity formula percentage in subdivision 4, paragraph (c), reduced so that the reduced annuity is the actuarial equivalent of the annuity that would be payable to the member if the member deferred receipt of the annuity and the annuity amount were augmented at an annual rate of three percent compounded annually from the day the annuity begins to accrue until the normal retirement age.

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Sec. 79. Minnesota Statutes 1988, section 354A.32, subdivision 1, is amended to read:

Subdivision 1. **OPTIONAL FORMS GENERALLY.** The boards of the Minneapolis and the St. Paul teachers retirement fund associations shall each establish for the coordinated program and the board of the Duluth teachers retirement fund association shall establish for the new law coordinated program an optional retirement annuity which shall take the form of a joint and survivor annuity. Each 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. ~~Each board shall also establish an optional retirement annuity which shall take the form of a guarantee that in the event of death the balance of the accumulated deductions shall be paid to a designated beneficiary.~~ Except as provided in subdivision 1a, optional annuity forms shall be the actuarial equivalent of the normal forms provided in section 354A.31. In establishing these optional annuity forms, the board shall obtain the written recommendation of the commission-retained actuary. The recommendation shall be a part of the permanent records of the board.

Sec. 80. Minnesota Statutes 1988, section 354A.32, is amended by adding a subdivision to read:

Subd. 1a. **BOUNCE-BACK ANNUITY.** (a) If a former coordinated member or disabilitant has selected a joint and survivor annuity option under subdivision 1, the former member or disabilitant must receive a normal single-life annuity if the designated optional annuity beneficiary dies before the former member or disabilitant. Under this option, no reduction may be made in the person's annuity to provide for restoration of the normal single-life annuity in the event of the death of the designated optional annuity beneficiary.

(b) A former coordinated member or disabilitant who selected an optional joint and survivor annuity before July 1, 1989, but did not choose an option that provides that the normal single-life annuity is payable to the former member or the disabilitant if the designated optional annuity beneficiary dies first, is eligible for restoration of the normal single-life annuity if the designated optional annuity beneficiary dies first, without further actuarial reduction of the person's annuity. A former member or disabilitant who selected an optional joint and survivor annuity, but whose designated optional annuity beneficiary died before July 1, 1989, shall receive a normal single-life annuity after that date, but shall not receive retroactive payments for periods before that date.

(c) A former coordinated member or disabilitant who took a further actuarial reduction to elect an optional joint and survivor annuity that provides that the normal annuity is payable to the former member or disabilitant if the designated optional beneficiary died before July 1, 1989, shall have the annuity increased as of July 1, 1989, to the amount the person would have received if, at the time of retirement or disability, the person had selected only optional survivor coverage that would not have provided for restoration of the normal annuity upon the death of the designated optional annuity beneficiary. Any annuity or benefit increase under this paragraph is effective only for payments made after June 30, 1989, and is not retroactive for payments made before July 1, 1989.

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Sec. 81. Minnesota Statutes 1988, section 354A.35, subdivision 1, is amended to read:

Subdivision 1. **DEATH BEFORE RETIREMENT; REFUND.** If a coordinated member or former coordinated member dies prior to retirement or prior to the receipt of any retirement annuity or other benefit payment which is or may be payable and a surviving spouse optional annuity is not payable pursuant to subdivision 2, a refund shall be paid to the person's surviving spouse, or if there is none, to the person's designated beneficiary, or if there is none, to the legal representative of the person's estate. The refund shall be in an amount equal to the person's accumulated contributions plus interest at the rate of ~~five~~ six percent per annum compounded annually.

Sec. 82. Minnesota Statutes 1988, section 354A.35, subdivision 2, is amended to read:

Subd. 2. **DEATH WHILE ELIGIBLE TO RETIRE; SURVIVING SPOUSE OPTIONAL ANNUITY.** The surviving spouse of any coordinated member who has attained the age of at least 50 years and has credit for at least ~~five~~ three years of service or has credit for at least 30 years of service regardless of age shall be entitled to joint and survivor annuity coverage in the event of death of the member prior to retirement. The surviving spouse may apply for the annuity at any time after the date on which the deceased employee would have attained the required age for retirement based on the employee's allowable service. The member's surviving spouse shall be paid a joint and survivor annuity as provided in section 354A.32 and computed pursuant to section 354A.31. Sections 354A.37, subdivision 2, and 354A.39 apply to a deferred annuity payable under this section. The benefits shall be payable for life.

Sec. 83. Minnesota Statutes 1988, section 354A.36, subdivision 1, is amended to read:

Subdivision 1. **MINIMUM AGE, SERVICE AND SALARY REQUIREMENTS.** Any coordinated member who has at least ~~five~~ three years of allowable service credit, has an average salary of at least \$75 per month and has become totally and permanently disabled shall be entitled to a disability benefit. If the disabled coordinated member's allowable service credit has not been continuous, at least ~~three~~ two years of the required allowable service shall be required to have been rendered subsequent to the last interruption in service.

Sec. 84. Minnesota Statutes 1988, section 354A.36, subdivision 3, is amended to read:

Subd. 3. **COMPUTATION OF DISABILITY BENEFIT.** The coordinated permanent disability benefit shall be an amount equal to the normal coordinated retirement annuity computed pursuant to section 354A.31, subdivision 4, based on allowable service credited to the date of disability but without any reduction for the commencement of the benefit prior to the attainment of normal retirement age ~~65~~ or age 62 with at least 30 years of service credit as specified in

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section 354A.31, subdivision 6. The disabled coordinated member shall not be entitled to elect an optional annuity form pursuant to section 354A.32 prior to attaining normal retirement age ~~65~~ as provided in subdivision 10.

Sec. 85. Minnesota Statutes 1988, section 354A.36, subdivision 10, is amended to read:

Subd. 10. **RETIREMENT STATUS UPON ATTAINING NORMAL RETIREMENT AGE 65**. No person shall be entitled to receive both a disability benefit under this section and a retirement annuity under section 354A.31. If a disability benefit recipient remains totally and permanently disabled upon attaining normal retirement age ~~65~~, the disability benefit shall terminate and the former disability benefit recipient shall be deemed to be on retirement status. If the former disability benefit recipient had elected an optional annuity pursuant to subdivision 3a, the recipient shall receive an annuity in accordance with the terms of the optional annuity previously elected, or if the recipient had not elected an optional annuity pursuant to subdivision 3a, the recipient shall be entitled either to receive a retirement annuity in an amount equal to the greater of either a single life retirement annuity calculated pursuant to section 354A.31 or the disability benefit paid to the recipient immediately prior to the recipient's attaining normal retirement age ~~65~~ or elect either a single life retirement annuity as provided in this section or an actuarial equivalent optional form retirement annuity as provided in section 354A.32. Election of an optional annuity shall be made prior to the person attaining the normal retirement age of ~~65 years~~. If an optional annuity is elected, the election shall be effective on the date on which the person attains the normal retirement age of ~~65 years~~ and the optional annuity shall begin to accrue on the first day of the month next following the month in which the person attains the normal retirement age of ~~65 years~~.

Sec. 86. Minnesota Statutes 1988, section 354A.37, subdivision 2, is amended to read:

Subd. 2. **ELIGIBILITY FOR DEFERRED RETIREMENT ANNUITY**. Any coordinated member who ceases to render teaching services for the school district in which the teachers retirement fund association is located, with sufficient allowable service credit to meet the minimum service requirements specified in section 354A.31, subdivision 1, shall be entitled to a deferred retirement annuity in lieu of a refund pursuant to subdivision 1. The deferred retirement annuity shall be computed pursuant to section 354A.31 and ~~it shall be augmented as provided in this subdivision~~. The deferred annuity shall commence upon application after the person on deferred status attains at least the minimum age specified in section 354A.31, subdivision 1.

The monthly annuity amount that had accrued when the member ceased to render teaching service must be augmented from the first day of the month following the month during which the member ceased to render teaching service to the effective date of retirement. There is no augmentation if this period is less than three months. The rate of augmentation is three percent compounded annually until January 1 of the year following the year in which the former

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member attains age 55, and five percent compounded annually after that date to the effective date of retirement. If a person has more than one period of uninterrupted service, a separate average salary determined under section 354A.31 must be used for each period, and the monthly annuity amount related to each period must be augmented as provided in this subdivision. The sum of the augmented monthly annuity amounts determines the total deferred annuity payable. If a person repays a refund, the service restored by the repayment must be considered as continuous with the next period of service for which the person has credit with the fund. If a person does not render teaching services in any one fiscal year or more consecutive fiscal years and then resumes teaching service, the formula percentages used from the date of resumption of teaching service are those applicable to new members. The mortality table and interest assumption used to compute the annuity are the table established by the fund to compute other annuities, and the interest assumption under section 356.215 in effect when the member retires. A period of uninterrupted service for the purpose of this subdivision means a period of covered teaching service during which the member has not been separated from active service for more than one fiscal year.

The augmentation provided by this subdivision applies to the benefit provided in section 354A.35, subdivision 2. The augmentation provided by this subdivision does not apply to any period in which a person is on an approved leave of absence from an employer unit.

Sec. 87. Minnesota Statutes 1988, section 354A.37, subdivision 3, is amended to read:

Subd. 3. **COMPUTATION OF REFUND AMOUNT.** A former coordinated member who qualifies for a refund pursuant to subdivision 1 shall receive a refund equal to the amount of the former coordinated member's accumulated contributions with interest at the rate of five six percent per annum compounded annually.

Sec. 88. Minnesota Statutes 1988, section 354A.37, subdivision 4, is amended to read:

Subd. 4. **CERTAIN REFUNDS AT NORMAL RETIREMENT AGE 65.** Any coordinated member who has attained the normal retirement age of at least 65 with less than ten years of allowable service credit and has terminated active teaching service shall be entitled to a refund in lieu of a proportionate annuity pursuant to section 356.32. The refund shall be equal to the coordinated member's accumulated employee contributions plus interest at the rate of five six percent compounded annually.

Sec. 89. Minnesota Statutes 1988, section 354A.39, is amended to read:

354A.39 SERVICE IN OTHER PUBLIC RETIREMENT FUNDS; ANNUITY.

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Any person who has been a member of the Minnesota state retirement system, the public employees retirement association including the public employees retirement association police and fire fund, the teachers retirement association, the Minnesota state patrol retirement association, the legislators retirement plan, the constitutional officers retirement plan, the Minneapolis employees retirement fund, the Duluth teachers retirement fund association new law coordinated program, the Minneapolis teachers retirement fund association coordinated program, the St. Paul teachers retirement fund association coordinated program, or any other public employee retirement system in the state of Minnesota having a like provision but excluding all other funds providing retirement benefits for police officers or firefighters shall be entitled when qualified to an annuity from each fund if the person's total allowable service in all of the funds or in any two or more of the funds totals ~~five~~ three or more years, provided that no portion of the allowable service upon which the retirement annuity from one fund is based is used again in the computation for a retirement annuity from another fund and provided further that the person has not taken a refund from any of funds or associations since the person's membership in the fund or association has terminated. The annuity from each fund or association shall be determined by the appropriate provisions of the law governing each fund or association, except that the requirement that a person must have at least ~~five~~ three years of allowable service in the respective fund or association shall not apply for the purposes of this section, provided that the aggregate service in two or more of these funds equals ~~five~~ three or more years.

Sec. 90. Minnesota Statutes 1988, section 356.215, subdivision 4d, is amended to read:

Subd. 4d. **INTEREST AND SALARY ASSUMPTIONS.** For funds governed by chapters 3A, 352, 352B, 352C, 353, 353C, 354 other than the variable annuity fund governed by section 354.62, and 490, the actuarial valuation shall use a preretirement interest assumption of ~~eight~~ 8.5 percent, a postretirement interest assumption of five percent, and an assumption that in each future year the salary on which a retirement or other benefit is based is 1.065 multiplied by the salary for the preceding year. For funds governed by chapter 354A, the actuarial valuation shall use preretirement and postretirement assumptions of ~~eight~~ 8.5 percent and an assumption that in each future year the salary on which a retirement or other benefit is based is 1.065 multiplied by the salary for the preceding year, but the actuarial valuation shall reflect the payment of postretirement adjustments to retirees shall be based on the methods specified in the bylaws of the fund as approved by the legislature. For all other funds, the actuarial valuation shall use a preretirement interest assumption of five percent, a postretirement interest assumption of five percent, and an assumption that in each future year the salary on which a retirement or other benefit is based is 1.035 multiplied by the salary for the preceding year.

For funds governed by chapters 3A, 352C, and 490, the actuarial valuation shall use a preretirement interest assumption of ~~eight~~ 8.5 percent, a postretirement interest assumption of five percent, and an assumption that in each future

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year in which the salary amount payable is not determinable from section 3.099, 15A.081, subdivision 6, or 15A.083, subdivision 1, whichever is applicable, or from applicable compensation council recommendations under section 15A.082, the salary on which a retirement or other benefit is based is 1.065 multiplied by the known or computed salary for the preceding year, whichever is applicable.

Sec. 91. Minnesota Statutes 1988, section 356.215, subdivision 4g, is amended to read:

Subd. 4g. **AMORTIZATION CONTRIBUTIONS.** In addition to the exhibit indicating the level normal cost, the actuarial valuation shall contain an exhibit indicating the additional annual contribution which would be required to amortize the unfunded actuarial accrued liability. For funds governed by chapters 3A, 352, 352B, 352C, 353, 353C, 354, 354A, and 490, the additional contribution shall be calculated on a level percentage of covered payroll basis by the established date for full funding which is in effect when the valuation is prepared. The level percent additional contribution shall be calculated assuming annual payroll growth of 6.5 percent. For all other funds, the additional annual contribution shall be calculated on a level annual dollar amount basis.

If, for any fund other than the Minneapolis employees retirement fund, after the first actuarial valuation date occurring after June 1, ~~1979~~ 1989, there has not been a change in the actuarial assumptions used for calculating the actuarial accrued liability of the fund, a change in the benefit plan governing annuities and benefits payable from the fund, a change in the actuarial cost method used in calculating the actuarial accrued liability of all or a portion of the fund, or a combination of the three, which change or changes by themselves without inclusion of any other items of increase or decrease produce a net increase in the unfunded actuarial accrued liability of the fund, the established date for full funding for the first actuarial valuation made after June 1, ~~1979~~ 1989, and each successive actuarial valuation shall be the first actuarial valuation date which occurs after June 1, ~~2009~~ 2020.

If, for any fund or plan other than the Minneapolis employees retirement fund, after the first actuarial valuation date occurring after June 1, ~~1979~~ 1989, there has been a change in any or all of the actuarial assumptions used for calculating the actuarial accrued liability of the fund, a change in the benefit plan governing annuities and benefits payable from the fund, a change in the actuarial cost method used in calculating the actuarial accrued liability of all or a portion of the fund, or a combination of the three, and the change or changes, by themselves and without inclusion of any other items of increase or decrease, produce a net increase in the unfunded actuarial accrued liability in the fund, the established date for full funding shall be determined using the following procedure:

(i) the unfunded actuarial accrued liability of the fund shall be determined in accordance with the plan provisions governing annuities and retirement benefits and the actuarial assumptions in effect before an applicable change;

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(ii) the level annual dollar contribution or level percentage, whichever is applicable, which is needed to amortize the unfunded actuarial accrued liability amount determined pursuant to subclause (i) by the established date for full funding in effect prior to the change shall be calculated using the interest assumption specified in subdivision 4d in effect before the change;

(iii) the unfunded actuarial accrued liability of the fund shall be determined in accordance with any new plan provisions governing annuities and benefits payable from the fund and any new actuarial assumptions and the remaining plan provisions governing annuities and benefits payable from the fund and actuarial assumptions in effect before the change;

(iv) the level annual dollar contribution or level percentage, whichever is applicable, which is needed to amortize the difference between the unfunded actuarial accrued liability amount calculated pursuant to subclause (i) and the unfunded actuarial accrued liability amount calculated pursuant to subclause (iii) over a period of 30 years from the end of the plan year in which the applicable change is effective shall be calculated using the applicable interest assumption specified in subdivision 4d in effect after any applicable change;

(v) the level annual dollar or level percentage amortization contribution pursuant to subclause (iv) shall be added to the level annual dollar amortization contribution or level percentage calculated pursuant to subclause (ii);

(vi) the period in which the unfunded actuarial accrued liability amount determined in subclause (iii) will be amortized by the total level annual dollar or level percentage amortization contribution computed pursuant to subclause (v) shall be calculated using the interest assumption specified in subdivision 4d in effect after any applicable change, rounded to the nearest integral number of years, but which shall not exceed a period of 30 years from the end of the plan year in which the determination of the established date for full funding using the procedure set forth in this clause is made and which shall not be less than the period of years beginning in the plan year in which the determination of the established date for full funding using the procedure set forth in this clause is made and ending by the date for full funding in effect before the change; and

(vii) the period determined pursuant to subclause (vi) shall be added to the date as of which the actuarial valuation was prepared and the date obtained shall be the new established date for full funding.

For the Minneapolis employees retirement fund, the established date for full funding shall be June 30, 2017.

Sec. 92. Minnesota Statutes 1988, section 356.30, subdivision 1, is amended to read:

Subdivision 1. ELIGIBILITY; COMPUTATION OF ANNUITY. (1) Notwithstanding any provisions to the contrary of the laws governing the funds enumerated in subdivision 3, a person who has met the qualifications of clause

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(2) may elect to receive a retirement annuity from each fund in which the person has at least six months allowable service, based on the allowable service in each fund, subject to the provisions of clause (3).

(2) A person may receive upon retirement, in lieu of any augmentation of deferred annuities provided by laws governing the funds enumerated in subdivision 3, a retirement annuity from each fund in which the person has at least six months allowable service if

(a) the person has allowable service totaling ~~five or more years~~ an amount that allows the person to receive an annuity in any two or more of the enumerated funds;

(b) the person has at least six months of allowable service with the last such fund earned during the last period of employment; and

(c) the person has not begun to receive an annuity from any enumerated fund or the person has made application for benefits from all funds within a six-month period.

(3) The retirement annuity from each fund shall be based upon the allowable service in each fund, except that:

(a) The laws governing annuities shall be the law in effect on the date of final termination from the last public service under a covered fund.

(b) The "average salary" on which the annuity from each covered fund in which the employee has credit in a formula plan shall be based on the employee's highest five successive years of covered salary during the entire service in covered funds.

(c) The formula percentages to be used by each fund shall be those percentages prescribed by each fund's formula as continued for the respective years of allowable service from one fund to the next, recognizing all previous allowable service with the other covered funds.

(d) Allowable service in all the funds shall be combined in determining eligibility for and the application of each fund's provisions in respect to actuarial reduction in the benefit amount for retirement prior to normal retirement.

(e) The benefit amount payable for any allowable service under a nonformula plan of a covered fund shall not be affected but such service and covered salary shall be used in the above calculation.

(f) This section shall not apply to any person whose final termination from the last public service under a covered fund is prior to May 1, 1975.

(g) For the purpose of computing benefits under this section the formula percentages used by any covered fund shall in no event exceed 2-1/2 percent per year of service for any year of service or fraction thereof.

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(h) Any period of time for which a person has credit in more than one of the covered funds shall be used only once for the purpose of determining total allowable service.

(i) If the period of duplicated service credit is more than six months, or the person has credit for more than six months with each of the funds, each fund shall apply its formula to a prorated service credit for the period of duplicated service based on a fraction of the salary on which deductions were paid to that fund for the period divided by the total salary on which deductions were paid to all funds for the period.

(j) If the period of duplicated service credit is less than six months, or when added to other service credit with that fund is less than six months, the service credit shall be ignored and a refund of contributions made to the person in accord with that fund's refund provisions.

Sec. 93. Minnesota Statutes 1988, section 356.32, subdivision 1, is amended to read:

Subdivision 1. **PROPORTIONATE RETIREMENT ANNUITY.** Notwithstanding any provision to the contrary of the laws governing any of the retirement funds referred to in subdivision 2, any person who is an active member of any applicable fund, who has credit for at least one year but less than ten years of allowable service in one or more of the applicable funds, and who terminates active service pursuant to a mandatory retirement law or policy or at age 65 or older, or the normal retirement age if this age is not age 65, for any reason shall be entitled upon making written application on the form prescribed by executive director or executive secretary of the fund to a proportionate retirement annuity from each applicable fund in which the person has allowable service credit. The proportionate annuity shall be calculated under the applicable laws governing annuities based upon allowable service credit at the time of retirement and the person's average salary for the highest five successive years of allowable service or the average salary for the entire period of allowable service if less than five years. Nothing in this section shall prevent the imposition of the appropriate early retirement reduction of an annuity which commences prior to normal retirement age.

Sec. 94. **FIRST CLASS CITY TEACHER FUNDS.**

In accordance with Minnesota Statutes, section 354A.12, subdivision 4, approval is granted for the teachers retirement fund associations in each of the cities of the first class to amend their articles of incorporation or bylaws in the manner specified in this section. The amendments apply only to basic members in the Minneapolis teachers retirement fund association and the St. Paul teachers retirement fund association, and to old law coordinated program members in the Duluth teachers retirement fund association.

(a) For purposes of this paragraph, the retirement formula percentages are:

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(1) for Minneapolis teachers retirement fund: 2.25 percent for each year of service;

(2) for St. Paul teachers retirement fund: 2.0 percent for each year of service; and

(3) for Duluth teachers retirement fund old coordinated plan: 1.25 percent for each year of service.

A member whose age plus credited allowable service totals 90 years, is entitled upon termination of active service and application, to a normal retirement annuity provided in the articles and bylaws without any reduction in the amount of the annuity by reason of early retirement unless the benefit in paragraph (b) in conjunction with paragraph (c) produces a higher annuity in which case, paragraph (b) applies. A member who retires before the normal retirement age shall be provided a normal retirement annuity provided in the articles and bylaws, reduced by one-fourth of one percent for each month that the employee is under normal retirement age at the time of retirement unless the benefit in paragraph (b) in conjunction with paragraph (c) produces a higher annuity, in which case paragraph (b) applies. For the Minneapolis teachers retirement association, this paragraph applies only to basic members with less than 30 years of service who have attained age 55. For Minneapolis teachers retirement fund basic members who were first hired after July 1, 1977, and who have 30 or more years of service, the early retirement penalty contained in the articles and bylaws is repealed.

(b) This paragraph applies only to a member whose annuity, when calculated under this paragraph in conjunction with paragraph (c), is higher than when calculated under paragraph (a). The average salary, as specified in the bylaws of St. Paul teachers retirement fund association, the bylaws of Duluth teachers retirement fund association, and the bylaws of Minneapolis teachers retirement fund association, multiplied by 2.5 percent for each year of service for basic members and 1.5 percent for each year of service for old coordinated members of Duluth teachers retirement fund association, shall determine the amount of the retirement annuity to which a member is entitled.

(c) This paragraph applies only to a member whose annuity under paragraph (b) in conjunction with this paragraph is higher than when calculated under paragraph (a). A member who retires under the formula annuity specified in paragraph (b) before the normal retirement age defined in section 354A.011, shall be paid the normal annuity provided in paragraph (b) reduced so that the reduced annuity is the actuarial equivalent of the annuity that would be payable to the employee if the employee deferred receipt of the annuity and the annuity amount were augmented at an annual rate of three percent compounded annually from the day the annuity begins to accrue until the normal retirement age.

(d) The interest rate to be paid on refunds is six percent per annum compounded annually.

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(e) Any joint and survivor annuity option is subject to an automatic bounce-back annuity as provided in section 354A.32, subdivision 1a.

(f) A member who is eligible for a deferred retirement annuity shall have the annuity augmented as provided in section 354A.37, subdivision 2.

(g) The first class city teachers retirement funds, may provide optional annuity forms to its retirement program which are the actuarial equivalent of its normal retirement annuity. For all optional forms, the board shall obtain the written recommendation of an approved actuary and the recommendation shall be a part of the permanent records of the board.

Sec. 95. [356.82] SAVINGS CLAUSE.

The intent of the legislature in sections 352.01, subdivision 25; 353.01, subdivision 35; 354.05, subdivision 38; and 354A.011, subdivision 15a is to create a normal retirement age for persons first covered by those sections after the effective date of those sections that is the same as the retirement age in the federal Social Security law, including future amendments to that law. If a court determines that the legislature may not incorporate by reference the future changes in federal Social Security law, the legislature reserves the right to amend the appropriate sections to make the normal retirement conform to the retirement age in the federal Social Security law. No person first covered by any of those sections after the effective date of those sections has a right to a normal retirement age that is less than the retirement age in the federal Social Security law.

Sec. 96. [356.85] REVIEW OF RULE OF 90.

By September 1, 1993, the executive directors of the teachers retirement association, the state retirement system, and each teachers retirement fund association in a city of the first class must calculate the number of employees who were eligible to retire without any reduction in their annuity due to early retirement because their attained age plus credited allowable service totaled 90 years between the effective date of sections 352.116; 354.44, subdivision 6; 354A.31, subdivision 6, and 98 and June 30, 1993. The executive directors must also calculate the number of these employees who did retire early and who received an unreduced annuity because their attained age plus credited allowable service totaled 90 years. The executive directors must report the results of their calculation to the executive director of the legislative commission on pensions and retirement. If the calculation shows that number of employees from all of the systems combined who did retire under the rule of 90 is more than 45 percent of the number from all the systems who were eligible to retire under the rule of 90, sections 352.116, subdivision 1, paragraph (b), section 354.44, subdivision 6, clause (3)(iii), section 354A.31, subdivision 6, paragraph (b), and any provision in the bylaws or articles of incorporation of a teachers retirement fund association in the city of the first class that permits unreduced retirement under the rule of 90 are not effective after June 30, 1994. The executive directors must make a similar combined calculation before September 1, 1998 and September 1 every five years after that, based on use of the rule of 90 during the four year period ending on the most recent June 30. If any calculation shows

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that the number of employees who retired under the rule of 90 is more than 45 percent of the number eligible to retire under the rule of 90, sections 352.116, subdivision 1, paragraph (b), section 354.44, subdivision 6, clause (3)(iii), section 354A.31, subdivision 6, paragraph (b), and any provision in the bylaws or articles of incorporation of a teachers retirement fund association in the city of the first class that permits unreduced retirement under the rule of 90 are not effective after the following June 30. The legislature reserves the right to amend or repeal sections 352.116, subdivision 1, paragraph (b), section 354.44, subdivision 6, clause (3)(iii), section 354A.31, subdivision 6, paragraph (b), and any provision in the bylaws or articles of incorporation of a teachers retirement fund association in the city of the first class that permits unreduced retirement under the rule of 90, effective July 1, 1994 and July 1 every fifth year after 1994.

Sec. 97. APPROPRIATION.

Subdivision 1. GENERAL FUND. There is appropriated from the general fund to the commissioner of finance \$3,916,000 in fiscal year 1990 and \$4,123,000 in fiscal year 1991 for allocation among state agencies and the University of Minnesota to offset the costs of increases in the employer contribution rate for the general plan of the Minnesota state retirement system. Of these amounts, \$800,000 in fiscal year 1990 and \$850,000 in fiscal year 1991 is for allocation among state supported accounts at the University of Minnesota in proportion to estimated salaries paid to members of the general plan of the Minnesota state retirement system; \$3,001,000 in fiscal year 1990 and \$3,152,000 in fiscal year 1991 is for allocation among state agencies in proportion to estimated salaries paid from the state general fund to members of the general plan of the Minnesota state retirement system; and \$115,000 in fiscal year 1990 and \$121,000 in fiscal year 1991 is for allocation to state agencies in proportion to the estimated fiscal year 1989 salary part of the cost of services purchased by the agencies with state general fund monies from the following internal service funds: computer services, plant management, printing, motor pool, central stores, micrographics, telecommunications, general services, and office equipment.

Subd. 2. OTHER FUNDS. Except as limited by the direct appropriations from the state general fund made in this section, the amounts necessary to pay the cost of increases in the employer contribution rate for the general plan of the Minnesota state retirement system, are appropriated from the various funds in the state treasury from which salaries are paid, to the commissioner of finance, for the fiscal years ending June 30, 1990 and June 30, 1991.

Sec. 98. REPEALER.

Minnesota Statutes 1988, section 354A.32, subdivision 2, is repealed.

Sec. 99. EFFECTIVE DATE.

Sections 1 to 96 and 98 are effective May 16, 1989. Sections 86 and 94, paragraph (f), are effective May 16, 1989, and apply retroactively to a person who is eligible for a deferred retirement annuity on that date, and whose retire-

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ment annuity has not begun to accrue. The increased employee or member and employer contribution rates are effective on the first day of the first pay period occurring after July 1, 1989.

ARTICLE 14

PARTIAL POSTRETIREMENT ADJUSTMENTS

Section 1. Minnesota Statutes 1988, section 11A.18, subdivision 9, is amended to read:

Subd. 9. **CALCULATION OF POSTRETIREMENT ADJUSTMENT.** Annually, following June 30, the state board shall determine whether a postretirement adjustment ~~shall be~~ is payable and shall determine the amount of any postretirement adjustment ~~which shall be~~ that is payable.

(1) The state board shall determine whether a postretirement adjustment ~~shall be~~ is payable using the following procedure:

(a) The state board shall determine the amount of dividends, interest, accruals and realized capital gains or losses applicable to the most recent fiscal year ending June 30;

(b) The amount of reserves required for the annuity or benefit payable to an annuitant and benefit recipient of the participating public pension plans or funds shall be determined by the commission-retained actuary as of the current June 30. An annuitant or benefit recipient who has been receiving an annuity or benefit for at least ~~one year~~ 12 full months as of the current June 30 ~~shall be~~ is eligible to receive a full postretirement adjustment. An annuitant or benefit recipient who has been receiving an annuity or benefit for at least one full month, but less than 12 full months as of the current June 30, is eligible to receive a partial postretirement adjustment. Each fund shall report separately the amount of the reserves for those annuitants and benefit recipients who are eligible to receive a full postretirement benefit adjustment ~~and~~. This amount is known as "eligible reserves." Each fund shall also report separately the amount of the reserves for those annuitants and benefit recipients who are not eligible to receive a postretirement adjustment shall be reported separately. This amount is known as "noneligible reserves." For an annuitant or benefit recipient who is eligible to receive a partial postretirement adjustment, each fund shall report separately as additional "eligible reserves" an amount that bears the same ratio to the total reserves required for the annuitant or benefit recipient as the number of full months of annuity or benefit receipt as of the current June 30 bears to 12 full months. The remainder of the annuitant's or benefit recipient's reserves shall be separately reported as additional "noneligible reserves." The amount of ~~the~~ "eligible" and "noneligible" required reserves shall be certified to the board by the commission-retained actuary as soon as is practical following the current June 30;

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(c) The state board shall determine the amount of investment income required to equal five percent of the total amount of the required reserves as of the preceding June 30 adjusted by five percent of each transfer in or transfer out multiplied by the fraction of a year from the date of transfer to the current June 30. This amount of required investment income shall be subtracted from the actual amount of investment income determined according to clause (1)(a), to determine the amount of excess investment income. If this amount is positive, then a postretirement adjustment may be paid.

(2) The state board shall determine the amount of any postretirement adjustment which is payable using the following procedure:

(a) The state board shall determine the amount of excess investment income by the method indicated in clause (1);

(b) The total "eligible" required reserves as of the first of January next following the end of the fiscal year for the annuitants and benefit recipients eligible to receive ~~the a full or partial~~ postretirement adjustment as determined by clause (1)(b) shall be certified to the state board by the commission-retained actuary. The total "eligible" required reserves shall be determined by the commission-retained actuary on the assumption that all annuitants and benefit recipients eligible to receive ~~the a full or partial~~ postretirement adjustment will be alive on the January 1 in question;

(c) If the state board determines that the book value of the assets of the fund is less than an amount equal to the total amount of the current June 30 required reserves, with the book value and required reserves to be determined after the adjustments provided for in subdivision 11, then the state board shall allocate five percent of the excess investment income as an asset of the fund. The excess investment income allocated as an asset of the fund shall not exceed the difference between book value and required reserves. The remaining amount shall be termed available for distribution. The book value of assets on any given date shall be the net assets at cost less the excess investment income determined pursuant to clause (1)(c);

(d) The resulting total amount available for distribution shall be increased by 2-1/2 percent, and the result shall be stated as a percentage of the total amount of the required reserves pursuant to clause (2)(b), and if the percentage is equal to or greater than one percent, the amount shall be certified to each participating public pension fund or plan as the ~~amount of the full~~ postretirement adjustment amount. If the percentage is less than one percent, no postretirement adjustment shall be payable in that year and the amount otherwise available for distribution shall be credited to a separate reserve established for this purpose. The reserve shall be invested in the same manner as all other assets of the fund and shall be credited with any investment income as specified in clause (1)(a). Amounts credited to the reserve shall be utilized in determining a postretirement adjustment in the subsequent year. The amount of any full postretirement adjustment certified by the state board as payable to the par-

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icipating public pension plans or funds shall be carried to five decimal places and stated as a percentage.

(e) A retirement annuity payable in the event of retirement before becoming eligible for social security benefits as provided in section 352.116, subdivision 3; 353.29, subdivision 6; or 354.35 must be treated as the sum of a period certain retirement annuity and a life retirement annuity for the purposes of any postretirement adjustment. The period certain retirement annuity plus the life retirement annuity shall be the annuity amount payable until age 62 or 65, whichever applies. A postretirement adjustment granted on the period certain retirement annuity must terminate when the period certain retirement annuity terminates.

Sec. 2. Minnesota Statutes 1988, section 11A.18, subdivision 10, is amended to read:

Subd. 10. **PAYMENT OF POSTRETIREMENT ADJUSTMENT.** Upon receiving the certification of the amount of the full postretirement adjustment from the state board, each participating public pension fund or plan shall determine the amount of the postretirement adjustment payable to each eligible annuitant and benefit recipient. The dollar amount of the postretirement adjustment payable to each annuitant or benefit recipient shall be calculated by applying the certified postretirement adjustment percentage to the amount of the monthly annuity or benefit payable to each eligible annuitant or benefit recipient eligible for a full adjustment.

The dollar amount of the partial postretirement adjustment payable to each annuitant or benefit recipient eligible for a partial adjustment shall be calculated by first determining a partial percentage amount that bears the same ratio to the certified full adjustment percentage amount as the number of full months of annuity or benefit receipt as of the current June 30 bears to 12 full months. The partial percentage amount determined shall then be applied to the amount of the monthly annuity or benefit payable to each annuitant or benefit recipient eligible to receive a partial postretirement adjustment. The postretirement adjustment adjustments shall commence to be paid on January 1 following the calculations required pursuant to this section and shall thereafter be included in the monthly annuity or benefit paid to the recipient. Notwithstanding section 356.18, any ~~adjustment adjustments~~ pursuant to this section shall be paid automatically unless the intended recipient files a written notice with the applicable participating public pension fund or plan requesting that the adjustment not be paid.

Sec. 3. **EFFECTIVE DATES.**

Sections 1 and 2 are effective the day following final enactment.

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ARTICLE 15

PRE 1973 RETIREES

Section 1. **[356.86] POSTRETIREMENT ADJUSTMENT; LUMP SUM PAYMENTS.**

Subdivision 1. ENTITLEMENT. A person who is receiving a retirement annuity, a disability benefit or a surviving spouse's annuity or benefit from a retirement fund specified in subdivision 3, clauses (1) to (8) is entitled to receive a postretirement adjustment from the applicable retirement fund in the amount specified in subdivision 2, if the annuity or benefit was computed under:

(1) the laws in effect before June 1, 1973, if the person is receiving an annuity or benefit from the retirement fund specified in subdivision 3, clause (4); or

(2) the laws in effect before July 1, 1973, if the person is receiving an annuity or benefit from a retirement fund specified in subdivision 3, clause (1), (2), (3), or (5); or

(3) the metropolitan transit commission-transit operating division employees retirement fund plan document in effect on or before December 31, 1977, if the person is receiving a retirement annuity, a disability benefit or a surviving spouse's annuity or benefit from the retirement fund specified in subdivision 3, clause (5); or

(4) the laws in effect before May 1, 1974 and before any adjustment under Laws 1987, chapter 372, article 3, if the person is receiving an annuity or benefit from the retirement fund specified in subdivision 3, clause (6); or

(5) the laws in effect before January 1, 1970, if the person is receiving an annuity or benefit from the retirement fund specified in subdivision 3, clause (7); or

(6) the laws in effect before June 30, 1971, if the person is receiving an annuity or benefit from the retirement fund specified in subdivision 3, clause (8).

Subd. 2. AMOUNT OF POSTRETIREMENT ADJUSTMENT; PAYMENT. (a) For any person receiving an annuity or benefit on November 30, 1989, and entitled to receive a postretirement adjustment under subdivision 1, the postretirement adjustment is a lump sum payment calculated under paragraph (b) or (c).

(b) For coordinated plan members the postretirement adjustment in 1989 is \$25 for each full year of allowable service credited to the person by the respective retirement fund. In 1990 and each following year the postretirement adjustment is the amount payable in the preceding year increased by the same percentage applied to regular annuities paid from the postretirement fund or, for the retirement funds specified in subdivision 3, clauses (6), (7), and (8), by the same percentage applied under the articles of incorporation and bylaws of these funds.

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(c) For basic plan members the postretirement adjustment, in 1989 is the greater of:

(1) \$25 for each full year of allowable service credited to the person by the respective retirement fund; or

(2) the difference between:

(i) the product of \$400 times the number of full years of allowable service credited to the person by the respective retirement fund; and

(ii) the sum of the benefits payable to the person from any Minnesota public employee pension plan, and cash benefits payable to the person from the social security administration.

In 1990 and each following year each basic plan member shall receive the amount received in the preceding year increased by the same percentage applied to regular annuities paid from the postretirement fund or, for the retirement funds specified in subdivision 3, clauses (6), (7), and (8), by the same percentage applied under the articles of incorporation and bylaws of these funds.

(d) The postretirement adjustment provided for in this section is payable for those persons receiving an annuity or benefit on November 30, 1989, on December 1, 1989. In subsequent years the adjustment must be paid on December 1, unless the beneficiary is entitled to participate in an optional benefit receipt schedule under subdivision 4. This section does not authorize the payment of a postretirement adjustment to an estate. Notwithstanding section 356.18, the postretirement adjustment provided for in this section must be paid automatically unless the intended recipient files a written notice with the retirement fund requesting that the postretirement adjustment not be paid.

Subd. 3. COVERED RETIREMENT FUNDS. The postretirement adjustment provided in this section applies to the following retirement funds:

(1) public employees retirement fund;

(2) public employees police and fire fund;

(3) teachers retirement fund;

(4) state patrol retirement fund;

(5) state employees retirement fund of the Minnesota state retirement system;

(6) Minneapolis teachers retirement fund association established under chapter 354A;

(7) St. Paul teachers retirement fund association, established under chapter 354A; and

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(8) Duluth teachers retirement fund association established under chapter 354A.

Subd. 4. OPTIONAL BENEFIT PAYMENT SCHEDULE. Basic plan benefit recipients receiving adjustments under subdivision (2), clause (2)(c) and whose adjustment exceeds 20 percent of their Minnesota plan benefit may elect to have the amount of the benefit adjustment paid in equal monthly amounts instead of receiving a benefit adjustment on December 1 of each year. Selection of this option must be made by the recipient in writing on forms prepared by the retirement association.

Subd. 5. SOCIAL SECURITY INFORMATION. To be eligible for a benefit adjustment calculated under subdivision 2, clause (2)(c), a person must authorize the social security administration to release to the retirement association information on the person's social security cash benefits.

Subd. 6. REPORT. By September 30, 1990, the retirement funds listed in subdivision 3 shall report to the legislature and the commissioner of finance on the number of benefit recipients eligible for each type of adjustment established in subdivision 2, the annual cost of each type of adjustment, and the estimated actuarial liability associated with each.

Sec. 2. POSTRETIREMENT ADJUSTMENT; LUMP SUM PAYMENTS; MINNEAPOLIS EMPLOYEES RETIREMENT FUND.

Subdivision 1. ENTITLEMENT. Any person who is receiving either an annuity that was computed under the laws in effect before March 5, 1974, or a "\$2 bill and annuity" annuity from the Minneapolis employees retirement fund is entitled to receive a postretirement adjustment from the applicable retirement fund in the amount specified in subdivision 2.

Subd. 2. AMOUNT OF POSTRETIREMENT ADJUSTMENT; PAYMENT. For any person receiving an annuity or benefit on November 30, 1989, or on November 30, 1990, and entitled to receive a postretirement adjustment under subdivision 1, the postretirement adjustment under subdivision 1, the postretirement adjustment is a lump sum payment in an amount equal to \$25 during 1989 and \$25 during 1990 for each full year of allowable service credited to the person by the respective retirement fund.

The postretirement adjustment provided in this section is payable for those persons receiving an annuity or benefit on November 30, 1989, on December 1, 1989, and for those persons receiving an annuity or benefit on November 30, 1990, on December 1, 1990. This section does not authorize the payment of a postretirement adjustment to an estate. Notwithstanding Minnesota Statutes, section 356.18, the postretirement adjustment provided for in this section must be paid automatically unless the intended recipient files a written notice with the retirement fund requesting that the postretirement adjustment not be paid.

Subd. 3. APPROPRIATION AND TERMINAL AUDIT. To fund the

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postretirement benefits provided in this section for eligible persons in the Minneapolis employees retirement fund, there is appropriated from the general fund the amount of \$916,745 for fiscal year 1990 and \$916,745 for fiscal year 1991. The Minneapolis employees retirement fund shall, as soon as practical following the payment of the postretirement adjustment, calculate the amount of any appropriation apportioned to it that is in excess of the amounts required to pay the postretirement adjustments provided in this section. The calculations required by this subdivision must be reported to and verified by the commissioner of finance. Amounts equal to reported excess appropriations must be returned to the general fund.

ARTICLE 16

LEGISLATORS

Section 1. Minnesota Statutes 1988, section 3A.01, is amended by adding a subdivision to read:

Subd. 6a. SALARY. "Salary" means the regular compensation payable under law to legislators and paid to the person for service as a legislator. The term includes the monthly compensation paid to the legislator, and the per diem payments paid during a regular or special session to the legislator. The term does not include per diem payments paid other than during the regular or special session, additional compensation attributable to a leadership position under section 3.099, subdivision 3, living expense payments under section 3.101, and special session living expense payments under section 3.103.

Sec. 2. Minnesota Statutes 1988, section 3A.01, subdivision 7, is amended to read:

Subd. 7. AVERAGE MONTHLY SALARY. With regard to any member of the legislature whose service terminates prior to the beginning of the 1981 legislative session; "average monthly salary" means final monthly salary during the member's final term of office as a member of the legislature; and with regard to any member of the legislature whose service terminates after the beginning of the 1981 legislative session; "Average monthly salary" means the average of the member's highest five successive years of salary received as a member of the legislature after the beginning of the 1981 legislative session; or all the years and months salary after the beginning of the 1981 legislative session if the member's service after the beginning of the 1981 legislative session is less than five years. Any additional payments provided by law for legislative leadership positions shall not be included in any calculation of the average monthly salary of a legislator or former legislator and upon which the member has made contributions under section 3A.03, subdivision 1, payments for past service under section 3A.02, subdivision 2, or payments in lieu of contributions under section 3A.031.

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

Sec. 3. Minnesota Statutes 1988, section 3A.02, subdivision 1, is amended to read:

Subdivision 1. **QUALIFICATIONS.** ~~Any~~ (a) A former legislator is entitled, upon written application to the director, to receive a retirement allowance monthly, if the person:

(1) ~~Who~~ has served at least six full years, without regard to the application of section 3A.10, subdivision 2, or who has served during all or part of four regular sessions as a member of the legislature, which service need not be continuous; ~~but must have been after January 1, 1965 except as hereinafter provided; and~~

(2) ~~who~~ attains ~~has attained~~ the normal retirement age; ~~and~~

(3) ~~Who~~ has retired as a member of the legislature; and

(4) ~~Who~~ has made all contributions provided for in section 3A.03, ~~or who has made payments in lieu of all contributions provided for in section 3A.03 as provided for in for past service under subdivision 2, or has made payments in lieu of contributions under section 3A.031; shall be entitled upon written application to the director to receive a retirement allowance monthly.~~

(b) For service rendered ~~prior to~~ before the beginning of the 1979 legislative session, but not to exceed eight years of service, the retirement allowance ~~shall be is~~ an amount equal to five percent per year of service of that member's average monthly salary. For service in excess of eight years rendered ~~prior to~~ before the beginning of the 1979 legislative session, and for service rendered after the beginning of the 1979 legislative session, the retirement allowance ~~shall be is~~ an amount equal to 2-1/2 percent per year of service of that member's average monthly salary.

(c) The retirement allowance ~~shall accrue~~ accrues beginning with the first day of the month of receipt of the application and for the remainder of the former legislator's life, ~~provided if~~ the former legislator is not serving as a member of the legislature or as a constitutional officer or commissioner as defined in section 352C.021, subdivisions 2 and 3.

(d) Any member who has served during all or part of four regular sessions ~~shall be deemed~~ is considered to have served eight years as a member of the legislature.

(e) The retirement allowance ~~shall cease~~ ceases with the last payment ~~which had that~~ accrued to the retired legislator during the retired legislator's lifetime, except that the surviving spouse, if any, ~~shall be is~~ entitled to the retirement allowance for the calendar month in which the retired legislator died.

~~Effective for service rendered after the beginning of the 1981 legislative session; no member may accrue credit for more than 20 years service; nor shall member contributions thereafter be required for more than 20 years service.~~

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

Sec. 4. Minnesota Statutes 1988, section 3A.02, subdivision 1b, is amended to read:

Subd. 1b. **REDUCED RETIREMENT ALLOWANCE.** Upon separation from service after the beginning of the 1981 legislative session, a former member of the legislature who has attained the age of at least 60 years and who is otherwise qualified in accordance with subdivision 1 is entitled upon making written application on forms supplied by the director to a retirement allowance in an amount equal to the retirement allowance specified in subdivision 1 reduced by one-half of one percent for each month that the former member of the legislature is under so that the reduced annuity is the actuarial equivalent of the annuity that would be payable if the former member of the legislature deferred receipt of the annuity and the annuity amount were augmented at an annual rate of three percent compounded annually from the date the annuity begins to accrue until age 62.

Sec. 5. Minnesota Statutes 1988, section 3A.02, subdivision 4, is amended to read:

Subd. 4. **DEFERRED ANNUITIES AUGMENTATION.** The deferred annuity of any former legislator shall be augmented as provided herein. The required reserves applicable to the deferred annuity, determined as of the date the benefit begins to accrue using an appropriate mortality table and an interest assumption of five percent, shall be augmented from the first of the month following termination of service, or July 1, 1973, whichever is later, to the first day of the month in which the annuity begins to accrue, at the rate of five percent per annum compounded annually until January 1, 1981, and thereafter at the rate of three percent per annum compounded annually until January 1 of the year in which the former legislator attains age 55. From that date to the effective date of retirement, the rate is five percent compounded annually.

Sec. 6. **[3A.031] PAYMENTS IN LIEU OF MEMBER CONTRIBUTIONS IN CERTAIN INSTANCES.**

A member may make a payment in lieu of member contributions on all or a portion of the member's per diem payments that were paid during the regular and special sessions after December 31, 1988, and before July 1, 1989. The amount of the payment is nine percent of the regular or special session per diem payments paid during the applicable period, plus interest at the annual rate of six percent, compounded annually, from the date the per diem payment was made to the date on which the payment in lieu of member contributions is made.

Sec. 7. **TRANSITIONAL PROVISION.**

A member of the legislature on the effective date of this section to whom the service limit in Minnesota Statutes 1988, section 3A.02, subdivision 1, applies is entitled to again accrue service credit in and have member contributions deducted for crediting to the legislators retirement plan, effective with the start of the 1989 legislative session.

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

Sec. 8. REPEALER.

Section 6 is repealed, effective July 1, 1994.

Sec. 9. EFFECTIVE DATE.

Sections 1 to 8 are effective the day following final enactment. Section 7 applies retroactively to January 1, 1989.

ARTICLE 17**POLICE AND FIRE**

Section 1. Minnesota Statutes 1988, section 352.116, is amended by adding a subdivision to read:

Subd. 3a. BOUNCE BACK ANNUITY. (a) The board of trustees must provide a joint and survivor annuity option to members of the correctional employees and state patrol retirement funds. Under this option, a former member or disabilitant must receive a normal single life annuity if the designated optional annuity beneficiary dies before the former member or disabilitant. Under this option, no reduction may be made in the person's annuity to provide for restoration of the normal single life annuity in the event of the death of the designated optional annuity beneficiary.

(b) A former member or disabilitant of the correctional or state patrol fund who selected an optional joint and survivor annuity before July 1, 1989, but did not choose an option that provides that the normal single life annuity is payable to the former member or the disabilitant if the designated optional annuity beneficiary dies first, is eligible for restoration of the normal single life annuity if the designated optional annuity beneficiary dies first, without further actuarial reduction of the person's annuity. A former member or disabilitant who selected an optional joint and survivor annuity, but whose designated optional annuity beneficiary died before July 1, 1989, shall receive a normal single life annuity after that date, but shall not receive retroactive payments for periods before that date.

(c) A former member or disabilitant who took a further actuarial reduction to elect an optional joint and survivor annuity that provides that the normal annuity is payable to the former member or disabilitant if the designated optional beneficiary died before July 1, 1989, shall have their annuity increased as of July 1, 1989, to the amount the person would have received if, at the time of retirement or disability, the person had selected only optional survivor coverage that would not have provided for restoration of the normal annuity upon the death of the designated optional annuity beneficiary. Any annuity or benefit increase under this paragraph is effective only for payments made after June 30, 1989, and is not retroactive for payments made before July 1, 1989.

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

Sec. 2. Minnesota Statutes 1988, section 352.93, subdivision 2, is amended to read:

Subd. 2. **CALCULATING MONTHLY ANNUITY.** The monthly annuity under this section must be determined by multiplying the average monthly salary by the number of years, or completed months, of covered correctional service by 2.5 percent for the first 25 years of correctional service and two percent for each year after that. However, the monthly annuity must not exceed 75 percent of the average monthly salary.

Sec. 3. Minnesota Statutes 1988, section 352.93, is amended by adding a subdivision to read:

Subd. 2a. EARLY RETIREMENT. Any covered correctional employee who has attained the age of at least 50 and who has at least five years of allowable service is entitled upon application to a retirement annuity equal to the normal annuity calculated under subdivision 2, reduced so that the reduced annuity is the actuarial equivalent of the annuity that would be payable if the employee deferred receipt of the annuity from the day the annuity begins to accrue to age 55.

Sec. 4. Minnesota Statutes 1988, section 352.95, subdivision 1, is amended to read:

Subdivision 1. **JOB-RELATED DISABILITY.** A covered correctional employee less than 55 years old who becomes disabled and physically unfit to perform the duties of the position as a direct result of an injury, sickness, or other disability incurred in or arising out of any act of duty that makes the employee physically or mentally unable to perform the duties, is entitled to a disability benefit based on covered correctional service only. The benefit amount must equal 50 percent of the average salary defined in section 352.93, plus an additional 2-1/2 percent for each year of covered correctional service in excess of 20 years but not in excess of 25 years, and two percent for each year of covered correctional service in excess of 25 years, prorated for completed months, to a maximum monthly benefit of 75 percent of the average monthly salary.

Sec. 5. Minnesota Statutes 1988, section 352.95, subdivision 2, is amended to read:

Subd. 2. **NON-JOB-RELATED DISABILITY.** Any covered correctional employee who, after at least five years one year of covered correctional service, before reaching the age of 55 becomes disabled and physically unfit to perform the duties of the position because of sickness or injury occurring while not engaged in covered employment, is entitled to a disability benefit based on covered correctional service only. The disability benefit must be computed as provided in section 352.93, subdivisions 1 and 2, and computed as though the employee had at least ~~ten~~ 15 years of covered correctional service.

Sec. 6. Minnesota Statutes 1988, section 352B.08, subdivision 2, is amended to read:

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Subd. 2. **NORMAL RETIREMENT ANNUITY.** The annuity must be paid in monthly installments. The annuity shall be equal to the amount determined by multiplying the average monthly salary of the member by 2-1/2 percent for each year and pro rata for completed months of service ~~not exceeding 25 years and two percent for each year and pro rata for completed months of service in excess of 25 years.~~

Sec. 7. Minnesota Statutes 1988, section 352B.08, is amended by adding a subdivision to read:

Subd. 2a. EARLY RETIREMENT. Any member who has attained the age of at least 50 and who has at least five years of allowable service is entitled upon application to a retirement annuity equal to the normal annuity calculated under subdivision 2, reduced so that the reduced annuity is the actuarial equivalent of the annuity that would be payable if the member deferred receipt of the annuity from the day the annuity begins to accrue to age 55.

Sec. 8. Minnesota Statutes 1988, section 352B.10, subdivision 1, is amended to read:

Subdivision 1. **INJURIES, PAYMENT AMOUNTS.** Any member less than 55 years old, who becomes disabled and physically or mentally unfit to perform duties as a direct result of an injury, sickness, or other disability incurred in or arising out of any act of duty, shall receive disability benefits while disabled. The benefits must be paid in monthly installments equal to the member's average monthly salary multiplied ~~(+)~~ by 50 percent ~~and, (-) by plus~~ an additional 2-1/2 percent for each year and pro rata for completed months of service in excess of 20 years, ~~but not exceeding 25 years and two percent for each year and pro rata for completed months of service in excess of 25 years if any.~~

Sec. 9. Minnesota Statutes 1988, section 352B.10, subdivision 2, is amended to read:

Subd. 2. **UNDER 55; DISABLED WHILE NOT ON DUTY.** If a member terminates employment after at least ~~five years~~ one year of service, before reaching the age of 55, because of sickness or injury occurring while not on duty and not engaged in state work entitling the member to membership, and the termination is necessary because the member cannot perform duties, the member is entitled to receive a disability benefit. The benefit must be in the same amount and computed in the same way as if the member were 55 years old at the date of disability and the annuity were paid under section 352B.08. If disability under this clause occurs after ~~five~~ one but before ~~ten~~ 15 years service, the disability benefit must be computed as though the member had ~~ten~~ 15 years service.

Sec. 10. Minnesota Statutes 1988, section 352B.11, subdivision 2, is amended to read:

Subd. 2. **DEATH; PAYMENT TO SPOUSE AND CHILDREN.** If a member serving actively as a member, a member receiving the disability benefit

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provided by section 352B.10, subdivision 1, or a former member receiving a disability benefit as provided by section 352B.10, subdivision 3, dies from any cause, the surviving spouse and dependent children are entitled to benefit payments as follows:

(a) A member with at least five years of allowable service or a former member with at least 20 years of allowable service is deemed to have elected a 100 percent joint and survivor annuity payable to a surviving spouse only on or after the date the member or former member became or would have become 55.

(b) The surviving spouse of a member who had credit for less than five years of service shall receive, for life, a monthly annuity equal to ~~20~~ 50 percent of that part of the average monthly salary of the member from which deductions were made for retirement. If the surviving spouse remarries, the annuity shall cease as of the date of the remarriage.

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

(d) The surviving spouse of any member who had credit for five years or more and who was not 55 years of age at death, shall receive the benefit equal to ~~20~~ 50 percent of the average monthly salary as described in clause (b) until the deceased member would have reached the age of 55 years, and beginning the first of the month following that date, may elect to receive the 100 percent joint and survivor annuity. If the surviving spouse remarries before the deceased member's 55th birthdate, benefits or annuities shall cease as of the date of remarriage. Remarriage after the deceased member's 55th birthday shall not affect the payment of the benefit.

(e) Each dependent child shall receive a monthly annuity equal to ten percent of that part of the average monthly salary of the former member from which deductions were made for retirement. A dependent child over 18 and under ~~22~~ 23 years of age also may receive the monthly benefit provided in this section, if the child is continuously attending an accredited school as a full-time student during the normal school year as determined by the director. If the child does not continuously attend school but separates from full-time attendance during any part of a school year, the annuity shall cease at the end of the month of separation. In addition, a payment of \$20 per month shall be prorated equally to surviving dependent children when the former member is survived by one or more dependent children. Payments for the benefit of any qualified dependent child must be made to the surviving spouse, or if there is none, to the legal guardian of the child. The maximum monthly benefit must not be less than 50 nor exceed 40 ~~70~~ percent of the average monthly salary for any number of children.

(f) If the member dies under circumstances that entitle the surviving spouse and dependent children to receive benefits under the workers' compensation

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law, the workers' compensation benefits received by them must not be deducted from the benefits payable under this section.

(g) The surviving spouse of a deceased former member who had credit for five or more years of allowable service, but not the spouse of a former member receiving a disability benefit under section 352B.10, subdivision 3, is entitled to receive the 100 percent joint and survivor annuity at the time the deceased member would have reached the age of 55 years, if the surviving spouse has not remarried before that date. If a former member dies who does not qualify for other benefits under this chapter, the surviving spouse or, if none, the children or heirs are entitled to a refund of the accumulated deductions left in the fund plus interest at the rate of five percent per year compounded annually.

Sec. 11. Minnesota Statutes 1988, section 353.30, is amended by adding a subdivision to read:

Subd. 3b. BOUNCE BACK ANNUITY. (a) The board of trustees must provide a joint and survivor annuity option to members of the police and fire fund. Under this option, a former member or disabilitant must receive a normal single life annuity if the designated optional annuity beneficiary dies before the former member or disabilitant. Under this option, no reduction may be made in the person's annuity to provide for restoration of the normal single life annuity in the event of the death of the designated optional annuity beneficiary.

(b) A former member or disabilitant of the police and fire fund who selected an optional joint and survivor annuity before July 1, 1989, but did not choose an option that provides that the normal single life annuity is payable to the former member or the disabilitant if the designated optional annuity beneficiary dies first, is eligible for restoration of the normal single life annuity if the designated optional annuity beneficiary dies first, without further actuarial reduction of the person's annuity. A former member or disabilitant who selected an optional joint and survivor annuity, but whose designated optional annuity beneficiary died before July 1, 1989, shall receive a normal single life annuity after that date, but shall not receive retroactive payments for periods before that date.

(c) A former member or disabilitant who took a further actuarial reduction to elect an optional joint and survivor annuity that provides that the normal annuity is payable to the former member or disabilitant if the designated optional beneficiary died before July 1, 1989, shall have their annuity increased as of July 1, 1989, to the amount the person would have received if, at the time of retirement or disability, the person had selected only optional survivor coverage that would not have provided for restoration of the normal annuity upon the death of the designated optional annuity beneficiary. Any annuity or benefit increase under this paragraph is effective only for payments made after June 30, 1989, and is not retroactive for payments made before July 1, 1989.

Sec. 12. Minnesota Statutes 1988, section 353.651, subdivision 3, is amended to read:

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Subd. 3. **RETIREMENT ANNUITY FORMULA.** The average salary as defined in subdivision 2, multiplied by 2-1/2 percent per year of allowable service for the first 25 years and two percent per year of allowable service thereafter, shall determine the amount of the normal retirement annuity. If the member has earned allowable service for performing services other than those of a police officer or firefighter, the annuity representing such service shall be computed in accordance with sections 353.29 and 353.30.

Sec. 13. Minnesota Statutes 1988, section 353.651, is amended by adding a subdivision to read:

Subd. 4. EARLY RETIREMENT. Any police officer or firefighter member who has attained the age of at least 50 and who has at least five years of allowable service is entitled upon application to a retirement annuity equal to the normal annuity calculated under subdivision 3, reduced so that the reduced annuity is the actuarial equivalent of the annuity that would be payable to the member if the member deferred receipt of the annuity from the day the annuity begins to accrue until the member attains age 55.

Sec. 14. Minnesota Statutes 1988, section 353.656, subdivision 1, is amended to read:

Subdivision 1. **IN LINE OF DUTY; COMPUTATION OF BENEFITS.** Any member of the police and fire fund less than 55 years of age, who shall become disabled and physically unfit to perform duties as a police officer or firefighter subsequent to June 30, 1973, as a direct result of an injury, sickness, or other disability incurred in or arising out of any act of duty, which shall render the member physically or mentally unable to perform duties as a police officer or firefighter, shall receive disability benefits during the period of such disability. The benefits shall be in an amount equal to 50 percent of the "average salary" pursuant to subdivision 3 plus an additional 2-1/2 percent of said average salary for each year of service in excess of 20 years ~~but not exceeding 25 years and two percent for each year thereafter~~. Should disability under this subdivision occur before the member has at least five years of allowable service credit in the police and fire fund, the disability benefit shall be computed on the "average salary" from which deductions were made for contribution to the police and fire fund.

Sec. 15. Minnesota Statutes 1988, section 353.656, subdivision 3, is amended to read:

Subd. 3. **NONDUTY DISABILITY BENEFIT.** Any member who becomes disabled after not less than ~~five years~~ one year of allowable service, before reaching the age of 55, because of sickness or injury occurring while not on duty as a police officer or firefighter, and by reason of that sickness or injury the member is unable to perform duties as a police officer or firefighter, shall be entitled to receive a disability benefit. The benefit shall be in the same amount and paid in the same manner as if the member were 55 years of age at the date of disability and the benefit were paid pursuant to section 353.651. If a disabili-

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ty under this subdivision occurs after ~~five~~ one but in less than ~~ten~~ 15 years of allowable service, the disability benefit shall be the same as though the member had at least ~~ten~~ 15 years service. For any member who is employed as a full-time firefighter by the department of military affairs of the state of Minnesota, allowable service as a full-time state military affairs department firefighter credited by the Minnesota state retirement system may be used in meeting the minimum allowable service requirement of this subdivision.

Sec. 16. Minnesota Statutes 1988, section 353.657, subdivision 2, is amended to read:

Subd. 2. The spouse, for life or until remarriage, shall receive a monthly benefit equal to ~~30~~ 50 percent of the member's average full-time monthly salary rate as a police officer or firefighter in effect over the last six months of allowable service preceding the month in which death occurred.

Sec. 17. Minnesota Statutes 1988, section 353.657, subdivision 3, is amended to read:

Subd. 3. Each dependent child, until the child reaches the age of 18 years, shall receive a monthly benefit equal to ten percent of the member's average full-time monthly salary rate as a police officer or firefighter in effect over the last six months of allowable service preceding the month in which death occurred. A dependent child shall receive this benefit until age 23, so long as the child submits evidence of full-time enrollment in an accredited post-secondary educational institution for at least five of the 12 months immediately preceding the month for which benefits are sought. Payments for the benefit of any qualified 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 the child or to any adult person with whom the child may at the time be living, provided only that the parent or other person to whom any amount is to be paid shall have advised the board in writing that the amount will be held or used in trust for the benefit of the child. The maximum monthly benefit for any one family shall not exceed an amount equal to ~~50~~ 70 percent of the member's specified average monthly salary, and the minimum benefit per family shall not be less than ~~30~~ 50 percent of the member's specified average monthly salary.

Sec. 18. **EFFECTIVE DATE.**

Sections 1 to 17 are effective July 1, 1989.

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

ARTICLE 18

STATE UNIVERSITY AND COMMUNITY COLLEGE

INDIVIDUAL RETIREMENT ACCOUNT PLAN

Section 1. Minnesota Statutes 1988, section 354.05, subdivision 2a, is amended to read:

Subd. 2a. **EXCEPTIONS.** Notwithstanding subdivision 2, a person who is first employed as a teacher in the state university system or the state community college system after June 30, ~~1988~~ 1989, is not a member of the fund except for purposes of social security coverage unless the person is covered by section 354B.02, subdivision 2, and ~~has exercised an option under that subdivision to remain~~ remains a member of the fund for all purposes.

Sec. 2. Minnesota Statutes 1988, section 354.05, subdivision 5, is amended to read:

Subd. 5. **MEMBER OF FUND.** The term "member of fund" means every teacher who joins and contributes to the teachers retirement fund as provided in this chapter who has not retired-, except a teacher covered by section 354B.02, subdivision 2 or 3, who elects to participate in the individual retirement account plan under chapter 354B.

Sec. 3. Minnesota Statutes 1988, section 354.66, subdivision 2, is amended to read:

Subd. 2. A teacher in the public elementary schools, secondary schools, or technical institutes; or in the community college system or the state university system of the state who has 20 years or more of allowable service in the fund or 20 years or more of full time teaching service in Minnesota public elementary schools, secondary schools, or technical institutes; or in the community college system or the state university system, or a teacher in the community college system or state university system who has attained at least age 55 and has ten years or more of full-time teaching service, may, by agreement with the board of the employing district, be assigned to teaching service within the district in a part-time teaching position.

Sec. 4. **[354B.015] SOCIAL SECURITY COVERAGE.**

Plan participants under section 354B.02, subdivision 1, and persons electing participation under section 354B.02, subdivision 2 or 3, remain members of the teachers retirement association for purposes of social security coverage only and remain covered by the applicable agreement entered into under section 355.02, but are not members of the association for any other purpose while employed in covered employment.

Sec. 5. Minnesota Statutes 1988, section 354B.02, is amended to read:

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

354B.02 COVERED PERSONS.

Subdivision 1. **PLAN PARTICIPANTS.** Except as provided in subdivision 2, a person who was first employed in covered employment after June 30, ~~1988~~ 1989, shall participate in the plan.

Subd. 2. **PERSONS WITH CERTAIN PRIOR SERVICE.** A person with less than three years of prior allowable service as a member of the teachers retirement association other than in covered employment under section 354B.01, subdivision 2 or 3, ~~who is entitled to a deferred annuity under section 354.55, subdivision 11;~~ and who is first employed in covered employment after June 30, ~~1988~~ 1989, may, ~~at the person's option,~~ remain a member of the teacher's retirement association for all purposes or elect to participate in the plan. This election must be made within 60 days of the start of covered employment.

Subd. 3. **OPTIONAL PARTICIPATION.** A person with less than three years of allowable service who was first employed in covered employment before July 1, 1989, and who is a coordinated member of the teachers retirement association, may elect to transfer retirement coverage to the plan under section 6. The election must be made on a form provided by the executive director. An election to transfer retirement coverage to the plan must be made before July 1, 1992, and is irrevocable. When a member transfers coverage to the plan, all existing service credits with the association to which the person was entitled before the transfer terminate and may not be restored.

Sec. 6. [354B.03] COVERAGE TRANSFER.

Subdivision 1. **PROCEDURE.** If a person with less than three years of allowable service elects a transfer to the plan under section 5, subdivision 2 or 3, the executive director of the teachers retirement association shall transfer from the teachers retirement fund to the plan the person's member contributions plus interest compounded annually at five percent a year. The transfer must be made within 90 days from the date the executive director receives notification of the election. The transfer may not include any amount representing an employer contribution nor any amount representing the repayment of a refund received by the association after the date of enactment of this act.

Subd. 2. **LIMITATIONS.** A transfer to the plan under this section is a transfer to the financial institution selected by a plan administrator to provide annuity contracts or custodial accounts and must be made through the governing board of the system in which the person electing the transfer is employed in covered employment. No amount may be distributed to the person electing the transfer.

Subd. 3. **ELECTION.** A person with more than three years of allowable service credit who was first employed in covered employment before July 1, 1989, or after June 30, 1989 as provided in section 354B.02, subdivision 2, may elect coverage by the plan. If coverage is elected, accumulated employer and employee contributions and allowable service credit shall remain with the teach-

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ers retirement fund and that person shall remain eligible for a deferred annuity from that fund augmented with interest at the rate of five percent computed as specified in section 354.55, subdivision 11. Future contributions only shall be made to the plan.

Sec. 7. Minnesota Statutes 1988, section 354B.04, subdivision 2, is amended to read:

Subd. 2. **EMPLOYER CONTRIBUTIONS.** The employer of persons in covered employment who participate in the plan shall make an employer contribution to the plan in an amount equal to the amount prescribed by section 354.42, subdivision 3, and shall continue to make an additional employer contribution to the teachers retirement association in an amount equal to the amount prescribed by section 354.42, subdivision 5.

Sec. 8. Minnesota Statutes 1988, section 354B.05, subdivision 3, is amended to read:

Subd. 3. **SELECTION OF FINANCIAL INSTITUTIONS.** The state university board and the community college board shall select no more than three financial institutions to provide annuity contracts or custodial accounts. Each board may at its discretion change a selection of an institution. Investment programs offered by the institutions must meet the requirements of section 401(a) or 403(b) of the Internal Revenue Code of 1986, as amended. In making their selections, the boards shall consider these criteria:

- (1) the experience and ability of the financial institution to provide retirement and death benefits suited to the needs of the covered employees;
- (2) the relationship of the benefits to their cost; and
- (3) the financial strength and stability of the institution.

Sec. 9. Minnesota Statutes 1988, section 354B.05, subdivision 4, is amended to read:

Subd. 4. **BENEFITS OWNED BY MEMBERS.** The retirement and death benefits provided by the annuity contracts or custodial accounts are owned by the ~~members of the plan trust~~ and must be paid in accordance with the provisions of the ~~annuity contracts or custodial accounts~~ plan document.

Sec. 10. **[355.61] SOCIAL SECURITY COVERAGE FOR CERTAIN STATE UNIVERSITY OR COMMUNITY COLLEGE FACULTY.**

Plan participants under section 354B.02, subdivision 1, and persons electing participation under section 354B.02, subdivision 2 or 3, remain members of the teachers retirement association for purposes of social security coverage only, and remain covered by the applicable agreement entered into under section 355.02, but are not members of the teachers retirement association for any other purpose while employed in covered employment.

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

Sec. 11. EFFECTIVE DATE OF COVERAGE.

Notwithstanding Laws 1988, chapter 709, article 11, sections 1, 3, and 7, persons first employed in covered employment between June 30, 1988, and July 1, 1989, are members of the teachers retirement association for all purposes but are eligible to elect to participate in the plan under section 6.

Sec. 12. REPEALER.

Section 6 is repealed October 1, 1992.

Sec. 13. EFFECTIVE DATE.

Sections 1 to 12 are effective July 1, 1989.

ARTICLE 19**Section 1. CITATION.**

Sections 1 to 7 may be cited as the "pension refinancing and incentive to retirement investment earnings act of 1989."

Sec. 2. Minnesota Statutes 1988, section 69.031, subdivision 5, is amended to read:

Subd. 5. **DEPOSIT OF STATE AID.** (1) The municipal treasurer, on receiving the fire state aid, shall within 30 days after receipt transmit it to the treasurer of the duly incorporated firefighters' relief association if there is one organized and the association has filed a financial report with the municipality; but if there is no relief association organized, or if any association dissolve, be removed, or has heretofore dissolved, or has been removed as trustees of state aid, then the treasurer of the municipality shall keep the money in the municipal treasury as provided for in section 424A.08 and shall be disbursed only for the purposes and in the manner set forth in that section.

(2) The municipal treasurer, upon receipt of the police state aid, shall disburse the police state aid in the following manner:

(a) For a municipality in which a local police relief association exists and all peace officers are members of the association, the total state aid shall be transmitted to the treasurer of the relief association within 30 days of the date of receipt, and the treasurer of the relief association shall immediately deposit the total state aid in the special fund of the relief association;

(b) For a municipality in which police retirement coverage is provided by the public employees police and fire fund and all peace officers are members of the fund, the total state aid shall be applied toward the municipality's employer contribution to the public employees police and fire fund pursuant to section

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353.65, subdivision 3, and any state aid in excess of the amount required to meet the employer's contribution pursuant to section 353.65, subdivision 3, shall also be contributed to the public employees police and fire fund and credited in the manner to be specified by the board of trustees of the public employees retirement association; or

(c) For a municipality other than a city of the first class with a population of more than 300,000 in which both a police relief association exists and police retirement coverage is provided in part by the public employees police and fire fund, the municipality may elect at its option to transmit the total state aid to the treasurer of the relief association as provided in clause (a), to use the total state aid to apply toward the municipality's employer contribution to the public employees police and fire fund subject to all the provisions set forth in clause (b), or to allot the total state aid proportionately to be transmitted to the police relief association as provided in this subdivision and to apply toward the municipality's employer contribution to the public employees police and fire fund subject to the provisions of clause (b) on the basis of the respective number of active full-time peace officers, as defined in section 69.011, subdivision 1, clause (g).

For a city of the first class with a population of more than 300,000, in addition, the city may elect to allot the appropriate portion of the total police state aid to apply toward the employer contribution of the city to the public employees police and fire fund based on the covered salary of police officers covered by the fund each payroll period and to transmit the balance to the police relief association.

(3) The county treasurer, upon receipt of the police state aid for the county, shall apply the total state aid toward the county's employer contribution to the public employees police and fire fund pursuant to section 353.65, subdivision 3, and any state aid in excess of the amount required to meet the employer's contribution pursuant to section 353.65, subdivision 3, shall also be contributed to the public employees police and fire fund and credited in the manner to be specified by the board of trustees of the public employees retirement association.

Sec. 3. Minnesota Statutes 1988, section 69.77, subdivision 2b, is amended to read:

Subd. 2b. **RELIEF ASSOCIATION FINANCIAL REQUIREMENTS; MINIMUM MUNICIPAL OBLIGATION.** The officers of the relief association shall determine the financial requirements of the relief association and minimum obligation of the municipality for the following calendar year in accordance with the requirements of this subdivision. The financial requirements of the relief association and the minimum obligation of the municipality shall be determined on or before the submission date established by the municipality pursuant to subdivision 2c.

The financial requirements of the relief association for the following calendar year shall be based on the most recent actuarial valuation or survey of the

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special fund of the association if more than one fund is maintained by the association, or of the association, if only one fund is maintained, prepared in accordance with sections 356.215, subdivisions 4 to 4k and 356.216, as required pursuant to subdivision 2h. If an actuarial estimate is prepared by the actuary of the relief association as part of obtaining a modification of the benefit plan of the relief association and the modification is implemented, the actuarial estimate shall be used in calculating the financial requirements of the relief association.

If the relief association has an unfunded actuarial accrued liability as reported in the most recent actuarial valuation or survey, the total of the amounts calculated pursuant to clauses (a), (b), and (c) shall constitute the financial requirements of the relief association for the following year. If the relief association does not have an unfunded actuarial accrued liability as reported in the most recent actuarial valuation or survey the amount calculated pursuant to clauses (a) and (b) shall constitute the financial requirements of the relief association for the following year.

(a) The normal level cost requirement for the following year, expressed as a dollar amount, which shall be determined by applying the normal level cost of the relief association as reported in the actuarial valuation or survey and expressed as a percentage of covered payroll to the estimated covered payroll of the active membership of the relief association, including any projected increase in the active membership, for the following year.

(b) To the dollar amount of normal cost thus determined shall be added an amount equal to the dollar amount of the administrative expenses of the special fund of the association if more than one fund is maintained by the association, or of the association if only one fund is maintained, for the most recent year, multiplied by the factor of 1.035. For a relief association in a municipality, the administrative expenses are those authorized under section 69.80. No amount of administrative expenses under this clause shall be included in the financial requirements of a relief association in a city of the first class with a population of more than 300,000.

(c) To the dollar amount of normal cost and expenses determined under clauses (a) and (b) shall be added an amount equal to the level annual dollar amount which is sufficient to amortize the unfunded actuarial accrued liability by December 31, 2010, as determined from the actuarial valuation or survey of the fund, using an interest assumption set at the rate specified in section 356.215, subdivision 4d. The amortization date specified in this clause shall apply to all local police or salaried firefighters' relief associations and shall supersede any amortization date specified in any applicable special law.

The minimum obligation of the municipality shall be an amount equal to the financial requirements of the relief association reduced by the estimated amount of member contributions from covered salary anticipated for the following calendar year and the estimated amounts anticipated for the following calen-

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dar year from the applicable state aid program established pursuant to sections 69.011 to 69.051 receivable by the relief association after any allocation made pursuant to section 69.031, subdivision 5, clause (2), subclause (c) or 423A.01, subdivision 2, clause (6), from the local police and salaried firefighters' relief association amortization aid program established pursuant to section 423A.02 and from the supplementary amortization state-aid program established under Laws 1984, chapter 564, section 48, and Laws 1985, chapter 261, section 17.

Sec. 4. Minnesota Statutes 1988, section 356.216, is amended to read:

356.216 CONTENTS OF ACTUARIAL VALUATIONS FOR LOCAL POLICE AND FIRE FUNDS.

(a) The provisions of section 356.215 governing the contents of actuarial valuations shall apply to any local police or fire pension fund or relief association required to make an actuarial report under this section except as follows:

(1) in calculating normal cost and other requirements, if required to be expressed as a level percentage of covered payroll, the salaries used in computing covered payroll shall be the maximum rate of salary from which retirement and survivorship credits and amounts of benefits are determined and from which any member contributions are calculated and deducted;

(2) in lieu of the amortization date specified in section 356.215, subdivision 4g, the appropriate amortization target date specified in section 69.77, subdivision 2b, or 69.773, subdivision 4, clause (b), shall be used in calculating any required amortization contribution;

(3) in addition to the tabulation of active members and annuitants provided for in section 356.215, subdivision 4i, the member contributions for active members for the calendar year and the prospective annual retirement annuities under the benefit plan for active members shall be reported;

(4) actuarial valuations required pursuant to section 69.773, subdivision 2, shall be made at least every four years and actuarial valuations required pursuant to section 69.77 shall be made annually; and

(5) the actuarial balance sheet showing accrued assets valued at market value if the actuarial valuation is required to be prepared at least every four years or valued as current assets under section 356.215, subdivision 1, clause ~~(5)~~ (6), or paragraph (b), whichever applies, if the actuarial valuation is required to be prepared annually, actuarial accrued liabilities, and the unfunded actuarial accrued liability shall include the following required reserves:

(a) For active members

1. Retirement benefits
2. Disability benefits
3. Refund liability due to death or withdrawal
4. Survivors' benefits

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- (b) For deferred annuitants' benefits
- (c) For former members without vested rights
- (d) For annuitants
 - 1. Retirement annuities
 - 2. Disability annuities
 - 3. Surviving spouses' annuities
 - 4. Surviving children's annuities

In addition to those required reserves, separate items shall be shown for additional benefits, if any, which may not be appropriately included in the reserves listed above.

(6) actuarial valuations shall be due by the first day of the seventh month after the end of the fiscal year which the actuarial valuation covers.

(b) For a relief association in a city of the first class with a population of more than 300,000, the following provisions additionally apply:

(1) in calculating the actuarial balance sheet, unfunded actuarial accrued liability, and amortization contribution of the relief association, "current assets" means the value of all assets at cost, including realized capital gains and losses, plus or minus, whichever applies, the average value of total unrealized capital gains or losses for the most recent three-year period ending with the end of the plan year immediately preceding the actuarial valuation report transmission date; and

(2) in calculating the applicable portions of the actuarial valuation, an annual preretirement interest assumption of six percent, an annual postretirement interest assumption of six percent, and an annual salary increase assumption of four percent must be used.

Sec. 5. Minnesota Statutes 1988, section 423A.01, subdivision 2, is amended to read:

Subd. 2. OPERATION OF LOCAL RELIEF ASSOCIATION UPON MODIFICATION OF RETIREMENT COVERAGE FOR NEWLY HIRED POLICE OFFICERS AND FIREFIGHTERS. The following provisions shall govern the operation of a local relief association upon the modification of retirement coverage for newly hired police officers or firefighters:

(1) The minimum obligation of a municipality in which the retirement coverage for newly hired police officers or salaried firefighters has been modified pursuant to subdivision 1 with respect to the local relief association shall be determined and governed in accordance with the provisions of sections 69.77, 356.215 and 356.216, except that the normal cost calculation for the relief association shall be computed as a percentage of the compensation paid to the active members of the relief association. The compensation paid to persons with retirement coverage modified pursuant to subdivision 1 shall not be included in any of the computations made in determining the obligation of the municipality with respect to the local relief association.

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(2) The contribution rate of members of the local relief association shall be governed by section 69.77, unless a special law establishing a greater member contribution rate is applicable whereupon it shall continue to govern. The member contribution rate of persons with retirement coverage modified pursuant to subdivision 1 shall be governed by section 353.65.

(3) Unless otherwise provided for by law, when every active member of the local relief association retires or terminates from active duty, the local relief association shall cease to exist as a legal entity and the assets of the special fund of the relief association shall be transferred to a trust fund to be established by the appropriate municipality for the purpose of paying service pensions and retirement benefits to recipient beneficiaries. Recipient beneficiaries who are competent to act on their own behalf shall be entitled to select the prescribed number of trustees of the trust fund as provided in this clause, subject to the approval of the governing body of the municipality. If there are at least five recipient beneficiaries, the trust fund shall be managed by a board of trustees composed of five persons selected by the recipient beneficiaries of the fund. When there are fewer than five recipient beneficiaries, the number of trustees selected by the recipient beneficiaries shall be equal to the number of the remaining recipient beneficiaries. The governing body of the municipality shall select the additional trustees. The term of the elected members of the board of trustees shall be indefinite and shall continue until a vacancy occurs in one of the board of trustee member positions. Board of trustee members shall not be compensated for their services, but shall be reimbursed for any expenses actually and necessarily incurred as a result of the performance of their duties in their capacity as board of trustee members. The municipality shall perform whatever services are necessary to administer the trust fund. When all obligations of the trust fund are paid, the balance of the assets remaining in the trust fund shall revert to the municipality for expenditure for law enforcement or firefighting purposes, whichever is applicable.

(4) The financial requirements of the trust fund and the minimum obligation of the municipality with respect to the trust fund shall be determined in accordance with sections 69.77, 356.215 and 356.216 until the unfunded accrued liability of the trust fund is fully amortized in accordance with section 69.77, subdivision 2b. The municipality shall provide in its annual budget for at least the aggregate amount of service pensions, disability benefits, survivorship benefits and refunds which are projected as payable for the following calendar year, as determined by the board of trustees of the trust fund, less the amount of assets in the trust fund as of the end of the most current calendar year for which figures are available, valued pursuant to section 356.20, subdivision 4, clause (1)(a), if the difference between those two figures is a positive number.

(5) In calculating the amount of service pensions and other retirement benefits payable from the local relief association and in calculating the amount of any automatic post retirement increases in those service pensions and retirement benefits based on the salary paid or payable to active members or escalated in any fashion, the salary for use as the base for the service pension or retire-

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ment benefit calculation and the post retirement increase calculation for the local relief association shall be the salary for the applicable position as specified in the articles of incorporation or bylaws of the relief association as of the date immediately prior to the effective date of the modification of retirement coverage for newly hired personnel pursuant to subdivision 1, as the applicable salary is reset by the municipality periodically, irrespective of whether retirement coverage for persons holding the applicable position used in calculations is provided by the relief association or by the public employees police and fire fund.

(6) If the modification of retirement coverage implemented pursuant to subdivision 1 is applicable to a local police relief association, the police state aid received by the municipality shall be disbursed pursuant to section 69.031, subdivision 5, clause (2)(c). If the modification of retirement coverage implemented pursuant to subdivision 1 is applicable to a local firefighters' relief association, the fire state aid received by the applicable municipality other than a city of the first class with a population of more than 300,000 shall be disbursed as the municipality at its option may elect. The municipality may elect: (a) to transmit the total fire state aid to the treasurer of the local relief association for immediate deposit in the special fund of the relief association; or (b) to apply the total fire state aid toward the employer contribution of the municipality to the public employees police and fire fund pursuant to section 353.65, subdivision 3; or (c) to allocate the total fire state aid proportionately between the special fund of the local relief association and employer contribution of the municipality to the public employees police and fire fund on the basis of the respective number of active full time salaried firefighters receiving retirement coverage from each.

For a city of the first class with a population of more than 300,000, in addition, the city may elect to allot the appropriate portion of the total fire state aid to apply toward the employer contribution of the city to the public employees police and fire fund based on the covered salary of firefighters covered by the fund each payroll period and to transmit the balance to the firefighters relief association.

Sec. 6. DISPOSITION OF ASSETS UPON CONCLUSION OF BENEFIT PAYMENTS.

Upon the death of the last benefit recipient and the certification by the chief administrative officer of a city of the first class with a population of more than 300,000 to the state auditor of the absence of any remaining person with a benefit entitlement, the assets of the relief association or trust fund, whichever applies, must revert to the city and may be used by the city only for law enforcement or firefighting expenditure purposes, whichever applies.

Sec. 7. INVESTMENT RELATED POSTRETIREMENT ADJUSTMENTS.

Subdivision 1. DEFINITIONS. For the purposes of this section, each of the terms in this subdivision have the meanings given them in paragraphs (a) to (h).

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(a) "Annual postretirement payment" means the payment of a lump sum postretirement benefit to an eligible member on June 1 following the determination date in any year.

(b) "City" means a city of the first class with a population of more than 300,000.

(c) "Determination date" means December 31 of each year.

(d) "Eligible member" means a person, including a service pensioner, a disability pensioner, a survivor, or dependent of a deceased active member, service pensioner, or disability pensioner, who received a pension or benefit during the 12 months before the determination date. A person who received a pension or benefit for the entire 12 months before the determination date are eligible for a full annual postretirement payment. A person who received a pension or benefit for less than 12 months before the determination date is eligible for a prorated annual postretirement payment.

(e) "Excess investment income" means the amount by which the time weighted total rate of return earned by the fund in the most recent fiscal year has exceeded the actual percentage increase in the current monthly salary of a top grade patrol officer or top grade firefighter, whichever applies, in the most recent fiscal year plus two percent. The excess investment income must be expressed as a dollar amount and may not exceed one percent of the total assets of the fund and does not exist unless the yearly average percentage increase of the time weighted total rate of return of the fund for the previous five years exceeds by two percent the yearly average percentage increase in monthly salary of a top grade patrol officer or top grade firefighter, whichever applies, during the previous five calendar years.

(f) "Fund" means a police relief association or firefighters relief association, whichever applies, located in the city and governed by Minnesota Statutes, section 69.77.

(g) "Relief association" means the police relief association or the firefighters relief association, whichever applies, located in the city.

(h) "Time weighted total rate of return" means the percentage amount determined by using the formula or formulas established by the state board of investment under Minnesota Statutes, section 11A.04, clause (11), and in effect on January 1, 1987.

Subd. 2. ANNUAL POSTRETIREMENT PAYMENT AUTHORIZED. Notwithstanding the provisions of Minnesota Statutes, chapter 69, or any other law to the contrary, the relief association may provide annual postretirement payments to eligible members under this section.

Subd. 3. DETERMINATION OF EXCESS INVESTMENT INCOME. The board of trustees of the relief association shall determine by May 1 of each year whether or not the relief association has excess investment income. The

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amount of excess investment income, if any, must be stated as a dollar amount and reported by the chief administrative officer of the relief association to the mayor and governing body of the city, the state auditor, the commissioner of finance, and the executive director of the legislative commission on pensions and retirement. The dollar amount of excess investment income up to one percent of the assets of the fund must be applied for the purpose specified in subdivision 4. Excess investment income must not be considered as income to or assets of the fund for actuarial valuations of the fund for that year under sections 69.77, 356.215, and 356.216 and the provisions of this section except to offset the annual postretirement payment. Additional investment income is any realized or unrealized investment income other than the excess investment income and must be included in the actuarial valuations performed under sections 69.77, 356.215, and 356.216 and the provisions of this section.

Subd. 4. AMOUNT OF ANNUAL POSTRETIREMENT PAYMENT.
The amount determined under subdivision 3 must be applied in accordance with this subdivision. The relief association shall apply the first one-half of one percent of excess investment income to the payment of an annual postretirement payment as specified in this subdivision. The second one-half of one percent of excess investment income shall be applied to reduce the state amortization state aid or supplementary amortization state aid payments otherwise due to the relief association under section 423A.02 for the current calendar year. The relief association shall pay an annual postretirement payment to all eligible members in an amount not to exceed one-half of one percent of the assets of the fund. Payment of the annual postretirement payment must be in a lump sum amount on June 1 following the determination date in any year. Payment of the annual postretirement payment may be made only if the time weighted total rate of return exceeds by two percent the actual percentage increase in the current monthly salary of a top grade patrol officer or a top grade firefighter, whichever applies, in the most recent fiscal year and the yearly average percentage increase of the time weighted total rate of return of the fund for the previous five years exceeds by two percent the yearly average percentage increase in monthly salary of a top grade patrol officer or a top grade firefighter, whichever applies, of the previous five years. The total amount of all payments to members may not exceed the amount determined under subdivision 3. Payment to each eligible member must be calculated by dividing the total number of pension units to which eligible members are entitled into the excess investment income available for distribution to members, and then multiplying that result by the number of units to which each eligible member is entitled to determine each eligible member's annual postretirement payment. Payment to each eligible member may not exceed an amount equal to the total monthly benefit that the eligible member was entitled to in the prior year under the terms of the benefit plan of the relief association or each eligible member's proportionate share of the excess investment income, whichever is less.

Subd. 5. ANNUAL POSTRETIREMENT PAYMENT IN THE EVENT OF DEATH.
In the event an eligible member dies after the determination date and before the payment of the annual postretirement payment, the chief administrative officer of the relief association shall pay that eligible member's estate the amount to which the eligible member was entitled.

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Subd. 6. REPORT ON ANNUAL POSTRETIREMENT PAYMENT. The chief administrative officer of the relief association shall submit a report on the amount of all postretirement payments made under this section and the manner in which those payments were determined to the state auditor, the executive director of the legislative commission on pensions and retirement, and the city clerk of the city.

Subd. 7. NO GUARANTEE OF ANNUAL POSTRETIREMENT PAYMENT. No provision of or payment made under this section may be interpreted or relied upon by any member of the relief association to guarantee or entitle a member to annual postretirement payments for a period when no excess investment income is earned by the fund.

Sec. 8. EFFECTIVE DATE.

Sections 1 to 7 are effective on the day following final enactment and apply to 1988 investment performance, actuarial valuations covering the calendar year ending December 31, 1988, and the annual financial requirements and minimum municipal obligation based on the 1988 actuarial valuations.

Presented to the governor May 30, 1989

Signed by the governor June 1, 1989, 10:19 p.m.

CHAPTER 320—H.F.No. 42

An act relating to economic development; permitting the department of transportation and metropolitan agencies to grant available money to a working capital fund; proposing coding for new law in Minnesota Statutes, chapters 161 and 473.

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

Section 1. [161.3212] WORKING CAPITAL FUND.

The commissioner, to the extent allowed by other law or contract, may grant available money that has been appropriated for socially or economically disadvantaged business programs to a guaranty fund administered by a non-profit organization that makes or guarantees working capital loans to businesses owned and operated by socially or economically disadvantaged persons as defined in Code of Federal Regulations, title 49, section 23.5. The purpose of loans made or guaranteed by the organization must be to provide short-term working capital to enable eligible businesses to be awarded contracts for goods and services or for construction related services from government agencies.

Money contributed from a constitutionally or statutorily dedicated fund must be used only for purposes consistent with the purposes of the dedicated fund.

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