CHAPTER 7905
MINNESOTA STATE RETIREMENT SYSTEM DEFERRED COMPENSATION PLAN

DEFINITIONS AND PLAN

7905.0100 DEFINITIONS.

Subpart 1. **Scope.** When used in the plan, the following terms have the meanings given unless otherwise provided.

Subp. 2. **Accounting date.** "Accounting date" means the date on which an investment fund is valued and earnings or losses are allocated to participants' deferred compensation accounts. There shall be an accounting date at least once a month on the last business day of the month and if practical more frequent accounting dates to reflect as closely as possible the earnings or losses with respect to a deferred compensation account from the time compensation is deferred and invested in various investment funds until it is eventually distributed according to the plan.

Subp. 3. **Beneficiary.** "Beneficiary" means the person or legal entity provided for by the plan or designated by the participant to receive any undistributed deferred compensation that becomes payable in the event of the participant's death.

Subp. 4. **Board.** "Board" means the Minnesota State Board of Investment.

Subp. 5. **Compensation.** "Compensation" means any remuneration payable to an individual who performs service for the employer which is reportable as federal gross income.

Subp. 6. **Deferred compensation.** "Deferred compensation" means the part of the participant's compensation that the participant and employer mutually agree to defer under the plan.

Subp. 7. **Deferred compensation account.** "Deferred compensation account" means the account established for the investment of deferred compensation. It includes the supplemental investment account and the fixed and variable annuity account.

Subp. 8. **Director.** "Director" means the executive director of the Minnesota State Retirement System.

Subp. 9. **Employee.** "Employee" means:

A. an individual receiving compensation for services from the state of Minnesota including any elected official, appointed official, or employee of the state of Minnesota, including employees of departments, agencies, and instrumentalities, wherein the state legislature has specifically held the employees to be "state employees" for any one or more specific purposes such as, but not limited to, membership in the Minnesota State Retirement System, employee group insurance program, or unemployment compensation plan for state employees; or

B. an individual receiving compensation for services performed for a political subdivision of the state including any elected official, appointed official, or employee of a political subdivision of the state, including any employee of the political subdivision or other employing unit entitled to membership in a public retirement plan listed in Minnesota Statutes, section 356.20, subdivision 2.

Subp. 10. **Employer.** "Employer" means the state of Minnesota, or a political subdivision of the state of Minnesota, or an agency or instrumentality of the state of Minnesota or its political subdivisions.

Subp. 11. **Fixed or variable annuity account.** "Fixed or variable annuity account" means the investment accounts of the companies approved by the board under Minnesota Statutes, section 352.96, subdivision 2.

Subp. 12. **Includable compensation.** "Includable compensation" means the compensation remaining after any deferrals through the plan and any amount of compensation excluded from federal gross income as a result of contributions made for the benefit of an employee under a tax–sheltered annuity under section 403(b), expense account authorized under section 125, employee contributions to a retirement plan excluded under section 414(h)(2), or employee deferrals as defined under section 401(k) or 408(k)(6) of the Internal Revenue Code of 1986.

Subp. 13. **Normal retirement age.** "Normal retirement age" means:

A. an age not earlier than that for attainment of eligibility by the participant to begin receiving normal, or unreduced, retirement benefits from one of the retirement systems listed in Minnesota Statutes, section 356.20, subdivision 2, or other Minnesota public employee pension plan of which the participant is a member, nor later than age 70–1/2; or

B. if the participant is not a member of one of the retirement systems, not later than age 70–1/2.

Subp. 14. **Participant.** "Participant" means an individual who has enrolled in the plan as provided in parts 7905.0900 to 7905.1600 and has not had a complete distribution of the deferred compensation account.

Subp. 15. **Pay period.** "Pay period" means a regular accounting period established by the employer for measuring and paying compensation earned by employees.

Subp. 16. **Pay date.** "Pay date" means the date the participant receives payment of compensation.

Subp. 17. **Plan.** "Plan" means the Minnesota public employee's deferred compensation plan as set forth in this chapter and as it may be amended from time to time.

Subp. 18. **Prior plan.** "Prior plan" means the Minnesota deferred compensation plan approved by the attorney general and filed with the secretary of state and the commissioner of administration November 24, 1975, and any plans established under authority of the plan by political subdivisions of the state of Minnesota.

Subp. 19. **Supplemental investment account.** "Supplemental investment account" means the Minnesota supplemental investment fund as established by Minnesota Statutes, section 11A.17, and managed by the board.

Subp. 20. **Separation from service.** "Separation from service" means the permanent severance of the participant's employment relationship with the employer by means of: retirement; discharge, provided all appellate processes have been exhausted or tolled; resignation, provided seniority or continuous service is interrupted; permanent layoff; expiration or nonrenewal of appointment or term of office; nonreelection; death; or other form of permanent severance as may be provided by appropriate law, contract, or rules. For purposes of this definition, a break in employment for less than 30 days shall not be considered a separation from service.

Subp. 21. **Taxable year.** "Taxable year" means the calendar year beginning January 1 and ending December 31.

Subp. 22. **Unforeseeable emergency.** "Unforeseeable emergency" means a severe financial hardship to the participant resulting from a sudden and unexpected illness or accident of the participant or of a dependent of the participant, loss of the participant's property due to casualty, or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the participant. The circumstances that will constitute an unforeseeable emergency will depend upon the facts of each case, but in any case payment will not be made to the extent that the hardship is, or may be relieved, through reimbursement or compensation by insurance or otherwise by liquidation of the participant's assets to the extent the liquidation of the assets would not itself cause severe financial hardship or by cessation of deferrals under the plan.

Statutory Authority: *MS s 352.96*

History: *8 SR 1403; 1Sp1985 c 14 art 21 s 49; 1Sp1986 c 1 art 1 s 9; L 1987 c 268 art 1 s 126; L 1988 c 719 art 3 s 12; 16 SR 202*

7905.0200 ESTABLISHMENT OF PLAN.

The plan shall be known as the "Minnesota public employees' deferred compensation plan" ("plan") and is created according to Minnesota Statutes, section 352.96. The plan shall constitute a continuation of the Minnesota deferred compensation plan, approved by the attorney general and filed with the secretary of state and the commissioner of administration, November 24, 1975.

Statutory Authority: *MS s 352.96*

History: *16 SR 202*

7905.0300 PURPOSE OF PLAN.

The purpose of the plan is to allow employees to designate a portion of their compensation to be withheld each pay period by the employer and invested at the discretion of and in a manner approved by the director for the employer until separation from service, financial hardship, or death of the employee. Any compensation deferred by employees may be invested by the director, for the employer, but there is no requirement for the director or employer to do so. Participation in the plan shall not be construed to establish or create an employment contract between the employee and the employer.

Statutory Authority: *MS s 352.96*

History: *8 SR 1403; 16 SR 202*

7905.0400 APPLICABLE LAW.

The plan shall be construed, administered, and governed in all respects under and by the laws of the state of Minnesota, Minnesota Statutes, section 352.96.

Statutory Authority: *MS s 352.96 subd 4*

7905.0500 TERMS: GENDER AND NUMBER.

Except when otherwise indicated by the context, any masculine terminology herein shall also include the feminine and neuter and vice versa, and the definition of any terms in part 7905.0400 in the singular may also include the plural.

Statutory Authority: *MS s 352.96 subd 4*

RESPONSIBILITIES OF DIRECTOR

7905.0600 ADMINISTRATION OF PLAN.

The director has the full power and authority to administer the plan and promulgate, adopt, amend, or revoke internal management procedures which are consistent with, and necessary to implement and maintain, the plan.

Statutory Authority: *MS s 352.96*

History: *16 SR 202*

7905.0700 WRITTEN AGREEMENT.

The employer or the director on behalf of the employer shall enter into a written agreement with each participant. The written agreement and other application forms shall be in a form and manner as prescribed by the director and shall set forth the obligations contained in the plan, the amounts of compensation to be deferred, and other information the director considers necessary to administer the plan.

Statutory Authority: *MS s 352.96*

History: *16 SR 202*

7905.0800 COPIES OF PLAN, PAMPHLETS, AND ACCOUNT STATEMENTS.

Pamphlets describing the plan and outlining the options and opportunities available shall be prepared under the direction of the director and made available to eligible employees. Copies of the plan will be made available upon request. Individual account statements shall be made available to each participant at least annually.

Statutory Authority: *MS s 352.96*

History: *16 SR 202*

PARTICIPATION IN PLAN

7905.0900 ELIGIBILITY.

All employees who are receiving compensation who have not received a distribution based on an unforeseeable emergency as provided in part 7905.2300 within the last 12 months shall be eligible to become participants in accordance with part 7905.1000. If an employee received a distribution based on an unforeseeable emergency in the last 12 months and is eligible for an employer matching contribution under Minnesota Statutes, section 356.24, employee contributions can be made only up to the amount matched by employer contributions.

Statutory Authority: *MS s 352.96*

History: *16 SR 202; 17 SR 8*

7905.1000 ENROLLMENT.

Any employee eligible to participate according to part 7905.0900 may become a participant by agreeing with the employer in writing, on a form approved by the director, to a deferment of the participant's compensation according to parts 7905.1100 and 7905.1200. The deferment will begin with the first pay date following 30 days from the date the application is properly completed by the employee and accepted by the employer or director acting for the employer. The application shall also specify an investment preference for the deferred compensation.

Statutory Authority: *MS s 352.96*

History: *8 SR 1403; 16 SR 202*

7905.1100 MINIMUM DEFERRAL.

The minimum amount which may be deferred is $10 per pay period. The amounts to be deferred must be stated in whole dollars. If the application indicates an amount including cents, the cents will be disregarded.

Statutory Authority: *MS s 352.96*

History: *16 SR 202*

7905.1200 MAXIMUM DEFERRAL.

The total amount of deferred compensation during any taxable year shall not exceed the limits provided in items A and B.

A. 33–1/3 percent of includable compensation or $7,500, whichever is less; or

B. for each of three taxable years preceding the year in which the participant will attain normal retirement age, the participant may defer an amount equal to the limits in item A plus an additional amount equal to the difference between the amount of compensation that could have been deferred under the plan, and the amount that was deferred for years after December 31, 1978. In no event, however, can the deferral exceed $15,000 for any taxable year.

The participant may designate and use this catch up provision only once whether or not it is used in less than all of the three taxable years ending before attaining normal retirement age and whether or not the participant or former participant rejoins the plan. The participant may not use this catch up provision in another eligible plan.

If a participant also participates in or has amounts contributed by the employer for the purchase of a tax–sheltered annuity, a section 401(k) plan, or a salary reduction simplified employee pension plan, and part or all of the contributions are excludable from taxable income under section 403(b), 402(a)(8), or 402(h)(1)(B) of the Internal Revenue Code, the contributions reduce the maximums established in items A and B.

In no event can deferrals exceed an employee's compensation less deductions for FICA, any other taxes, pension contributions, and other mandatory deductions.

Statutory Authority: *MS s 352.96*

History: *8 SR 1403; 16 SR 202*

7905.1300 MODIFICATIONS TO AMOUNT DEFERRED.

The employer shall adjust the participant's total annual compensation, on a pay period basis, by the deferred compensation amount indicated on the participant's application. That amount, subject to the limits of part 7905.1200, may be increased or decreased only by proper application to the employer or to the director acting for the employer. The change shall take effect the first pay date following 30 days from receipt and approval of the application. Only two modifications, other than a revocation of participation as provided in part 7905.1400, may be made each taxable year.

Statutory Authority: *MS s 352.96*

History: *8 SR 1403; 16 SR 202*

7905.1400 REVOCATION OF DEFERRAL.

A participant may revoke an election to have compensation deferred by notifying the employer or the director acting for the employer in writing. The participant's full compensation on a nondeferred basis will then be restored beginning with the first pay date following 30 days from the date notification was received; however, the participant's deferred compensation account shall be paid only as provided in parts 7905.1700 to 7905.2400.

Statutory Authority: *MS s 352.96*

History: *8 SR 1403; 16 SR 202; 17 SR 8*

7905.1500 DURATION OF ELECTION TO DEFER COMPENSATION.

Once an election to have compensation deferred has been made by the participant, the election shall continue in effect until the participant's separation from service, unless the participant modifies the amount according to part 7905.1300, or revokes the deferred compensation according to part 7905.1400 or receives a distribution under part 7905.2300.

Statutory Authority: *MS s 352.96*

History: *8 SR 1403; 16 SR 202*

7905.1600 DEFERRAL ADJUSTMENTS.

Subpart 1. **Deduction exceeds pay period salary.** If for any reason the deferred compensation deduction for any pay period exceeds the amount remaining after provision is made for retirement deductions, social security tax contributions, state and federal income taxes, and any other deductions required by law, then no deduction for the plan will be made for the participant for that pay period.

Subp. 2. **Missed deductions; overdeductions.** If a deferred compensation deduction is missed for any reason, no adjustment shall be made on any future pay period for the missed deduction. However, if for any reason an amount is deducted from a pay period greater than that indicated by the participant on the application, the amount overdeducted will be refunded.

Subp. 3. **Change in pay period length.** In the employee's application for participation in the plan, the employee must state the amount the employee wishes withheld each pay period. If for any reason the length of the period for which the employee is paid is changed from that in effect as of the date of the application, the employer or the director acting for the employer shall compute and have withheld from the employee's salary an equivalent whole dollar amount to be withheld corresponding to the new pay period length that will result in approximately the same annual amount being withheld.

Subp. 4. **Maximum deduction.** The employer shall attempt to ensure compliance with the maximum deferment in part 7905.1200. If the amount deducted exceeds the maximum deferment in part 7905.1200, the amount of subsequent deductions for the remainder of the taxable year shall be adjusted to conform to the maximum deferment allowed for the year. If it is not possible to correct the total deduction by year end, the overage shall be refunded. A participant is responsible for any tax consequences to the participant that may arise as a result of the participant's deferrals under the plan that exceed the maximum amounts allowable.

Statutory Authority: *MS s 352.96*

History: *8 SR 1403; 16 SR 202*

PARTICIPANTS' ACCOUNTS, INVESTMENTS, AND DISTRIBUTIONS

7905.1700 DEFERRED COMPENSATION ACCOUNTS AND VALUATION.

Subpart 1. **Participants' accounts.** An investment account shall be established for each participant which shall be the basis for any distributions payable to the participants under parts 7905.2000 to 7905.2400. Each participant's account shall be credited with the amount of any compensation deferred and received, less the administrative charge in subpart 4, and shall be further credited or debited, as applicable, with any increase or decrease resulting from investments under part 7905.1900, credited or debited with any investment expenses, if applicable, debited for the amount of any distribution, and credited initially with the value, on December 19, 1983, of any bookkeeping account maintained under the prior plan.

Subp. 2. **Financial responsibility of employer.** The funds and assets paid into the deferred compensation account may be invested in approved investments as provided by Minnesota Statutes, section 352.96, subdivision 2, until distributed according to parts 7905.2000 to 7905.2400.

The employer shall not be responsible for any loss due to the investment or failure of investment of funds and assets in the deferred compensation account, nor shall the employer be required to replace any loss which may result from the investments.

Subp. 3. **Account and fund valuation.** The supplemental investment account is to be valued by the board as of each accounting date according to Minnesota Statutes, section 11A.17. Any withdrawals or distributions shall be based upon the account's value as of the accounting date.

The fixed and variable annuity account is to be valued at current market value as of each accounting date on a reasonable and consistent basis and according to the terms of the contract as approved by the board under Minnesota Statutes, section 352.96.

Subp. 4. **Administrative expense.** The administrative expenses of the plan will be paid under Minnesota Statutes, section 11A.17. If amounts generated by Minnesota Statutes, section 11A.17, are insufficient to pay all necessary administrative expenses, up to one–half percent shall be deducted each pay period from the first $3,000 deferred compensation invested in the supplemental investment account each calendar year to pay administrative costs. The director shall review the charge levied annually and if the levy proves to be excessive or insufficient to pay all necessary costs of administration, the director shall adjust the charges accordingly after review of the necessity for the charge by the legislative auditor.

Administrative costs for the fixed and variable annuity account shall be established by the contract as approved by the board under Minnesota Statutes, section 352.96.

Statutory Authority: *MS s 352.96*

History: *8 SR 1403; 16 SR 202; 17 SR 8*

7905.1800 UNSECURED GENERAL CREDITOR.

Title to and beneficial ownership of any assets, whether in cash or investment which the employer may earmark to pay or measure any deferred compensation under this chapter, shall at all times remain as a part of the general assets of the employer. The participant and the participant's beneficiary shall not have any property interest in any specific asset of the employer on account of the participant's election to defer any compensation under the plan. To the extent that any person acquires a right to receive payments from the employer under the terms of the plan, the right shall be no greater than the right of any unsecured general creditor of the employer.

Statutory Authority: *MS s 352.96*

History: *16 SR 202*

7905.1900 INVESTMENT OF FUNDS.

Subpart 1. **Investment allowed.** Any compensation deferred by employees may be invested by the director for the employer, but there is no requirement to do so.

Subp. 2. **Investment options.** The participant may select an investment preference from among the options provided in the deferred compensation account.

The supplemental investment account shall provide the options of the income share account, growth share account, or, common stock index account, money market account, bond market account, or fixed interest account.

The fixed or variable annuity account shall provide the options of a fixed annuity or a variable annuity as provided in the contract approved by the board under Minnesota Statutes, section 352.96.

A participant may select a combination of these five investment account preferences by specifying on the application the amount to be deferred under each investment preference. A participant may select the account options of only one of the companies approved by the board at any one time. The amount to be deferred cannot be less than $10 per pay period per account selected.

Subp. 3. **Investment preference requests for future compensation.** A participant shall, at the time of enrollment, make an investment preference request on an application provided for that purpose. Once made, an investment request shall continue for any deferments unless later changed by the participant.

A participant may change an investment preference request for future amounts of deferred compensation. A change in investment request shall be effective with respect to compensation to be deferred for the first pay date following 30 days from receipt of the request.

Subp. 4. **Investment preference requests for past deferred compensation.** A participant may also change an investment preference request with respect to all or part of previously deferred compensation. Changes are limited to a change within the fixed or variable annuity account according to the terms of the annuity contracts or within the supplemental investment account but not between the annuity accounts and the supplemental investment account, nor between companies approved by the board. These changes in investment preference shall be effected as soon as practical as cash flow to an account permits, but not later than six months after the requested change.

Statutory Authority: *MS s 352.96*

History: *8 SR 1403; 16 SR 202; 17 SR 8*

7905.2000 DISTRIBUTION EVENTS.

A participant's deferred compensation account may begin to be distributed according to part 7905.2100 following the occurrence of one of the following events: separation from service; death; unforeseeable emergency; distribution date as provided in part 7905.2200; or attainment of age 70–1/2.

Statutory Authority: *MS s 352.96*

History: *8 SR 1403; 16 SR 202*

7905.2100 METHODS OF DISTRIBUTION.

Subpart 1. **Election in general.** Distribution of a participant's deferred compensation account shall be made in one of the following ways, with the date of distribution determined according to part 7905.2200. Benefits shall be paid at least annually and in nonincreasing amounts as provided in section 457(d)(2)(C) of the Internal Revenue Code. Elections by a participant as authorized in this chapter shall be made on forms approved by the director.

Subp. 2. **Supplemental investment account.** A participant in the supplemental investment account will have deferred compensation distributed over a period of 60 months, unless at least 30 days before distribution the participant elects to have distribution made in one of the following methods:

A. in a lump sum;

B. in a lump sum purchase by the director of a fixed or variable annuity contract with one of the companies approved by the board under Minnesota Statutes, section 352.96, subdivision 2, including the availability of the options in subpart 3; or

C. for distribution beginning before the death of the participant, in monthly installments over a period of months specified by the participant; provided, however, that the amounts payable to the participant will be paid at times that are not later than the time determined under section 401(a)(9)(G) of the Internal Revenue Code relating to incidental death benefits as prescribed by the federal tax regulations. Any amount not distributed to the participant during the participant's lifetime will continue to the beneficiary at least as rapidly as was made to the participant before death.

The monthly installment payment from the supplemental investment account shall be determined by dividing the number of shares held by the months to be paid according to the withdrawal period selected. If the computation results in a monthly payment of less than $100, the number of shares that equal approximately $100 shall be determined and shall be redeemed and distributed to the employee or beneficiary each month until the deferred compensation is depleted in its entirety. If the deferred compensation has been invested in shares of more than one investment account, shares will be redeemed in whole units proportionately to the extent possible. Money market and guaranteed return account investment payments shall also include payment of annual interest on the invested balance. If the value of the participant's account is $1,000 or less, distribution shall be made in a lump sum.

Subp. 3. **Fixed or variable annuity account.** A participant in the fixed or variable annuity account will have deferred compensation distributed in the form of monthly annuity payments unless, before distribution, the participant elects a lump sum distribution. The annuity payments shall be based on one of the following methods, as selected by the participant at least 30 days before distribution begins:

A. the life of the participant;

B. the joint lifetime of the participant and spouse; or

C. a period certain in which the amounts payable to the participant will be paid at times not later than the time determined under section 401(a)(9)(G) of the Internal Revenue Code relating to incidental death benefits as prescribed by the federal tax regulations. Any amount not distributed to the participant during the participant's lifetime will continue to the beneficiary at least as rapidly as was made to the participant before death.

If no election is made, the participant's deferred compensation will be paid on the basis of a five–year period certain annuity.

Notwithstanding any other rule to the contrary, if a fixed or variable annuity account is equal to or less than $1,000, the account shall be distributed in a lump sum within 60 days following the close of the taxable year during which the distribution event occurs.

Once payments have begun on an annuity basis, any future payments to a beneficiary will depend on the terms of the annuity payments agreed to by the participant and the employer. If a participant dies before the end of a period certain, any remaining distributions will be paid to the beneficiary determined under part 7905.2500. If annuity payments have begun on a joint and last survivor basis, any payments due after the death of the participant will be due only to the other person on which the annuity payments have been based and not any other beneficiary.

If, in fact, an annuity contract is purchased, the owner and named beneficiary shall be the employer. Any rights of participants or beneficiaries are derived solely from the plan.

Statutory Authority: *MS s 352.96*

History: *8 SR 1403; 16 SR 202*

7905.2200 DATE OF DISTRIBUTION.

Subpart 1. **Election in general.** A participant may irrevocably elect, on a form approved by the director at least 30 days before the time any amounts become payable, to defer payment of some or all of the amounts to a fixed or determinable future time, subject to subparts 2 to 6.

Subp. 2. **Electing distribution date.** At any time prior to 30 days following the close of the taxable year in which separation from service occurs, a participant may designate a distribution date not later than the latest of:

A. April 1 after the close of the taxable year in which the participant attains age 70–1/2; or

B. 60 days after the close of the taxable year in which the participant separates from service.

Election of a date of distribution may be made only once and, once made, is irrevocable.

Subp. 3. **Death of participant.** If a participant dies before the distribution date or date of separation from service, the death will be treated as an event of distribution. If the beneficiary is the participant's surviving spouse, the beneficiary shall have the right to elect the method and time of distribution as if the beneficiary was the participant. The distribution to the surviving spouse cannot exceed the life expectancy of the surviving spouse. If the beneficiary is other than the surviving spouse, payments to the beneficiary must be distributed over a period not to exceed 180 months from the date of death.

Subp. 4. **After payment starts.** Once payment has begun, the method of distribution may not be changed, except in the event of an unforeseeable emergency, subject to the restrictions of the payment option the participant or beneficiary has selected. If the participant dies before all benefits have been paid, payments must continue to a beneficiary under a schedule that is at least as rapid as the schedule under which the participant was being paid.

Subp. 5. **When distribution begins.** Distribution may not begin before separation from service or death, except for unforeseeable emergency distributions as provided in part 7905.2300.

Subp. 6. **No election.** If no distribution date is elected, payment shall begin 60 days after the close of the taxable year in which separation from service occurs.

Statutory Authority: *MS s 352.96*

History: *8 SR 1403; 16 SR 202*

7905.2300 UNFORESEEABLE EMERGENCY.

Subpart 1. **Conditions permitting distribution.** A distribution of all or a part of a participant's deferred compensation account or a change in method of distribution to a participant notwithstanding the fact that distribution has begun, unless the distribution is in the form of an annuity, shall be permitted if the participant is faced with an unforeseeable emergency. Deferrals under the plan shall cease as soon as possible for one year for any participant granted a distribution because of an unforeseeable emergency except for the minimum employee deferral to allow an employer match as specified under part 7905.0900.

Subp. 2. **Showing of an emergency.** Any participant desiring a distribution by reason of an unforeseeable emergency must demonstrate that the circumstances being experienced were not under the participant's control and constitute a real emergency that is likely to cause the participant great financial hardship. The employer or director acting for the employer shall have the authority to require medical or other evidence as may be needed to determine the necessity for the participant's withdrawal request.

Subp. 3. **Amount and method of distribution.** The distribution shall be limited to an amount sufficient only to meet the emergency and shall not exceed the amount of the deferred compensation account.

The allowed distribution shall be payable by a method determined by the employer or the director acting for the employer and begin as soon as possible after notice to the participant of approval.

Statutory Authority: *MS s 352.96*

History: *8 SR 1403; 16 SR 202; 17 SR 8*

7905.2400 DESIGNATION OF BENEFICIARY.

A participant may designate a beneficiary or beneficiaries to receive payment of the participant's deferred compensation in the event of the participant's death. With respect to deferred compensation in the supplemental investment account, only a singular beneficiary may be designated. If the designated beneficiary predeceases the employee and a new beneficiary has not been named or the designated beneficiary dies before receiving payment, a lump sum payment shall be made to the participant's estate. The beneficiary designation shall be in writing and must be filed with the director or company approved by the board under Minnesota Statutes, section 352.96, subdivision 2, as the case may be, before the death of the participant. If no designation of beneficiary is filed with the director, the beneficiary shall be the surviving spouse, or if none, a lump sum payment shall be made to the participant's estate.

Statutory Authority: *MS s 352.96*

History: *8 SR 1403; 16 SR 202*

7905.2500 LEAVE OF ABSENCE.

A participant who is granted a leave of absence by the employer may continue to be a participant in the plan as long as the leave of absence is approved by the employer. If an approved leave of absence is terminated by the employer or employee without the resumption of the employment relationship, the participant shall be treated as having a separation from service under the plan.

Statutory Authority: *MS s 352.96*

History: *8 SR 1403; 16 SR 202*

7905.2550 [Repealed, 16 SR 202]

INTERPRETATION OF PLAN

7905.2600 NONASSIGNABILITY OF CONTRACT.

The contract entered into between the employer and a participant through the plan and the benefits, proceeds, or payments under the plan cannot be sold, assigned, pledged, commuted, transferred, or otherwise conveyed by an employee, participant, or beneficiary. An attempt to assign or transfer shall not be recognized and shall impose no liability on the employer.

Except as otherwise required by law, deferred compensation money withheld under the plan shall not be subject to attachment, garnishment, or execution, or to transfer by operation of law in the event of bankruptcy or insolvency of the participant or otherwise.

Statutory Authority: *MS s 352.96*

History: *16 SR 202*

7905.2700 HEADINGS AND SUBHEADINGS.

The headings and subheadings in the plan are inserted for convenience of reference only and are to be ignored in any construction of the provisions of this chapter.

Statutory Authority: *MS s 352.96*

History: *16 SR 202*

7905.2800 CONFLICTS.

If any form or other document used in administering the plan conflicts with the terms of the plan, the terms of the plan shall prevail.

Statutory Authority: *MS s 352.96*

History: *16 SR 202*

7905.2900 AMENDMENT OF PLAN.

The director acting for the employer shall have the authority to propose amendments to the plan consistent with Minnesota Statutes, section 352.96. No amendment or modification shall adversely affect the rights of participants or their beneficiaries to the receipt of compensation deferred before the amendment or modification unless required by state or federal law to maintain the tax status of the plan and any compensation previously deferred.

Statutory Authority: *MS s 352.96*

History: *16 SR 202*

7905.3000 PRIOR PLAN.

The plan constitutes a continuation of the Minnesota deferred compensation plan approved by the attorney general and filed with the secretary of state and the commissioner of administration, November 24, 1975. All participants and any compensation deferred under the prior plan are, after January 1, 1981, governed by the terms of the plan subject to items A to D.

A. All deferrals elected under the prior plan shall continue without further action as long as they do not exceed the limits in part 7905.1200.

B. Any investment requests made under the prior plan shall continue to apply to any deferrals made under the plan according to part 7905.1900.

C. Any election of the method of distribution of benefits made under the prior plan shall be void, and a participant or beneficiary may elect the form of distribution according to parts 7905.2100 and 7905.2200.

D. The revised plan is effective July 1, 1991.

Statutory Authority: *MS s 352.96*

History: *16 SR 202*