

**St. Paul Teachers'
Retirement Fund Association
Saint Paul, Minnesota**

**Restated Articles of
Incorporation and Bylaws
as Amended**

**Laws of Minnesota
Chapters 354A, 356, 356A, 122A, 192, 518 & 524**
Extract from Minnesota Statutes 2005

Published April 2006

This Page Intentionally Blank

BOARD OF TRUSTEES

John R. Kunz	President
Erma E. McGuire	Vice-President
Eugene R. Waschbusch	Secretary-Treasurer
Carol J. Adams	Trustee
Matthew Bogenschultz	Trustee
Feryle W. Borgeson	Trustee
Mike McCollor	Trustee
Karen A. Odegard	Trustee
Chong Thao	Trustee
Al Oertwig	Ex-Officio, Trustee Board of Education, City of St. Paul

In accordance with Minn. Stat. §354A.021, subdivision 9, I hereby certify that, to the best of my knowledge, these Restated Articles of Incorporation and Bylaws are an accurate compilation.



Phillip Kapler
Executive Director

St. Paul Teachers' Retirement Fund Association
1619 Dayton Avenue, Room 309
St. Paul, MN 55104-6206
Phone (612) 642-2550

This Page Intentionally Blank

TABLE OF CONTENTS

RESTATED ARTICLES OF INCORPORATION	8
Article I - Name	8
Article II - Purpose.....	8
Article III - Duration.....	8
Article IV - Location.....	8
Article V - Trustees.....	9
Article VI - Personal Liability.....	9
Article VII - Capital Stock.....	9
Article VIII - Members.....	9
Article IX - Amendment	9
RESTATED BYLAWS	12
Article I - Members.....	12
Article II - Meetings of Members.....	13
Article III - Trustees.....	14
Article IV - Election of Trustees	15
Article V - Officers.....	15
Article VI - Committees	17
Article VII - Finances.....	17
Article VIII - Benefits.....	19
Article IX - Seal.....	20
Article X - Amendment	21
BASIC PLAN BENEFITS	24
Article IV - Section 2. Service and Dues.....	24
Section 3. Benefits.....	29
Section 4. Suspension of Benefits.....	37
Article IX - Section 1. Definitions.....	38
INDEX OF RESTATED BYLAWS	43
COORDINATED PLAN BENEFITS	46
CHAPTER 354A - TEACHERS RETIREMENT, CERTAIN CITIES.....	46
GENERAL RETIREMENT LAWS	90
CHAPTER 356 - RETIREMENT SYSTEMS, GENERALLY.....	90
CHAPTER 356A - PUBLIC PENSION FIDUCIARY RESPONSIBILITY....	152
CHAPTER 122A - TEACHERS AND OTHER EDUCATORS.....	159
CHAPTER 192 - MINNESOTA NATIONAL GUARD	162
CHAPTER 518 - MARRIAGE DISSOLUTION	167
CHAPTER 524 - UNIFORM PROBATE CODE.....	172

This Page Intentionally Blank

Restated Articles of Incorporation

ST. PAUL TEACHERS' RETIREMENT FUND ASSOCIATION

Restated Articles of Incorporation of St. Paul Teachers' Retirement Fund Association St. Paul, Minnesota

The Articles of Incorporation of St. Paul Teachers' Retirement Fund Association, in accordance with the provisions of Minnesota Statutes, Chapter 317A, are hereby amended and restated in their entirety by striking all the provisions as now set forth in the Articles of Incorporation and substituting the following Restated Articles of Incorporation, such Restated Articles of Incorporation to be effective the first day of February, 1991.

Article I Name

The name of this corporation shall be "St. Paul Teachers' Retirement Fund Association".

Article II Purpose

The purpose of this corporation shall be the collection and disbursement of a fund for the benefit of retired teachers of the City of St. Paul, now under the jurisdiction of Independent School District Number 625.

Article III Duration

The period of duration of the corporation's existence shall be perpetual.

Article IV Location

The location of the registered office of the corporation shall be 1619 Dayton Avenue, Room 309, St. Paul, Minnesota.

Article V Trustees

The management of the affairs of the corporation shall be vested in a board of ten trustees. The Chairman of the Board of Independent School District Number 625 or another school board member appointed by the Board of Independent School District Number 625 shall be ex-officio a member of the board. The nine other trustees shall be elected by and from the members of the corporation in the manner prescribed in the bylaws.

Article VI Personal Liability

The members shall be subject to no personal liability for the obligations of the corporation.

Article VII Capital Stock

The corporation shall have no capital stock.

Article VIII Members

The members shall be divided into two classes, of which the first shall be designated as "the basic division" and the second shall be designated as "the coordinated division". The membership of this corporation shall consist of all persons who are now members of this corporation and such other persons as may become members in the manner prescribed in the bylaws.

Article IX Amendment

These Restated Articles of Incorporation may be amended from time to time in the manner, and to the extent, provided by applicable law.

This Page Intentionally Blank

Restated Bylaws

ST. PAUL TEACHERS' RETIREMENT FUND ASSOCIATION

Restated Bylaws of St. Paul Teachers' Retirement Fund Association St. Paul, Minnesota

Article I Members

SECTION 1. **Eligibility.** Every person employed as a teacher, as hereinafter defined, in the public schools of the City of St. Paul, and every person employed as a full-time salaried employee of this Association shall, by the fact of such employment, be a member of this Association. Every person who is a former member of the Association and who is employed by an organization designated in Minnesota Statutes 1976, Section 354.41, subdivision 4, may elect to become a member of this Association upon the basis of such employment, subject, however, to the limitations contained in said section and subdivision, and subject to the payment of dues in accordance with said section.

As used herein, the term "teacher" means a person employed by the Board of Independent School District Number 625 in the instructional, supervisory, or other essential professional staff, whose employment is dependent upon the possession of an appropriate license issued by the Minnesota State Board of Education.

SECTION 2. **Classification.** The members shall be divided into two classes, of which the first shall be designated as "the basic division" and the second shall be designated as "the coordinated division".

SECTION 3. **Basic Division.** The basic division shall consist of the members holding positions that are not covered under an agreement providing coverage under the Act of Congress approved August 14, 1935, Chapter 531.49 Stat. 620, officially cited as the "Social Security Act", as such act has been and may be from time to time amended.

SECTION 4. **Coordinated Division.** The coordinated division shall consist of the members holding positions that are covered under an agreement providing coverage under the said Social Security Act.

SECTION 5. **Basis of Classification.** The first classification of the members shall be made upon the basis of the referendum held in accordance with Minnesota Statutes, 1977 Supplement, Section 355.202, and shall be effective as of the first day of July, 1978. Thereafter, the positions of all teachers who become members of the Association shall be included in the coordinated division; provided, however, that a teacher whose service in a position covered by the Association commences after

the first day of July, 1978, shall be deemed to become a member of the Association upon the commencement of such service, notwithstanding the date of the member's employment contract.

SECTION 6. Termination. A person's membership in the Association shall terminate whenever the member has been paid all benefits to which the member is, or may become, entitled.

Article II Meetings of Members

SECTION 1. Annual Meeting. The annual meeting of the members shall be held on the third Thursday of January, at such time and place in the City of St. Paul as shall be determined by the Board of Trustees.

SECTION 2. Special Meetings. The President, or in the President's absence, the Vice-President of the Board of Trustees, or any three trustees may call a special meeting at any time. Upon receipt of a written request for a special meeting stating the purpose thereof, signed by any thirty members, the President shall call a special meeting.

SECTION 3. Notice. The Secretary shall give written notice of each meeting stating the time, place, and in the case of a special meeting, the purpose of the meeting, to each trustee and member entitled to vote at the meeting. Each such notice shall be properly addressed according to the latest available corporate records, and shall be delivered or mailed no fewer than five nor more than thirty days before the date of the meeting.

SECTION 4. Quorum. One hundred members, present in person or by proxy, shall constitute a quorum for the transaction of business. The appointment of a proxy shall be in writing filed with the Secretary at least two days before the date of the meeting.

SECTION 5. Voting. Each member shall be entitled to one vote by voice or by ballot. A person holding more proxies than one may cast a single ballot stating the number of proxies being voted, in which case the person so voting shall sign his/her name on the ballot. Cumulative voting shall not be permitted.

SECTION 6. Order of Business. The members may determine the order of business at their meetings; provided, however, that the following items shall be included:

- (a) Roll call;
- (b) Reading of minutes of preceding meeting;
- (c) Communications and Correspondence;
- (d) Resignations and elections;
- (e) Reports of officers and committees;
- (f) Unfinished business;
- (g) New business;
- (h) Adjournment.

SECTION 7. **Proxies.** At all meetings of members, a member may vote by proxy executed in writing by the member. Such proxy shall be filed with the Secretary of the Association at least two days prior to the time of the meeting at which such proxy is to be voted. A proxy shall be valid for the period specified in the proxy, or, if no expiration date is provided in the proxy, for a period not to exceed eleven months from the date of its execution. In no event shall a proxy be valid for more than one year from the date of its execution. A proxy's authority shall not be revoked by the death of the maker unless, before the vote is cast and the authority exercised, written notice of such death is given to the Association.

Article III Trustees

SECTION 1. **Board of Trustees.** The management of the affairs of the Association shall be vested in a board consisting of ten trustees as specified in Article V of the Association Articles of Incorporation. The nine elected trustees shall hold office for terms of three years and until their successors have been elected and qualified. The said trustees shall be divided into three classes of three trustees each, and one class of trustees shall be elected each year at the annual meeting of the members. The remaining members of the board, although fewer than a quorum, shall fill any vacancy in the elective membership of the board until the next annual election, at which election the vacancy shall be filled by election by the members for the unexpired term, if any.

SECTION 2. **Duties.** The Board of Trustees shall manage the business of the Association, subject to law, the Restated Articles of Incorporation, and these bylaws. The board shall have the authority to employ any services necessary to properly conduct the business of the Association.

SECTION 3. **Meetings.** The Board of Trustees shall hold an annual meeting immediately following the annual meeting of the members, and the board shall hold regular meetings in June and in September of each year at such times and places as the board may determine. The President, or in the President's absence, the Vice-President, or any three trustees may call a special meeting.

SECTION 4. **Notice.** A written notice of each meeting stating the time, place, and in the case of a special meeting, the purpose shall be sent by the Secretary to each trustee at the trustee's last known address, in a sealed envelope, with postage thereon prepaid, and shall be deposited in the Post Office in the City of St. Paul at least two days before the date of the meeting.

SECTION 5. **Waiver of Notice.** A trustee may waive notice of any meeting before, at, or after the meeting. Each waiver shall be in writing, signed by the trustee, and filed with the Secretary. Appearance at a meeting shall constitute a waiver of notice unless the appearance is solely for the purpose of asserting the illegality of the meeting.

SECTION 6. **Quorum.** Six trustees shall constitute a quorum for the transaction of business, but a smaller number may adjourn from time to

time. The concurrence of a majority of the trustees present at a meeting at which a quorum is present shall be necessary to express the will or determination of the Board of Trustees.

SECTION 7. Voting. Each trustee shall be entitled to one vote at meetings of the trustees. There shall be no voting by proxy.

SECTION 8. Action Without Meeting. Any action that could be taken at a meeting of the Board of Trustees may be taken without a meeting when authorized in writing signed by all of the trustees.

Article IV Election of Trustees

SECTION 1. Nomination of Candidates. Candidates for the office of trustee shall be nominated by ten or more members of the Association on a filing form prescribed by the Board of Trustees and available at the offices of the Association. The filing form must be delivered to the Association offices no later than the second Friday of November prior to the date of the election.

SECTION 2. Nominations from Floor. Additional nominations may be made from the floor at the annual meeting.

SECTION 3. Voting. Voting at the election of trustees at the annual meeting shall be by ballot.

Article V Officers

SECTION 1. Enumeration. The officers of the Association shall be a President, a Vice-President, a Secretary, a Treasurer, and such other officers as the Board of Trustees may determine. The President and the Vice-President must be trustees. The Secretary and the Treasurer need not be trustees, but they must be members of the Association. The offices of the Secretary and Treasurer may be held by the same person.

SECTION 2. Election. Officers shall be elected by the trustees at their annual meeting, and they shall hold office for a term of one year and until their successors are elected and qualified. Vacancies among the officers shall be filled for the unexpired term by the Board of Trustees.

SECTION 3. President. The President shall preside at meetings of the members and of the Board of Trustees. The President shall be ex-officio a member of all committees. The President shall, with the Secretary, execute all instruments required to be executed on behalf of the Association, when thereunto authorized by the Board of Trustees. The President shall perform such other duties as are usually incident to the President's office and such additional duties as may be assigned to the President by the members, or by the trustees, or by other provisions in these bylaws.

SECTION 4. Vice-President. The Vice-President shall perform the duties of the President in the case of the President's absence or the President's inability to act. The Vice-President shall perform such other duties as may be delegated to the Vice-President by the President or as may be assigned to the Vice-President by the members or by the trustees.

SECTION 5. Secretary. The Secretary shall maintain a list of the members of the Association with all data reasonably necessary for the determination of their eligibility for, and the amount of, the benefits to which they are, or may become entitled, under these bylaws. The Secretary shall attend, and keep a record of the proceedings of, all meetings of the members and of the Board of Trustees. The Secretary shall give such notices, make such reports, and perform such other duties as are usually incident to the office or as are imposed upon the Secretary by law, by the articles of incorporation, by these bylaws, by the members, or by the Board of Trustees.

SECTION 6. Treasurer. The Treasurer shall receive and deposit in such bank or banks as the trustees may select, and in the name of the Association, all moneys received by or deposited with the Treasurer for or on account of the Association, and the Treasurer shall deposit and withdraw securities from a bank safe deposit box or bank safekeeping account. The Treasurer's checks shall be countersigned by the President. The Treasurer shall faithfully account to the Association for all moneys, securities, and other things of value coming into the Treasurer's hands, as such Treasurer, and the Treasurer shall give to the Association a bond in such amount as the trustees may determine. At each annual meeting of the members, and at such other time as the trustees may require, the Treasurer shall make a report of the financial transactions of the Association during the preceding accounting period, showing the cash and securities on hand at the beginning of the period, the receipts and disbursements, the purchase and sale of securities, during the period, and the amount of cash and the kind and value of the securities on hand at the close of the period.

SECTION 7. Compensation and Reimbursement. The Secretary and the Treasurer shall be paid such salaries as the trustees may determine. The other officers and the trustees shall be entitled to no compensation for their services as such officers and trustees, but they shall be entitled to reimbursement for their expenses reasonably and necessarily paid or incurred in the performance of their duties.

SECTION 8. Indemnification. The Association shall indemnify, save, and hold harmless the trustees and the officers of the Association from any and all loss, damage, and liability which they may incur or sustain, arising out of the performance of their duties as such trustees or officers, except to the extent that they result from their willful misconduct, gross negligence, or lack of good faith.

SECTION 9. Delegation of Responsibilities. The Board of Trustees may employ an Executive Director to assist the board in the operations of the Association. The Executive Director shall be an officer of the Association. The Executive Director shall serve at the pleasure of the board and shall have such duties and powers as the board shall from time to time

prescribe. The Executive Director shall be appointed by the Board of Trustees on the basis of suitability, experience in the retirement field, leadership ability and other criteria identified by the board. The Executive Director shall be paid such salary as the board may determine.

Article VI Committees

SECTION 1. Executive Committee. At their annual meeting the trustees shall elect an executive committee consisting of five members, one of whom shall be their President, one shall be the Treasurer, and three of whom shall be trustees. The executive committee shall exercise the powers of the trustees between meetings of the trustees, subject to the limitations hereinafter provided. All action taken by the committee shall be subject to the approval of the Board of Trustees at its next meeting.

SECTION 2. Powers of Executive Committee. The executive committee shall direct the investment of the funds of the Association and shall report to the board. The committee, by unanimous action, may approve applications for benefits other than disability benefits, if no meeting of the board is to be held within thirty days of the date of the filing of the application. The committee may not approve an application for disability benefit, but it may investigate the grounds for the application, require examination of the applicant, and make its recommendation respecting the application to the Board of Trustees.

SECTION 3. Meetings of Executive Committee. The President may call a meeting of the executive committee at any time by written notice contained in a sealed envelope addressed to each member at the member's last known address, with postage prepaid, and deposited in the mail in the City of St. Paul at least twenty-four hours before the time set for the meeting; provided, that a meeting may be held at any time if all of the members sign a written waiver of notice. A majority of the executive committee shall constitute a quorum for the transaction of business, but if only three members are present, then their action must be unanimous.

SECTION 4. Other Committees. The Board of Trustees may elect from its membership from time to time such other committees, to which it may delegate such powers and duties, as the board may determine, but all acts of each such committee shall be subject to the approval of the board. Each such committee shall be subject to call, and shall conduct itself according to the rules herein provided for the call and conduct of the executive committee.

Article VII Finances

SECTION 1. Fiscal Year. The fiscal year of the Association shall be from July 1 through June 30 of each year.

SECTION 2. Annual Budget. During the month of April of each year, the Treasurer shall prepare and submit to the Board of Trustees, or to its Executive Committee, a budget of the Association for the next fiscal year. The budget shall include, but need not be limited to, the Treasurer's estimates of the following receipts and disbursements:

- (a) the amount of all income from investments;
- (b) the amount of all members' dues;
- (c) the amount of all employer contributions;
- (d) the amount of all pensions and other benefits;
- (e) the amount of all administrative and operating expenses; and
- (f) the amount of any other items that the Board of Trustees may require.

SECTION 3. Retirement Fund. The assets accumulated from income on investments, from members' dues, from employer contributions, and from any other sources shall be held in one fund. No member or other person shall have any interest in, or right to, any particular asset or part of the fund other than an undivided interest in the whole fund, in accordance with these bylaws.

The fund shall be invested, reinvested, and retained, in the discretion of the Board of Trustees, in securities as specified in Minnesota Statutes Section 356A.06 as that section now exists or may hereafter be amended. The board may hold uninvested such amounts as appear reasonably necessary from time to time to meet the cash requirements of the Association.

SECTION 4. Members' Dues; Basic Division. Each active member shall pay current dues each fiscal year in an amount equal to eight percent of the member's total salary for the fiscal year, in accordance with Minnesota Statutes Section 354A.12, or such other amount as may be required by the terms of the said statute, as hereafter amended. Current dues shall be deducted from the salary of each active member on a regular periodic basis and shall be paid by the school district to the Association.

Back dues for all permissible periods of service for which current dues have not been fully paid may be paid at the times, in the manner, and subject to the limitations provided in the bylaws in effect on the first day of June, 1978.

SECTION 5. Members' Dues; Coordinated Division. Each active member in the coordinated division shall pay current dues in each fiscal year in an amount equal to four and one half percent of the member's total salary for the fiscal year, in accordance with Minnesota Statutes Section 354A.12, or such other amount as may be required by the terms of said statute, as hereafter amended. Current dues shall be deducted from the salary of each active member on a regular periodic basis and shall be paid by the school district to the Association.

Back dues for all permissible periods of service for which current dues have not been paid may be paid at the times, in the manner, and subject to the limitations provided by law from time to time.

SECTION 6. **Employer Dues.** Employer dues shall be paid to the Association as provided in Minnesota Statutes Section 354A.12.

SECTION 7. **Annual Report.** Following the close of each fiscal year a financial report shall be prepared under the supervision and at the direction of the Board of Trustees. The report shall be signed by the President and by the Secretary, shall be filed, and shall contain the information required by the terms of Minnesota Statutes 1977, Section 356.20, as it now exists or as it may be amended hereafter.

SECTION 8. **Annual Audit.** The books and accounts of the Association must be examined and audited annually by the office of the state auditor as provided in Minnesota Statutes Section 354A.021, subdivision 8.

Article VIII Benefits

SECTION 1. **Credited Service; Basic Division.** Members in the basic division shall be credited with service for the computation of benefits in accordance with the rules stated in Article IV of the bylaws in effect on the first day of June, 1978, subject, however, to such changes in those rules as are required by law from time to time.

SECTION 2. **Credited Service; Coordinated Division.** Members in the coordinated division shall be credited with service for the computation of benefits in accordance with the rules stated in the applicable sections of the statutes identified in Section 60 of Chapter 429 of the Laws of 1977, as those sections now exist or as they may be amended hereafter.

SECTION 3. **Benefits; Basic Division.** Members in the basic division shall be entitled to benefits of such types, in such amounts, upon fulfilling such requirements, and subject to such conditions as are stated in the bylaws in effect on the first day of June, 1978, subject, however, to such changes as are required by law from time to time. Notwithstanding the language of said bylaws, the application period for and commencement date of benefits shall be the same as permitted for members in the coordinated division as referred to in the following section.

SECTION 4. **Benefits; Coordinated Division.** Members in the coordinated division shall be entitled to benefits of such types, in such amounts, upon fulfilling such requirements, and subject to such conditions as are stated in the applicable sections of the statutes identified in Section 60 of Chapter 429 of the Laws of 1977, as those sections now exist or as they may be amended hereafter.

SECTION 5. **Benefits; Augmentation.** The benefits of members in the basic division who are eligible for a deferred retirement annuity shall have the annuity augmented as provided to coordinated division members by Minnesota Statutes Section 354A.37, subdivision 2, as amended.

SECTION 6. **Benefits; Postretirement Benefit Adjustments.** Each eligible person who has been receiving an annuity or benefit under the Articles of Incorporation, the bylaws or the laws of Minnesota chapter 354A for at least 12 months as of the end of a fiscal year as determined

by the Board of Trustees is eligible to receive both (1) a regular annual postretirement adjustment of 2.0 percent, and (2) an additional investment earnings based postretirement increase that is determined as follows:

- (a) The Board of Trustees shall determine the five-year annualized rate of return attributable to the assets of the St. Paul Teachers' Retirement Fund Association under the formula specified in Minnesota Statutes, Section 11A.04, clause (11), and the amount of the excess five-year annualized rate of return over the preretirement interest assumption specified in Minnesota Statutes, Section 356.215.
- (b) The excess investment percentage adjustment must be determined by multiplying the quantity, one minus the rate of contribution deficiency, as specified in the most recent actuarial report of the actuary retained by the Legislative Commission on Pensions and Retirement under Minnesota Statutes, Section 356.215, by the rate of return excess as determined in paragraph (a).

The regular and additional postretirement increases described in this section are applicable to fiscal years commencing on or after July 1, 1996. The regular and additional postretirement increases are to be determined by the Board annually after June 30 and are payable to each eligible annuitant and survivor benefit recipient commencing on the January 1 following the fiscal year end. The first such adjustment will be made as of January 1, 1998, for the fiscal year ending June 30, 1997. The regular and additional postretirement increases must be included in all annuities or benefits paid to the recipient after the adjustments take effect.

SECTION 7. Benefits; Transition Adjustment. If an annuitant or survivor of a member receiving benefits received an additional lump sum payment for the fiscal year ending June 30, 1996 as provided in the bylaws, then one-twelfth of the amount of that payment shall be added to the regular monthly benefit received by that annuitant or survivor as of July 1, 1997. If an annuitant or survivor of a member receiving benefits did not receive a lump sum payment in 1997 for the fiscal year ending June 30, 1996, then the regular monthly benefit of that annuitant or survivor shall be increased as of July 1, 1997 by the cumulative percentage increase in the Consumer Price Index (CPI) as measured by the United States Department of Labor, Bureau of Labor Statistics from the end of the month in which the individual began retirement to June 30, 1997.

Article IX Seal

SECTION 1. Authority. The Board of Trustees may adopt a corporate seal, and may alter the seal from time to time.

SECTION 2. Effect. The affixing of the corporate seal shall have no effect upon the validity of any instrument.

Article X Amendment

SECTION 1. **Power.** These bylaws may be amended at any time in the manner provided by law.

SECTION 2. **Limitation.** No amendment affecting benefits, contributions, or actuarial assumptions shall be made without the approval of the legislature of the State of Minnesota.

This Page Intentionally Blank

Basic Plan Benefits

ST. PAUL TEACHERS' RETIREMENT FUND ASSOCIATION

BASIC PLAN BENEFITS

**Applicable Excerpts from Bylaws
in effect on the 1st day of June, 1978, as amended.**

Article IV Section 2. Service and Dues

PARAGRAPH 1. Current Dues. For each year of St. Paul service, there shall be withheld by the City and paid into the treasury of the Association, as current dues:

- (1) on behalf of each active member not on sabbatical leave, an amount equal to eight percent of the member's annual contract salary; and
- (2) on behalf of each active member on sabbatical leave, an amount equal to eight percent of the member's annual contract salary that would have been payable had the member not been on sabbatical leave.

PARAGRAPH 2. Back Dues. (a) Outside service, previous St. Paul service, military service, and governmental service shall be accredited for benefits as follows:

- (1) Not more than 10 years of outside service for members admitted on or before December 31, 1939, or who were teachers in the public schools of St. Paul on December 31, 1939.
 - (2) Not more than eight years of outside service for members admitted on and after January 1, 1940.
 - (3) All previous St. Paul service.
 - (4) All military service, as established by evidence satisfactory to the board, if such service was performed between periods of teaching service in the St. Paul Public Schools, excluding any voluntary extension of such service at the instance of the member beyond the initial period of enlistment, induction, or call to active duty.
 - (5) All governmental service, if such service was performed between periods of teaching service in the St. Paul Public Schools.
- (b) No outside service or previous St. Paul service shall be accredited if the member, at the time of application for pension, is receiving or is eligible to receive benefits on account of such service from any public employees' or teachers' pension or retirement Association in

any form other than a return of dues, premiums or other contributions paid to such Association.

- (c) Members claiming credit for outside service or previous St. Paul service shall file a written claim with the Secretary, on forms provided by the Association, within twelve months after admission to membership. Members claiming credit for military service shall file written claim with the Secretary, on forms provided by the Association, within twelve months after return to the St. Paul Public Schools.
- (d) Back dues for all accredited outside service, previous St. Paul service, military service, and governmental service shall be paid as follows:
 - (1) for outside service:
 - (i) in the case of members first employed after June 30, 1974, for each year of such service, one and one-half times the rate at which the member's dues are computed upon the member's annual contract salary for the first full year of the member's St. Paul service, without interest if payment is commenced within four years and completed within ten years of entry into St. Paul service; or, if not commenced within said four years, twice the rate at which the member's dues are computed upon the member's annual contract salary at the time when payment is made, with interest at the rate then being used in the actuarial calculations for the Association;
 - (ii) in the case of members first employed before July 1, 1974, having service that was creditable under the bylaws in effect prior to June 30, 1974, for each of the first five years of such service, ten and one-half percent of the salary received for the latest years of such service, without interest, if paid before January 1, 1975, or prior retirement; and in the case of members first employed before July 1, 1974, having service that was not creditable under the bylaws in effect prior to June 30, 1974, for each of the first five years of such service, ten and one-half percent of the members' annual contract salary for the first full year of the member's St. Paul service, without interest, if paid before January 1, 1975, or prior retirement; provided, however, that in no case shall dues for more than five years be payable at the ten and one-half percent rate;
 - (iii) in the case of members first employed before July 1, 1974, having service specified in clause (ii) hereof, for each of the first five years of such service for which dues have not been paid prior to January 1, 1975, and for each additional year of such service, one and one-half times the rate at which the member's dues are computed upon the member's annual contract salary when payment is made, without interest, if paid before June 30, 1978, or prior retirement; but if not paid before said date, twice the rate at which the member's

dues are computed upon the member's annual contract salary at the time when payment is made, with interest at the rate then being used in the actuarial calculations for the Association;

- (2) for previous St. Paul service performed before July 1, 1967, six percent of the salary received, and for previous St. Paul service performed after June 30, 1967, and before July 1, 1974, seven percent of the member's salary received, without interest, if paid before January 1, 1978, or prior retirement; or, if not paid before said date, twice the rate at which the member's dues are computed upon the member's annual contract salary at the time payment is made, with interest at the rate then being used in the actuarial calculations for the Association; and
- (3) for military service and governmental service performed before July 1, 1967, six percent, and for military service and governmental service performed after June 30, 1967, and before January 1, 1970, seven percent, of the salary that would have been received for such service if the member had been paid therefore at the rate of the basic salary the member received for the St. Paul service immediately preceding such service subject to the former limitation of twelve hundred dollars per month; and for military service and governmental service performed after December 31, 1969, and before July 1, 1974, seven percent, and for military service and governmental services performed after June 30, 1974, eight percent, of the salary that would have been received for such service if the member had been paid therefore at the rate of the annual contract salary the member received for the St. Paul service immediately preceding such service. Back dues for military service and governmental service performed before July 1, 1974, may be paid without interest, if paid before January 1, 1978, or prior retirement; or, if not paid by said date, such dues shall be paid at twice the rate at which dues are computed upon annual contract salary at the time when payment is made, with interest at the rate then being used in the actuarial calculations for the Association. Back dues for military service and governmental service performed after June 30, 1974, may be paid without interest if payment is commenced within four years and completed within ten years of return to St. Paul service; or, if not commenced within said four years, such dues shall be paid at twice the rate at which dues are computed upon annual contract salary at the time when payment is made, with interest at the rate then being used in the actuarial calculations for the Association.

Except as hereinbefore otherwise provided, back dues payable on account of outside service and previous St. Paul service shall be computed upon the basis of the salary received for the latest years of such service.

- (e) Payment of all back dues shall be completed before retirement and no benefits shall be granted unless all back dues required of the member have been paid.

- (f) Every active member who, during any period preceding January 1, 1955, has paid dues at a rate lower than the maximum rate in effect during such period, shall pay an additional amount of dues equal to the difference between the amount the member paid and the amount the member would have paid if the member had paid at the maximum rate during such period, plus simple interest at the rate of three percent a year computed from the end of each year during which such lower rate of dues was paid to December 31, 1954. The aggregate amount of such additional dues and interest shall be due on January 1, 1955, and shall be payable in one sum on that date and, if not paid on that date, it shall be paid in equal installments to be deducted from the next ten salary payments of the member; provided, however, that it shall be payable in any event before the retirement of the member.

PARAGRAPH 3. Leaves of Absence. A teacher on leave of absence from St. Paul service for a reason other than one of the following shall be considered as a member of the Association on leave of absence:

- (a) service in the armed forces of the United States of America;
- (b) service as a teacher in a school maintained in any zone occupied by the armed forces of the United States for children of the United States military or civilian personnel stationed in or near such zone;
- (c) service as an exchange teacher in a foreign country for which no compensation is paid to the member by the St. Paul Public Schools;
- (d) service as an elected officer or member of any branch of the government of the City of St. Paul, or of the County of Ramsey, or of the State of Minnesota;
- (e) a sabbatical leave;
- (f) a medical leave; and
- (g) a maternity/parental leave.

No contributions shall be payable by the member during the member's period of leave, and the period of leave shall not be counted in computing the number of years of service when the member retires. If, at the expiration of a leave of absence, a member resumes St. Paul service, the member's contributions and accumulation of years of service shall resume immediately. If, at the expiration of a leave of absence from St. Paul service for any reason whatsoever, a teacher does not either resume St. Paul service or procure an extension or a renewal of the member's leave of absence, then the member shall be deemed to have withdrawn from service as of the following September 1, and, unless the member is eligible for pension, the member shall be entitled to a cash refund. It shall be the duty of the member on leave of absence to notify the Association, or cause it to be notified, of the granting of the leaves, or of extension or renewal of leave, at the time thereof.

If during the period of leave of absence, either as originally granted or as renewed, a member becomes otherwise eligible for pension, and retires, the member shall not be ineligible by reason of being on leave, but shall have all the same rights, subject to the same conditions and

obligation, that the member had at the time of granting of the member's leave of absence.

PARAGRAPH 4. Return to St. Paul Service. A member who has received a cash refund upon severance from service, and who returns to teaching in the St. Paul Public Schools, shall thereupon become a member of the Association, and dues shall be deducted from the member's salary and paid to the Association at a rate determined as though the member were then becoming a member for the first time. If the member desires credit for the years of service that were credited to the member on the books of the Association at the time of the payment of the cash refund, the member shall file a written claim with the Secretary, on a form provided by the Association, and shall repay to the Association an amount equal to the refund the member received, together with interest thereon computed at the rate of eight and one-half percent a year compounded annually, from the date of the refund to the date of the repayment.

A former member who has received a cash refund upon severance from service, and who desires credit for the years of service that were credited to the member on the books of the Association at the time of the payment of the cash refund in order to take advantage of the combined service annuity authorized by law, shall repay to the Association an amount equal to the refund the member received, together with interest thereon computed at the rate of eight and one-half percent a year, compounded annually, from the date of the refund to the date of the repayment.

PARAGRAPH 5. Computation of Length of Service. In computing the length of outside service, normal school years of eight to twelve months shall be counted as one year.

In computing the length of St. Paul service completed prior to July 1, 1974, ten to twelve months in a school year shall be counted as one year, and periods of less than ten months shall be counted as that fraction of one year, the numerator of which is the number of months of service and the denominator of which is ten.

In computing the length of St. Paul service after June 30, 1974, but before July 1, 1998, that number of "duty days" in a school year agreed upon by the Board of Independent School District #625 and the teachers shall be counted as one year, and periods of less than the agreed upon number of "duty days" shall be counted as that fraction of one year, the numerator of which is the number of "duty days" of service and the denominator of which is the agreed number of "duty days". For the purpose of the foregoing computation before July 1, 1998, a "duty day" consists of five class hours. Years of service accredited for pension granted upon the basis of service completed before May 31, 1976, shall not be recomputed.

In computing the length of St. Paul service after July 1, 1998, 170 or more "duty days" shall be counted as one year and periods of less than 170 "duty days" shall be counted as that fraction of one year, the numerator of which is the number of "duty days" of service and the denominator of which is 170. For the purpose of the foregoing computation after July 1, 1998, a "duty day" shall be specified in the appropriate professional employee contract to be a full-time employee.

Teaching service on a part-time basis shall be accredited on a proportional basis.

Section 3. Benefits

PARAGRAPH 1. **Type of Benefits.** Members shall be eligible for benefits as follows:

- (a) Length of service pension, payable to members who have retired after completing at least twenty-five years of accredited service and who have attained the age of fifty-five years.
- (b) Limited service pension, payable to members who have retired after completing at least five years of accredited service but less than twenty-five years of accredited service and who have attained the age of fifty-five years.
- (c) Disability benefit, payable to members who have become totally and permanently disabled to perform teaching service before attaining the age of sixty-five years and after completing at least five years of accredited St. Paul service.
- (d) Deferred pension, payable to members whose employment is terminated, voluntarily or involuntarily for a reason other than retirement, disability, or death after completion of five years of accredited service.
- (e) Family benefit, payable in appropriate cases to the surviving families of deceased active members after the satisfactory completion of three years of accredited St. Paul service.
- (f) Survivor's benefit, payable in appropriate cases to a deceased member's surviving spouse, dependent parent, or dependent sibling.
- (g) Cash refund of dues paid to the Association after December 31, 1939, payable in appropriate cases to members who withdraw from service for any reason without becoming eligible for any pension, to the beneficiaries, and to the estate of deceased members.

PARAGRAPH 2. **Application for Benefits.** (a) Application for benefits shall be filed with the Secretary, in writing and on forms provided by the Association, and such applications shall contain such information as the board may require. As part of such information the board may require evidence of resignation from St. Paul service.

- (b) Except as hereinafter provided, applications for length of service pension or limited service pension shall be filed before the date of the applicant's retirement. The Secretary shall present such applications, together with all necessary supporting data, to the board in sufficient time so that such pensions may begin on the 1st or 16th of the month following the last teaching service. In the case of a member who has not attained the age of fifty-five years or who wishes to defer the commencement of pension payments, the application shall be filed before the member will attain the age of

fifty-five years or before the date to which the member wishes to defer the commencement of pension payments, as the case may be.

- (c) Applications for disability benefits shall be made after the Board of Education of ISD #625 has accepted such disability as cause for withdrawal or dismissal from service. In the event of the incapacity of a member, the application may be made for the member by the member's legal guardian, next of kin, or beneficiary. Each such application shall be supported by the certificates of two medical doctors, satisfactory to the board, expressing the professional opinion that the member is totally and permanently disabled.

For the purpose of these bylaws, total and permanent disability means the inability to engage in any occupation or employment for remuneration or profit for which the member is reasonably qualified by reason of the member's education, experience and training, on account of a medically determinable physical or mental impairment which is expected to result in death or to be of long continued and indefinite duration, and which has continued for at least six consecutive months. The board may, and in doubtful cases shall, make such investigation as it may consider necessary to determine the existence of total and permanent disability. The board may require the applicant, at the member's own expense, to submit to examination by one or more medical doctors designated by the board, and to provide such pertinent information as it may require. The decision of the board with respect to the existence of total and permanent disability shall be conclusive and the board shall not approve an application for disability benefits until it has satisfied itself of the eligibility of the applicant.

Payment of the disability benefit shall begin with the first full calendar month after the approval of the application, but in no event shall the benefit be paid for any period for which the member was paid a salary as a teacher or while using accumulated sick leave.

If the disability terminates before the member has attained the age of sixty-five years, then payment of the disability benefit shall end with the month in which the disability terminates, whether by reason of the recovery or the death of the member, or otherwise; but if the disability continues beyond the sixty-fifth anniversary of the date of the member's birth, then payment of the disability benefit shall end with the month in which the member's death occurs.

Not more than once a year after the approval of an application for disability benefits and before the sixty-fifth anniversary of the date of the disabled member's birth, the board may require the disabled member to submit to an examination by a medical doctor selected by the board in order to determine the continued existence of the disability.

- (d) Applications for family benefit may be filed at any time after the death of the member, and shall be supported by certified copies of the death certificate of the member, the birth certificate of each

child, the marriage certificate of the spouse, and such other evidence as the board may require.

- (e) Application for deferred pension shall be filed before the date upon which the applicant desires the payment of the pension to begin, which date may be the first or sixteenth day of any month after the date upon which the applicant attains the age of fifty-five years. It shall be the duty of the Secretary to present such application, together with all pertinent information and records, to the board in sufficient time so that payment of the pension may begin upon the date so selected by the applicant.
- (f) If an application for length of service pension or limited service pension payable in the form of an annuity is filed by a member with the Secretary during the ninety day period immediately following the date the member's teaching service terminates and the member has met the age and service requirements for the annuity represented in the application, the annuity shall begin to accrue as if the application for retirement had been filed with the Secretary on the date teaching service terminated. In no event shall the annuity begin to accrue more than one month before the date of final salary receipt.

Paragraph 3. Length of Service and Limited Service Pension. (a) Length of Service Pension. The annual amount of the length of service pension payable to a member who retires shall be equal to the greater of either the benefit described in (1) or (2) below:

- (1) The member's pension shall be determined by multiplying an amount equal to two percent of the member's average salary, as hereinafter defined, by the number of years of the member's accredited service, subject to a maximum of forty years. However, the annual amount of the length of service pension payable under this provision to a member who retires before attaining the age of sixty years shall equal that amount computed in accordance with the next preceding sentence, reduced, however, by one-fourth of one percent for each month or major fraction thereof intervening between the date upon which the payment of the pension begins and the member's sixtieth birthday. A member whose age plus credited allowable service totals at least 90 at the time the member retires is entitled to the normal length of service pension described in this provision without any reduction by reason of the early retirement described in the next preceding sentence.
- (2) The member's pension shall be determined by multiplying an amount equal to two and one-half percent of the member's average salary, as hereinafter defined, by the number of years of the member's accredited service, subject to a maximum of forty years. However, the annual amount of the length of service pension payable under this provision to a member who retires before attaining the member's normal retirement age of sixty-five years, shall equal that amount computed in accordance with the next preceding sentence, reduced so that

the reduced pension is the actuarial equivalent of the pension that would be payable to the member if the member deferred receipt of the pension and the pension amount were augmented at an annual rate of three percent compounded annually from the day the pension begins to accrue until said normal retirement age.

- (b) **Limited Service Pension.** The annual amount of the limited service pension payable to a member who retires upon or after attaining the age of sixty-five years shall be equal to the greater of the benefit described in (1) or (2) below:
- (1) The member's pension shall be determined by multiplying an amount equal to two percent of the member's average salary, as hereinafter defined, by the number of years of the member's accredited service. However, the annual amount of the limited service pension payable to a member who retires before attaining the age of sixty-five years shall equal that amount computed in accordance with the next preceding sentence, reduced, however, by one-fourth of one percent for each month or major fraction thereof intervening between the date on which the payment of the pension begins and the member's sixty-fifth birthday.
 - (2) The member's pension shall be determined by multiplying an amount equal to two and one-half percent of the member's average salary, as hereinafter defined, by the number of years of the member's accredited service. However, the annual amount of the limited service pension payable to a member under this provision who retires before attaining the member's normal retirement age of sixty-five years, shall equal that amount computed in accordance with the next preceding sentence, reduced so that the reduced pension is the actuarial equivalent of the pension that would be payable to the member if the member deferred receipt of the pension and the pension amount were augmented at an annual rate of three percent compounded annually from the day the pension begins to accrue until said normal retirement age.

PARAGRAPH 4. Deferred Pension. The annual amount of the pension payable to a member entitled to a deferred pension shall be computed according to the rules applicable to the pension described in Paragraph 3 of this Section.

PARAGRAPH 5. Disability Benefits. The amount of the disability benefit payable to a member whose total and permanent disability occurs after June 30, 1974, shall equal seventy-five percent of the member's annual contract salary for the member's last full year of service, less the amount of any social security and workers' compensation benefits the member may be receiving. If a member attains the age of sixty-five years while receiving disability benefits, then the amount of the member's disability benefit shall be recomputed so as to equal the amount of the length of service pension to which the member would then be entitled if the member were then retiring from St. Paul service computed upon the basis

of the amount of the average salary and the number of years of accredited service the member would have had if the member had continued to teach in the member's latest position during the period of the member's disability.

PARAGRAPH 6. Family Benefit. The surviving members of the family of a deceased active member shall be eligible for the family benefit computed upon the following basis:

- (a) For each "eligible child", as hereinafter defined, subject to a maximum of two eligible children at any one time, twenty-five percent of the maximum salary (excluding career increment) payable to a teacher holding a B.A. degree for the year in which the member died; and
- (b) For the spouse, having legal custody of, and maintaining a home for the eligible child or children, fifteen percent of said maximum salary.

Payment of the benefit shall begin on the first or sixteenth day of the month following the month in which the application is approved; payment of the benefit on account of a child shall terminate with the payment made on the first day of the month in which the child ceases to be an "eligible child" as hereinafter defined and payment of the benefit on account of the spouse shall terminate with the payment made on the first day of the month in which the spouse dies, remarries, or elects to take the survivor's benefit in lieu thereof, as hereinafter provided.

Payment of the benefit shall be made to the spouse if the spouse has legal custody of the child or children, otherwise to the person having such legal custody, except that if the child be a full-time student over the age of eighteen years, payment shall be made directly to the child. It shall be the duty of every person receiving payment of the family benefit to notify the Association when any child or spouse ceases to be eligible.

In the event that a spouse who, together with a child or children, is eligible for the family benefit is also eligible for the survivor's benefit, the spouse may elect, at any time, to take the survivor's benefit instead of the spouse's portion of the family benefit, and that election shall not disqualify the child or children to receive the family benefit; provided, however, that the total benefits payable on account of a member shall not exceed ninety percent of the member's final salary.

The term "eligible child" means a natural or legally adopted child of a deceased active member who fulfills the following requirement:

- (a) Child must be unmarried; and
- (b) Child must be (i) under the age of eighteen years; or (ii) mentally or physically incapacitated; or (iii) a full-time student under the age of twenty-two years. A "full-time student" is a person enrolled in full-time attendance as a student at an educational institution, including any school, at any educational level, that has a regular faculty and curriculum and a body of students in attendance.

The fact that the new husband or wife of a spouse who has remarried has legally adopted a person who qualified as an eligible child shall not in itself disqualify that person as an eligible child.

PARAGRAPH 7. Cash Refund of Dues. Commencing on July 1, 1967, cash refunds of dues shall be determined as follows:

- (a) To a member ineligible for a pension, an amount equal to the total amount of the dues paid by the member since January 1, 1940;
- (b) To the beneficiary of a deceased active member who was not survived by an eligible child or spouse entitled to any benefit under Paragraph 6 of this Section, or by a survivor entitled to any benefit under Paragraph 10 of this Section, an amount equal to the total amount of the dues paid by the member since January 1, 1940;
- (c) To the beneficiary of a deceased active member who was survived by an eligible child or spouse entitled to benefits under Paragraph 6 of this Section and who was not survived by a survivor entitled to any benefit under Paragraph 10 of this Section, any amount by which the total amount of the dues paid by the member since January 1, 1940, exceeds the total amount of any benefits payable on account of dependent children or spouse of the member;
- (d) To the beneficiary of a deceased retired member who was not survived by a survivor entitled to any benefit under Paragraph 10 of this Section, any amount by which the total amount of the dues paid by the member since January 1, 1940, exceeds the total amount of the pension paid to the member;
- (e) To the estate of a deceased member who was not survived by a survivor entitled to any benefits under Paragraph 10 of this Section and whose beneficiary has not survived the member, the amount that would have been payable to the beneficiary if the beneficiary had survived the member; and
- (f) To a member who has paid dues for outside service pursuant to Paragraph 2 of Section 2 of Article IV, and who now desires to use the member's outside service for the purpose of the combined service annuity authorized by law, an amount equal to the amount of the dues paid to the Association for that outside service.

*Interest on refunds shall be computed pursuant to MS 354A.23 subd. 3 as amended.

PARAGRAPH 8. Saving Provision. Regardless of other provisions of these bylaws, any member who retires after December 31, 1954, on a length of service pension, on a limited service pension, or on a disability pension, shall receive a pension not less than the maximum amount payable to any member who retired before January 1, 1955, for an equal period of service, including all increases of the pension of such previously retired member becoming effective after December 31, 1954.

PARAGRAPH 9. Increase of Pensions of Retired Teachers. Every member who retired before January 1, 1955, and who is entitled under the provisions of the bylaws in effect December 1, 1954, to a full service pension, to a limited service pension, or to a disability pension, shall be entitled: (i) effective January 1, 1955, to an increase of twenty percent in the amount of the member's monthly pension or an increase of twenty dollars in the amount of such pension, whichever is greater; and (ii)

effective January 1, 1958, to a further increase of fifteen dollars in the amount of the member's monthly pension.

In addition to the foregoing increases, every such member, excepting any who retired upon a full service pension before attaining the age of fifty-five years, shall be entitled, effective January 1, 1962, to a further increase of fifteen dollars in the amount of the member's monthly pension.

In addition to the foregoing increases, every member who retired before January 1, 1955, and who is entitled under the provisions of the bylaws in effect December 1, 1954, to a full service pension, to a limited service pension, or to a disability pension, shall be entitled, effective January 1, 1966, to a further increase of fifteen dollars in the amount of the member's monthly pension.

In addition to the foregoing increases, every member who retired before January 1, 1970, and who is entitled under the provisions of the bylaws in effect on December 1, 1969, to a full service pension, to a limited service pension, or to a disability pension, shall be entitled, effective January 1, 1970, if the member has then attained the age of seventy years, (or, if the member has not then attained the age of seventy years, upon the first day of the month coincident with or next following the date upon which the member does attain the age of seventy years) to a further increase in the amount of the member's monthly pension in an amount computed according to the following formula: $$.0375 \times y$, in which x equals the number of years of the member's accredited service (subject to a maximum of forty years) and y equals the number of years for which the member has been receiving the member's pension (adjusted to the nearest full number of years and subject to a maximum of twenty years).

In addition to the foregoing increases, every member who retired before January 1, 1970, and who is entitled under the provisions of the bylaws in effect on December 1, 1969, to a full service pension, to a limited service pension, or to a disability pension, shall be entitled, effective July 1, 1973, if the member has then attained the age of seventy years, (or, if the member has not then attained the age of seventy years, upon the first day of the month coincident with or next following the date upon which the member does attain the age of seventy years) to a further increase in the amount of the member's monthly pension computed according to the following formula:

$$.06 \times y$, in which x equals the number of years of the member's credited service (subject to a maximum of forty years) and y equals the number of years for which the member has been receiving the member's pension (adjusted to the nearest full number of years and subject to a maximum of twenty years).

Persons receiving benefits under the former bylaws providing for reversionary pensions and persons receiving survivor's benefits shall also be entitled to increases computed in accordance with the formulas expressed in the two next preceding paragraphs of this Paragraph 9.

Persons receiving the dependent children's benefit under the former bylaws shall be entitled, as of July 1, 1974, to an increase to the amount, and subject to the maximum, provided in the paragraph entitled 'Family

Benefit', computed upon the basis of the applicable salary schedule in effect on June 30, 1974.

PARAGRAPH 10. Survivor's Benefits. If a member who has completed five years of accredited St. Paul service dies while in service, the member's survivor (as hereinafter defined) shall be entitled to receive an annuity for life in an amount equal to the reduced amount of the retirement annuity earned by the member to the date of the member's death after conversion to a joint-and-last survivorship basis under which the reduced amount is payable to the survivor.

When a retired member dies, the member's survivor (as hereinafter defined) shall be entitled to receive an annuity for life in amount equal to the reduced amount of the retirement annuity earned by the member to the date of the member's retirement after conversion to a joint-and-last survivorship basis under which the reduced amount is payable to the survivor.

For the purpose of this paragraph a member's survivor is the member's surviving spouse to whom the member has been legally married for three years at the time of the member's death or retirement (as the case may be); but if there be none, then the member's older surviving dependent parent; but if there be none, then the member's oldest surviving dependent sibling. By a written designation filed with the board at or before the time of the member's retirement, a member shall designate any one of the foregoing persons as the member's survivor, in which case the person so designated shall become entitled to the survivor's benefit only if surviving at the death of the member, and none of the other of the foregoing persons shall be entitled to any benefit under this section.

For the purpose of this paragraph, a member's parent or sibling shall qualify as a dependent only if the member would have been entitled to claim the member's parent or sibling as a dependent upon the member's federal income tax return covering the last full year of the member's life. Any person claiming a survivor's benefit under this paragraph shall furnish proof of marriage, or of dependency satisfactory to the board.

In the event that any benefits are paid to a member's survivor under this paragraph, there shall be no cash refund of dues on account of the member.

In the event that the member is survived by a spouse who, together with an eligible child or children, is eligible for the family benefit, no benefit shall be payable under this paragraph unless the spouse elects to receive the survivor's benefit instead of the spouse's portion of the family benefit.

PARAGRAPH 11. Inalienability of Benefits. Benefits payable by the Association shall not be subject to assignment, attachment, garnishment, or any other voluntary or involuntary manner of alienation.

*See MS 354A.11

PARAGRAPH 12. Computation of Amounts of Benefits. In computing the monthly amounts of all pensions granted after December 31, 1954, and before June 1, 1976, and the monthly amounts of all increases in pensions granted before January 1, 1955, fractional parts of a dollar exceeding

forty-nine cents shall be treated as one dollar and fractional parts less than fifty cents shall be disregarded.

PARAGRAPH 13. Payment of Benefits. Except as otherwise provided, all benefits that are payable in periodic installments shall be payable in advance.

PARAGRAPH 14. Facility of Payment. In the event that the amount payable to the estate of a deceased member or other deceased person does not exceed the sum of five hundred dollars, such amount may be paid, in the discretion of the board, to one or more of such person as appear, upon evidence satisfactory to the board, to be the spouse, the issue, the parents, the sibling, or the issue of siblings of the decedent, or to such other person as may appear to be equitably entitled to such payment on account of such other person having paid the expenses of the last illness or of the funeral of the decedent or otherwise.

PARAGRAPH 15. Limitation on Benefit. A member who begins accruing accredited service following a termination of accredited service, for reasons other than a leave of absence as defined in Paragraph 3 of Section 2, and who has not yet commenced receiving a benefit described in this Section 3, must earn at least 85 days of accredited service subsequent to commencing that accrual before being eligible for any increase in benefits under this Section 3 which would result from a law or Bylaw change enacted after the date of such member's termination of service.

Section 4. Suspension of Benefits.

PARAGRAPH 1. Service and Deferred Pensions. (a) If a retired member receiving either a length of service pension or a limited service pension (or a reversionary pension in lieu thereof) or a deferred pension resumes teaching service with Independent School District No. 625, and if the amount of compensation received in any calendar year for such reemployment equals or exceeds the amount of earnings that would cause a reduction in the primary old age insurance benefit of a person receiving such benefits under the terms of the Social Security law then in effect, then the payment shall be reduced. The amount of the reduction must be one-third the amount in excess of the applicable reemployment income maximum under the terms of the Social Security law then in effect. The reduction 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 retired member has not yet reached the minimum age for the receipt of benefits under the terms of the Social Security law then in effect, the maximum earnings for the retired member must be equal to the annual maximum earnings allowable for the minimum age for the receipt of benefits under the terms of the Social Security law then in effect. If the retired member is retired for only a fractional part of the calendar year during the initial year of retirement, the maximum reemployment income determined in accordance with this paragraph must be prorated for that calendar year. After a retired member has reached the age of 70, no reemployment income maximum applies regardless of the amount of any compensation received for teaching service with Independent School

District No. 625. No pension credit shall be granted for any teaching service performed during such reemployment. For purposes of this section income from teaching service includes:

- (i) all income from service performed as a consultant, independent contractor, or income resulting from working with the school district in any capacity, and
 - (ii) 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 Independent School District No. 625 and at the same level as the position occupied by the person who resumes teaching service.
- (b) Every retired member who is so reemployed shall report such reemployment to the Secretary within thirty days after the beginning thereof. Any such member who fails to make such report may be penalized by a majority vote of the board by forfeiture of pension or benefit for a period of time equal to twice the period of such unreported reemployment.
- (c) Any member who was on a leave of absence from Independent School District No. 625 on January 1, 1987, who was employed by the City of St. Paul while on that leave before January 1, 1987, and who applied for, but withdrew, an application for a pension with the Association before January 1, 1987, is considered to have filed a valid application for a pension on January 1, 1987, in the form of the previously filed application, and is eligible to be paid a pension to which the member is entitled under Paragraph 3 of Section 3 of Article IV, retroactive to January 1, 1987.

PARAGRAPH 2. Disability Benefit. If the disability of a member receiving disability benefits terminates before the member has attained the age of sixty-five years, then the payment of the benefit shall be terminated. If the member resumes teaching in the public schools of St. Paul, the member shall be restored to the member's former status as an active member, with credit for the period of the member's disability, but with no obligation to pay back dues for that period. Whether or not the member resumes teaching in the said public schools, the member shall thereafter become entitled to any benefit for which the member may qualify under the terms of Paragraph 1 of Section 3 of Article IV, with credit for the period of the member's disability and final average salary accrued to the date of the termination of the member's disability, in accordance with Paragraph 5 of Section 3 of Article IV; provided, however, that in no event shall the amount of the cash refund of dues to which a member may become entitled under the terms of Paragraph 1(g) of Section 3 of Article IV exceed that amount (if any) by which (i) the total amount of the dues paid by the member since January 1, 1940, without interest, exceeds (ii) the aggregate amount of the disability benefits paid to the member.

Article IX Section 1. Definitions.

PARAGRAPH 1. The word "he" wherever used herein shall be construed to also mean the word "she", it being the intention that females as well as males are intended.

PARAGRAPH 2. The following words and terms, when used in these Articles and Bylaws, shall have the meanings herein set forth, except when otherwise indicated in the Articles or Bylaws:

ASSOCIATION - St. Paul Teachers' Retirement Fund Association, St. Paul, MN.

ACCREDITED SERVICE - (see **SERVICE**)

ANNUAL CONTRACT SALARY (SALARY) - The amount earned for a school year (computed from the first day of July to the thirtieth day of June) 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, for employee selected fringe benefits, tax sheltered annuities, deferred compensation, or any combination of these items. Salary does not mean: (1) lump sum annual leave payments, (2) lump sum wellness and sick leave payments, (3) payments in lieu of any employer-paid group insurance coverage, (4) payments for the difference between single and family premium rates for insurance that may be paid to a member with single coverage, (5) employer-paid fringe benefits including, but not limited to, flexible spending accounts, cafeteria plans, health care expense accounts, day care expenses, or automobile allowances and expenses, (6) payments to school principals and all other administrators for services in addition to the normal work year contract if these additional services are performed on an extended duty day, Saturday, Sunday, holiday, annual leave day, sick leave day, or any other nonduty day, (7) payments under section 356.24, subdivision 1, clause (4) (ii), and (8) payments made under section 125.12, subdivision 7, except for payments for sick leave accumulated under the provisions of a uniform school district policy that applies equally to all similarly situated persons in the district.

AVERAGE SALARY - An amount equal to one-fifth of the sum of the annual contract salary for the five years producing the highest average out of the latest ten years of St. Paul service for which a salary deduction for dues was made prior to the termination of active service; provided, however, that for the purpose of the computation required hereby, a member on sabbatical leave shall be deemed to have been paid during such leave the full amount of the member's annual contract salary in effect during the sabbatical leave; and provided, further, that in the case of a member who has been employed upon a part-time basis during any of the said ten years, the average shall be computed upon the basis of the amount earned in the time required to complete a full year of service; and provided, finally, that in the case of a member who retires before the member has completed five years of St. Paul service and who is entitled by law to a proportionate annuity,

the average shall be computed upon the basis of the member's annual contract salary for the member's actual years of St. Paul service.

BACK DUES - (see **DUES**)

BENEFITS - Length of service pensions, limited service pensions, deferred pensions, reversionary pensions, disability benefits, family benefits, survivor's benefits, and cash refunds in amounts determined by the bylaws.

- **CASH REFUND** - Refundment by the Association of dues, in a single payment in lieu of other benefits, to a member withdrawing from active service before attaining the right to other benefits, or, in certain cases to the beneficiary or other representative of a deceased member.
- **DEFERRED PENSION** - A lifetime monthly payment by the Association to a member whose employment is terminated, voluntarily or involuntarily, for a reason other than retirement, disability, or death after the completion of three years of accredited service, beginning upon or after the attainment of the age of fifty-five years.
- **DISABILITY BENEFIT** - A monthly payment by the Association to a member who has incurred a total and permanent disability prior to retirement or other separation from service.
- **FAMILY BENEFIT** - A monthly payment by the Association to the eligible child or children, and in certain cases to the surviving spouse, of a deceased active member.
- **LENGTH OF SERVICE PENSION** - A lifetime monthly payment by the Association to a member who has retired after attaining the age of fifty-five years and completing twenty-five years of accredited service.
- **LIMITED SERVICE PENSION** - A lifetime monthly payment by the Association to a member who has retired after attaining the age of fifty-five years and completing at least three years of accredited service but less than twenty-five years of accredited service.
- **NORMAL RETIREMENT AGE** - The normal retirement age of a member retiring under a Length of Service Pension is age 60 if the member retires under the provisions of Article IV, Section 3, Paragraph 3(a), subdivision (1). For all other purposes, the normal retirement age is 65.
- **REVERSIONARY PENSION** - An elective substitute for a length of service pension or a limited service pension consisting of a lifetime monthly payment in a reduced amount by the Association to a member followed by a lifetime monthly payment to the surviving beneficiary of the member.
- **SURVIVOR'S BENEFIT** - A monthly payment by the Association to the surviving spouse or certain other dependents of a deceased member in appropriate cases.

BOARD – The Board of Trustees of the Association.

CASH REFUND – (see **BENEFITS**)

CITY – The City of St. Paul, the Department of Education, the Bureau of Schools, the School District, the Board of Education, the Board of Independent School District Number 625.

CURRENT DUES – (see **DUES**)

DISABILITY BENEFIT – (see **BENEFITS**)

DUES – Continuing membership fees paid or payable to the Association.

- **BACK DUES** – Dues paid or payable for accredited previous St. Paul service, outside service, or military service.
- **CURRENT DUES** – Dues withheld from salary paid or payable to a member for St. Paul service or on a creditable leave.

GOVERNMENTAL SERVICE – (see **SERVICE**)

LENGTH OF SERVICE PENSION – (see **BENEFITS**)

LICENSED – Qualified for teaching service as evidenced by possession of a state-issued license.

LIMITED SERVICE PENSION – (see **BENEFITS**)

MEMBERS – Teachers or former teachers who are paying or have paid dues to the Association and whose right to benefits has not been discharged in full.

- **ACTIVE MEMBERS** – Members actively engaged in St. Paul teaching service, employed by the Association or on a creditable leave and, in any case, paying current dues, and teachers on leave of absence.
- **INACTIVE MEMBERS** – Members who have ceased to be active members and who are or may become, entitled to receive benefits.
- **RETIRED MEMBERS** – Members retired from teaching service and receiving benefits.

MILITARY SERVICE – (see **SERVICE**)

OUTSIDE SERVICE – (see **SERVICE**)

PENSIONS – Length of service pensions, limited service pensions, deferred pensions, reversionary pensions, and disability pensions.

PREVIOUS ST. PAUL SERVICE – (see **SERVICE**)

RETIRED MEMBERS – (see **MEMBERS**)

REVERSIONARY PENSION – (see **BENEFITS**)

ST. PAUL SERVICE – (see **SERVICE**)

SERVICE – St. Paul service, previous St. Paul service, outside service, military service, governmental service, or any combination thereof.

- **ACCREDITED SERVICE** – Service which has been verified and accredited by the Association for purposes of determining dues and benefits.

- **GOVERNMENTAL SERVICE** – Service as an elected officer or member of any branch of the government of the City of St. Paul, or of the county of Ramsey, State of Minnesota, which requires a leave of absence from St. Paul service.
- **MILITARY SERVICE** – Teaching or non-teaching service as a member of any of the duly constituted armed forces of the United States in time of war or other emergency declared by proper authority.
- **OUTSIDE SERVICE** – Any service which Independent School District Number 625 recognizes in placing teachers on the salary schedule, prior to or in an interim between periods of St. Paul service, or service as a certified teacher in vocational classes conducted by the City on behalf of the United States government during World War II, or in the Ramsey County Home for Girls, or in schools maintained in any zone occupied by the armed forces of the United States for children of the United States military or civilian personnel stationed in or near such zone, or as an exchange teacher in a foreign country for which no compensation is paid by the City of St. Paul.
- **PREVIOUS ST. PAUL SERVICE** – Service as a licensed teacher in the St. Paul Public Schools, prior to regular appointment, or in the Ramsey County Home School for Boys.
- **ST. PAUL SERVICE** – Service, while a member of the Association, as a licensed teacher in the St. Paul Public Schools, as a licensed teacher in the St. Paul Technical College or as a licensed teacher in a charter school located within the corporate limits of the city of St. Paul, as a licensed teacher on leave for which such service is accredited for purposes of determining dues and benefits, or as an employee of the Association.

TEACHER – A person employed by the Board of Independent School District Number 625, in the instructional, supervisory, or other essential professional staff, whose employment is dependent upon the possession of an appropriate license issued by the Minnesota State Board of Education.

Index of Restated Bylaws

Benefits

Application for Benefits	28
Augmentation.....	19
Back Dues.....	23
Current Dues	23
Leaves of Absence	26
Length of Service	27, 30, 39
Refund of Dues.....	32
Suspension of Benefits ...	5, 36
Type of Benefits.....	28

Committees

Executive Committee.....	17
Other Committees	17

Definitions 37

Finances

Annual Audit	19
Annual Budget.....	17
Annual Report	18
Retirement Fund 8, 12, 18, 19,	37

Members

Basic Division	12, 18, 19
----------------------	------------

Basis of Classification.....	12
Coordinated Division... 12, 18,	19
Eligibility.....	12

Membership Meetings

Annual Meeting	13
Order of Business.....	13
Quorum	13, 14
Special Meetings	13
Voting	13, 15

Officers

Enumeration	15
Indemnification	16

Trustees

Board of Trustees.. 13, 14, 15,	16, 17, 18, 19, 20, 39
Duties	14
Election of Trustees	5, 15
Meetings	5, 13, 14, 17
Quorum	13, 14
Voting.....	13, 15

This Page Intentionally Blank

Coordinated Plan Benefits

COORDINATED PLAN BENEFITS

CHAPTER 354A TEACHERS RETIREMENT, CERTAIN CITIES

- 354A.011 Definitions.
- 354A.021 Teachers retirement fund associations in cities of the first class.
- 354A.05 Membership in a teachers retirement association in a city of the first class.
- 354A.08 Authorized investments.
- 354A.09 Pro rata distribution of funds.
- 354A.091 Teachers on extended leave.
- 354A.092 Sabbatical leave.
- 354A.093 Break in service to provide uniformed service.
- 354A.094 Qualified part-time teachers; participation in fund.
- 354A.095 Parental and maternity leave.
- 354A.096 Medical leave.
- 354A.097 Prior or uncredited military service credit purchase.
- 354A.108 Payment by teachers collecting workers' compensation.
- 354A.11 Certain money and credits of teachers exempt.
- 354A.12 Contributions by employee and employer.
- 354A.21 Proportionate annuity.
- 354A.23 Minneapolis and St. Paul Teachers Retirement Fund Associations; basic programs.
- 354A.29 St. Paul Teachers Retirement Fund Association postretirement adjustment.
- 354A.30 Minneapolis and St. Paul Teachers Retirement Fund Associations; coordinated program.
- 354A.31 Coordinated program retirement benefits.
- 354A.32 Optional retirement annuities.
- 354A.33 Social Security leveling adjustment option.
- 354A.34 Disposition of unpaid period certain for life or guaranteed refund optional annuities.
- 354A.35 Survivor benefits.
- 354A.36 Permanent disability benefits.
- 354A.37 Refunds.
- 354A.38 Effect of refund; repayment of refund.
- 354A.39 Service in other public retirement funds; annuity.

354A.40 Computation of benefits with partial service as coordinated member.

354A.41 Administration of coordinated program.

354A.011 DEFINITIONS.

SUBDIVISION 1. **Terms.** For purposes of this chapter, unless the language or context clearly indicates that a different meaning is intended, the following terms shall have the meanings ascribed to them.

SUBD. 3. **Accumulated contributions.** "Accumulated contributions" means the total of member or employee contributions made by salary deductions and assessments or payments made in lieu of salary deductions, if authorized, which are credited by the teachers retirement fund association to the member's individual account.

SUBD. 3A. **Actuarial equivalent.** "Actuarial equivalent" means the condition of one annuity or benefit having an equal actuarial present value as another annuity or benefit, determined as of a given date with each actuarial present value based on the appropriate mortality table adopted by the appropriate board of trustees based on the experience of that retirement fund association as recommended by the actuary retained under section 356.214, and approved under section 356.215, subdivision 18, and using the applicable preretirement or postretirement interest rate assumption specified in section 356.215, subdivision 8.

SUBD. 4. **Allowable service.** "Allowable service" means any service rendered by a teacher during a period in which the teacher receives salary from which employee contribution salary deductions are made to and credited by the teachers retirement fund association or any service rendered by a person during any period where assessments or payments in lieu of salary deductions were made if authorized by any law or provision of the association's articles of incorporation or bylaws then in effect or pursuant to section 354A.091, 354A.092, 354A.093, or 354A.094.

SUBD. 5. **Annuity.** "Annuity" means the payments made by a teachers retirement fund association in the form of a retirement annuity or an optional annuity.

SUBD. 6. **Approved actuary.** "Approved actuary" means any actuary who is either a fellow of the society of actuaries or who has at least 15 years of service to major public employee retirement funds or any firm which retains such an actuary on its staff.

SUBD. 7. **Association.** "Association" or "teachers retirement fund association" means the applicable teachers retirement fund association established pursuant to this chapter.

SUBD. 7A. **Average salary.** "Average salary," for purposes of computing a normal coordinated program retirement annuity under section 354A.31, subdivision 4 or 4a, means an amount equal to the average salary upon which contributions were made for the highest five successive years of service credit but may 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.

SUBD. 8. **Basic member.** "Basic member" means any member of the teachers retirement fund association who is not covered by any agreement

or modification made between the state and the Secretary of Health, Education and Welfare.

SUBD. 9. **Benefit.** "Benefit" means the allowance paid or payable by the teachers retirement fund association to a surviving spouse, designated beneficiary, surviving child or estate or in periodic payments to a member or former member who is permanently and totally disabled.

SUBD. 10. **Board.** "Board" means the board of trustees of a teachers retirement fund association.

SUBD. 11. **Coordinated member.** "Coordinated member" means any member of the teachers retirement fund association who is covered by any agreement or modification made between the state and the Secretary of Health, Education and Welfare making the provisions of the federal Old Age, Survivors and Disability Insurance Act applicable to certain teachers except in the case of a member of the Duluth Teachers Retirement Fund Association, in which it means additionally that the member either first became a member prior to July 1, 1981, and elected to be covered by the new law coordinated program of the Duluth Teachers Retirement Fund Association or first became a member on or subsequent to July 1, 1981.

SUBD. 12. **Coordinated service.** "Coordinated service" means the allowable service credited by the respective teachers retirement fund association for which the member was covered by the coordinated program of the association.

SUBD. 12A. **Dependent child.** "Dependent child" means any biological or adopted child of a deceased member who has not reached the age of 20 and is dependent on the member for more than one half of the child's support at the time of the member's death. It also means a child of the member conceived during the member's lifetime and born after the member's death.

SUBD. 13. **Designated beneficiary.** "Designated beneficiary" means the person designated by a member or retiree of a teachers retirement fund association to receive the benefits to which a beneficiary is entitled under this chapter. A beneficiary designation is valid only if it is made on an appropriate form provided by the executive director and the properly completed form is received by the fund postmarked on or before the date of death of the retiree or member. If a retiree or member does not designate such a person or if the person designated predeceases the retiree or member, beneficiary in such cases means the estate of the deceased retiree or member.

SUBD. 14. **Disability.** "Disability" or "permanent and total disability" means the inability of a member to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to be of long continued and indefinite duration which shall in no event be less than one year.

SUBD. 14A. **District; school district.** "District" or "school district" means the employing school district or the Board of Trustees of the Minnesota State Colleges and Universities.

SUBD. 15. Member. "Member" for purposes of entitlement to annuities or benefits pursuant to sections 354A.31 to 354A.41 and any other applicable provisions of this chapter means every teacher who is engaged in teaching service and who under section 354A.05 contributes to the respective teachers retirement fund association and who has not retired. "Member" for purposes of determining who may participate in the organization and governance of the teachers retirement fund association, including the eligibility to elect members of and to serve as a member of the board of trustees, means every teacher who joins and contributes to the respective teachers retirement fund association and any other person designated as a member by the articles of incorporation or the bylaws of the respective teachers retirement fund association.

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 or a member of a pension fund listed in section 356.30, subdivision 3, 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, but not to exceed age 66. 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.

SUBD. 16. Normal retirement annuity. "Normal retirement annuity" means for a coordinated member the retirement annuity computed pursuant to section 354A.31, subdivision 4, and paid or payable to a member upon 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 age and service requirements specified in the applicable provisions of the articles of incorporation or bylaws of the respective teachers retirement fund association.

SUBD. 17. Optional survivors annuity. "Optional survivors annuity" means the payments made by the teachers retirement fund association to a survivor of a former member pursuant to an actuarial equivalent optional annuity form established by the applicable board of trustees under section 354A.32 and selected by the member at or before retirement.

SUBD. 18. Other than normal school operating funds. "Other than normal school operating funds" means funds other than those generated as proceeds of property tax levies, state school maintenance cost aids distributed in accordance with statute, state aid to distressed school

districts, proceeds from federal forest reserve lands, state transportation aids, receipts from tuition paid by persons or other school districts, any rental charges received, and any other moneys appropriated by the legislature.

SUBD. 19. **Program.** "Program" means a separate component plan of a teachers retirement fund association providing a specific set of retirement annuities and disability and survivor benefits for a defined portion of the covered membership of the association.

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.

SUBD. 21. **Retirement.** "Retirement" means the time after the date of cessation of active teaching service by a teacher who is thereafter entitled to an accrued retirement annuity commencing as designated by the board of trustees and payable pursuant to an application for an annuity filed with the board. The applicable provisions of law, articles of incorporation and bylaws in effect on the date of cessation of active teaching service thereafter determine the rights of the person.

SUBD. 22. **Retirement annuity.** "Retirement annuity" means the payments made by a teachers retirement fund association to a retired teacher.

SUBD. 23. **Sabbatical leave.** "Sabbatical leave" means an authorized leave of absence period during which the member is compensated at a rate of not less than one third of the salary which the member received during the plan year immediately preceding the granting of the leave.

SUBD. 24. **Salary; covered salary.** (a) Subject to the limitations of section 356.611, "salary" or "covered salary" means the entire compensation, upon which member contributions are required and made, that is paid to a teacher before deductions for deferred compensation, supplemental retirement plans, or other voluntary salary reduction programs.

(b) "Salary" does not mean:

(1) lump sum annual leave payments;

(2) lump sum wellness and sick leave payments;

(3) employer paid amounts used by an employee toward the cost of insurance coverage, employer paid fringe benefits, flexible spending accounts, cafeteria plans, health care expense accounts, day care expenses, or any 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, and certain amounts determined by the executive secretary or director to be ineligible;

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

(5) any form of severance payments;

(6) workers' compensation payments;

(7) disability insurance payments, including self insured disability payments;

(8) payments to school principals and all other administrators for services that are in addition to the normal work year contract if these additional services are performed on an extended duty day, Saturday, Sunday, holiday, annual leave day, sick leave day, or any other nonduty day;

(9) payments under section 356.24, subdivision 1, clause (4)(ii); and

(10) payments made under section 122A.40, subdivision 12, except for payments for sick leave that are accumulated under the provisions of a uniform school district policy that applies equally to all similarly situated persons in the district.

(c) Amounts provided to an employee by the employer through a grievance proceeding or a legal settlement are salary only if the settlement is reviewed by the executive director and the amounts are determined by the executive director to be consistent with paragraph (a) and prior determinations.

SUBD. 25. Service. "Service" means all allowable service credited by the teachers retirement fund association, irrespective of whether the member at the time was covered by the basic program or by the coordinated program.

SUBD. 26. Spouse. "Spouse" means the person who was legally married to the member immediately prior to the member's death.

SUBD. 27. Teacher. (a) "Teacher" means any person who renders service for a public school district, other than a charter school, located in the corporate limits of one of the cities of the first class which was so classified on January 1, 1979, as any of the following:

(1) a full time employee in a position for which a valid license from the state Department of Education is required;

(2) an employee of the teachers retirement fund association located in the city of the first class unless the employee has exercised the option pursuant to Laws 1955, chapter 10, section 1, to retain membership in the Minneapolis Employees Retirement Fund established pursuant to chapter 422A;

(3) a part time employee in a position for which a valid license from the state Department of Education is required; or

(4) a part time employee in a position for which a valid license from the state Department of Education is required who also renders other nonteaching services for the school district, unless the board of trustees of the teachers retirement fund association determines that the combined employment is on the whole so substantially dissimilar to teaching service that the service may not be covered by the association.

(b) The term does not mean any person who renders service in the school district as any of the following:

(1) an independent contractor or the employee of an independent contractor;

(2) an employee who is a full time teacher covered by the Teachers Retirement Association or by another teachers retirement fund association established pursuant to this chapter or chapter 354;

(3) an employee exempt from licensure pursuant to section 122A.30;

(4) an employee who is a teacher in a technical college located in a city of the first class unless the person elects coverage by the applicable first class city teacher retirement fund association under section 354B.21, subdivision 2;

(5) a teacher employed by a charter school, irrespective of the location of the school; or

(6) an employee who is a part time teacher in a technical college in a city of the first class and who has elected coverage by the applicable first class city teacher retirement fund association under section 354B.21, subdivision 2, but (i) the teaching service is incidental to the regular nonteaching occupation of the person; (ii) the applicable technical college stipulates annually in advance that the part time teaching service will not exceed 300 hours in a fiscal year; and (iii) the part time teaching actually does not exceed 300 hours in the fiscal year to which the certification applies.

SUBD. 28. Teaching service. "Teaching service" means any service as a teacher performed by any person included within the definition of teacher.

HIST: 1979 c 217 s 1; 1980 c 609 art 5 s 22; 1981 c 224 s 131; 1981 c 269 s 1; 1981 c 298 s 11; 1983 c 286 s 9; 1987 c 258 s 12; 1987 c 259 s 46,47; 1989 c 246 s 2; 1989 c 319 art 13 s 71,72; 1990 c 570 art 12 s 45; 1991 c 269 art 2 s 11; 1992 c 598 art 6 s 1 10; 1993 c 336 art 1 s 1; art 6 s 16; 1994 c 508 art 1 s 5; 1994 c 542 s 1; 1995 c 141 art 4 s 4,5; 1Sp1995 c 3 art 16 s 13; 1997 c 233 art 3 s 1; 1998 c 397 art 11 s 3; 1Sp2001 c 10 art 3 s 19; art 6 s 10,21; 2002 c 392 art 6 s 2; art 11 s 52; 2003 c 130 s 12; 1Sp2003 c 12 art 6 s 5; 2004 c 267 art 2 s 5; 1Sp2005 c 8 art 1 s 19,20; art 3 s 5

354A.021 TEACHERS RETIREMENT FUND ASSOCIATIONS IN CITIES OF THE FIRST CLASS.

SUBDIVISION 1. Establishment. There is established a teachers retirement fund association in each of the cities of the first class which were so classified on January 1, 1979. The associations shall be known respectively as the "Duluth Teachers Retirement Fund Association," the "Minneapolis Teachers Retirement Fund Association" and the "St. Paul Teachers Retirement Fund Association." Each association shall be a continuation of the teachers retirement fund association with the same corporate name established pursuant to the authorization contained in Laws 1909, chapter 343, section 1.

SUBD. 2. Organization. Each teachers retirement fund association shall be organized and governed pursuant to this chapter and chapter 317A, except that each association shall be deemed to be a nonprofit corporation without coming within the definition in section 317A.011, subdivision 6. Any corporate action of any teachers retirement fund association taken prior to April 9, 1976, shall be deemed to be valid if it

conformed with Minnesota Statutes 1976, chapter 317 or 354A, or Revised Laws 1905, chapter 58, as amended through April 9, 1976.

SUBD. 3. Fund. Within each teachers retirement fund association there shall be created a special retirement fund, which shall include all of the assets of the teachers retirement fund association other than assets of a tax sheltered annuity program and fund authorized pursuant to subdivision 5 which were acquired for the specific purpose of being credited to that fund. The special retirement fund shall be credited with all employee and employer contributions, all interest and all other income authorized by law. Within the special retirement fund there may be established separate special retirement fund accounts for the purpose of providing convenience in the funding of and accounting for retirement annuities and any authorized ancillary benefits.

SUBD. 4. Fund disbursement restricted. The assets of the special retirement fund shall be disbursed only for the purposes provided for in this chapter, the articles of incorporation or bylaws in effect as of March 31, 1975, and the articles of incorporation or bylaws adopted subsequent to March 31, 1975 in accordance with the provisions of section 354A.12. All appropriate expenses of and any authorized benefits provided by the teachers retirement fund association shall be paid from the special retirement fund. Amounts necessary to make payments from the special retirement fund of a teachers retirement fund association are hereby appropriated.

SUBD. 5. Tax sheltered annuity program and fund. A teachers retirement fund association may establish a tax sheltered annuity program and fund meeting the requirements of section 403(b) of the Internal Revenue Code of 1986, as amended, which must include all assets which were acquired for the specific purpose of being credited to the program and fund and to which must be credited all employee contributions and employer contributions, if negotiated under a collective bargaining agreement, designated for this purpose and all interest income attributable to the assets of the program and fund.

SUBD. 6. Trustees' fiduciary obligation. The trustees or directors of each teachers retirement fund association shall administer each fund in accordance with the applicable portions of this chapter, of the articles of incorporation, of the bylaws, and of chapters 356 and 356A. 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.

SUBD. 7. Actuarial consultant. The board of trustees or directors of each teachers retirement fund association may contract for the services of an approved actuary and fix the reasonable compensation for those services. Any approved actuary retained by the board shall function as the actuarial advisor to the board and may perform actuarial valuations and experience studies to supplement those performed by the actuary retained under section 356.214. Any supplemental actuarial valuations or experience studies must be filed with the executive director of the Legislative Commission on Pensions and Retirement.

SUBD. 8. Audit by state auditor. The books and accounts of each teachers retirement fund association must be examined and audited periodically as considered necessary by the state auditor. A full and detailed report of the examination and audit must be made and a copy provided to the teachers retirement fund association board of trustees. The cost of any examination and audit must be paid by the teachers retirement fund association in accordance with section 6.56. For purposes of section 6.56, each teachers retirement fund association is considered a local governmental entity equivalent to a county, city, town, or school district.

SUBD. 9. Updated articles of incorporation and bylaws; filing. (a) On or before July 1, 2006, and within six months of the date of the approval of any amendment to the articles of incorporation or bylaws, the chief administrative officer of each first class city teacher retirement fund association shall prepare and publish an updated compilation of the articles of incorporation and the bylaws of the association.

(b) The chief administrative officer of the first class city teacher retirement fund association must certify the accuracy and the completeness of the compilation.

(c) The compilation of the articles of incorporation and bylaws of a first class city teacher retirement fund association must contain an index.

(d) The compilation must be made available to association members and other interested parties. The association may charge a fee for a copy that reflects the price of printing or otherwise producing the copy. Two copies of the compilation must be filed, without charge, by each retirement fund association with the Legislation Commission on Pensions and Retirement, the Legislative Reference Library, the state auditor, the commissioner of education, the chancellor of the Minnesota State Colleges and Universities system, and the superintendent of the applicable school district.

(e) A first class city teacher retirement fund association may contract with the revisor of statutes for the preparation of the compilation.

(f) If a first class city teacher retirement fund association makes an updated copy of its articles of incorporation and bylaws available on its Web site, the retirement fund association is not obligated to file a hard copy of the documents under paragraph (d) for the applicable filing period.

HIST: 1979 c 217 s 2; 1983 c 286 s 10; 1987 c 259 s 48; 1987 c 284 art 7 s 1; 1987 c 372 art 11 s 1; 1989 c 304 s 135; 1989 c 319 art 8 s 18; 1990 c 488 s 43; 1992 c 598 art 6 s 11; 1993 c 336 art 1 s 2; 1993 c 375 art 8 s 14; 2004 c 223 s 5; 1Sp2005 c 8 art 7 s 1; art 10 s 61

354A.05 MEMBERSHIP IN A TEACHERS RETIREMENT ASSOCIATION IN A CITY OF THE FIRST CLASS.

Teachers contributing to the respective teachers retirement fund association, as provided in this chapter and the articles of incorporation and the bylaws of the association, are entitled to the benefit of coverage by or entitlement to annuities or benefits from the association. All teachers in a city of the first class in which there exists a teachers retirement fund association are members of that teachers retirement fund

association and participate in the benefits provided by the special retirement fund.

HIST: (1362) 1909 c 343 s 5; 1941 c 214 s 1; 1945 c 390 s 1; 1951 c 25 s 1; 1973 c 255 s 1; 1976 c 2 s 125; 1979 c 40 s 8; 1979 c 217 s 3; 1992 c 598 art 6 s 12

354A.08 AUTHORIZED INVESTMENTS.

A teachers retirement fund association may receive, hold, and dispose of real estate or personal property acquired by it, whether the acquisition was by purchase, or any other lawful means, as provided in this chapter or in the association's articles of incorporation. In addition to other authorized real estate investments, an association may also invest funds in Minnesota situs nonfarm real estate ownership interests or loans secured by mortgages or deeds of trust.

HIST: (1364) 1909 c 343 s 7; 1979 c 217 s 4; 1983 c 291 s 3; 1992 c 598 art 6 s 13

354A.09 PRO RATA DISTRIBUTION OF FUNDS.

In the event that the assets of the special retirement fund of a teachers retirement fund association are not sufficient to pay annuities and other retirement benefits in full as they come due in any particular year, the amount of special retirement fund assets available for payment shall be prorated among those annuitants and beneficiaries entitled to receive annuities and other retirement benefits.

HIST: (1365) 1909 c 343 s 8; 1979 c 217 s 5

354A.091 TEACHERS ON EXTENDED LEAVE.

SUBDIVISION 1. Retirement contributions. Notwithstanding any provision to the contrary of this chapter or the articles of incorporation or bylaws of an association relating to the salary figure to be used for the determination of contributions or the accrual of service credit an elementary, secondary, or technical college teacher in the public schools of a city of the first class who is granted an extended leave of absence pursuant to section 122A.46, or a teacher who is granted an extended leave of absence under section 136F.43, may pay employee contributions to the applicable association and shall be entitled to receive allowable service credit in that association for each year of leave, provided the member and the employing board make the required employer contributions, in any proportion they may agree upon, to that association during the period of leave which shall not exceed five years. The state shall not make an employer contribution on behalf of the teacher. The employee and employer contributions shall be based upon the rates of contribution prescribed by section 354A.12 as applied to a salary figure equal to the teacher's actual covered salary for the plan year immediately preceding the leave. Payment of the employee and employer contributions authorized pursuant to this section shall be made on or before June 30 of the fiscal year for which service credit is to be received. No allowable service with respect to a year of extended leave of absence shall be credited to a teacher until payment of the required employee and employer contributions has been received by the association.

SUBD. 1A. Exception for leaves since 1981 1982. Notwithstanding subdivision 1, the following provisions apply to elementary and secondary

school and technical institute teachers whose extended leaves begin in the 1981 1982, 1982 1983, or 1983 1984 school year:

(a) A member whose application states the intention to pay employee contributions to the applicable association, requests state payment of the employer contribution, and is approved by the commissioner within the limits of section 125.60, subdivision 7, may pay employee contributions to the applicable association and receive allowable service credit in that association for each year of leave during the period of the leave, which shall not exceed five years;

(b) The state shall pay employer contributions for a member described in clause (a) for no more than the first three years of the leave, provided the member who is on extended leave pays the employee contribution to the applicable association by the payment date specified in subdivision 1;

(c) A member whose application is approved as to the member's eligibility under section 122A.46, subdivisions 1 and 2, but whose application does not request state payment of employer contributions or is disapproved as to state payment of employer contributions, or who is in the fourth or fifth year of leave affected by clause (b) may pay employee contributions and receive allowable service credit as provided in subdivision 1 if the member and the employing school board make the required employer contribution, in any proportion which they may agree upon, by the payment date specified in subdivision 1.

SUBD. 1B. Pre May 16, 1981, leave exception. Notwithstanding subdivision 1, the following provisions apply only to elementary, secondary, and area vocational technical school teachers whose extended leaves began in the 1978 1979, 1979 1980, or 1980 1981 school years:

(a) A member whose period of extended leave began on or before May 15, 1981, may pay employee contributions and receive allowable service credit toward annuities and other benefits under this chapter for each year of the leave during the period of the leave which does not exceed five years;

(b) The state shall pay employer contributions into the applicable fund for a member described in clause (a) for each year of the leave for which the member who is on extended leave pays the employee's contribution into the fund by the payment date specified in subdivision 1.

SUBD. 2. Membership retention. A teacher on extended leave under either section 122A.46 or 136F.43 whose employee and employer contributions are made to the applicable teachers retirement fund association pursuant to subdivision 1 shall retain membership in the association for each year during which the contributions are made, under the same terms and conditions as if the teacher had continued to teach in the district.

SUBD. 3. Effect of nonpayment. A teacher on extended leave under either section 122A.46 or 136F.43 who does not make employee contributions or whose employer contribution is not made to the applicable teachers retirement fund association in any year shall be deemed to have ceased to be an active member of the association and to have ceased to render teaching services beginning in that year for purposes of this chapter and the articles of incorporation and bylaws of the association, and may not pay employee or employer contributions into

the fund in any subsequent year of the leave. Nonpayment of contributions into the fund shall not affect the rights or obligations of the teacher or the employing school district under section 122A.46 or the Minnesota State Colleges and Universities system under section 136F.43.

SUBD. 4. Teachers who do not resume service. If a teacher who has made employee contributions to the applicable teachers retirement fund association for the agreed maximum duration of an extended leave does not resume teaching service in the first school year after that maximum duration has elapsed, the teacher shall be deemed to have ceased to be an active member of the association and to have ceased to render teaching services beginning in that first school year after that maximum duration has elapsed for purposes of this chapter and the articles of incorporation and bylaws of the association.

SUBD. 5. Applicability. The provisions of this section shall not apply to a teacher who is discharged pursuant to section 122A.41 while the teacher is on an extended leave of absence pursuant to section 122A.46. The provisions of this section also do not apply to a teacher who is discharged for cause while the teacher is on an extended leave of absence under section 136F.43.

SUBD. 6. Exclusive coverage. A teacher who makes employee contributions to and receives allowable service credit in the applicable teacher's retirement fund association pursuant to this section may not make employee contributions or receive allowable service credit for the same period of time in any other Minnesota public employee pension plan, except a volunteer firefighters relief association governed by sections 69.771 to 69.776. This subdivision shall not be construed to prohibit a member who pays employee contributions and receives allowable service credit in the fund pursuant to this section in any year from being employed as a substitute teacher by any school district during that year. Notwithstanding the provisions of this chapter or the bylaws of a retirement association, a teacher may not pay retirement contributions or receive allowable service credit in the fund for teaching service rendered for any part of any year for which the teacher pays retirement contributions or receives allowable service credit pursuant to section 354.094 or this section while on an extended leave of absence under either section 122A.46 or 136F.43.

HIST: 1977 c 447 art 9 s 6; 1978 c 764 s 120,121; 1979 c 217 s 6; 1979 c 334 art 8 s 20 22; 1981 c 224 s 132,133; 1981 c 358 art 8 s 14 17; 1983 c 314 art 10 s 12 14; 1986 c 444; 1987 c 258 s 12; 1989 c 246 s 2; 1989 c 293 s 79; 1989 c 329 art 9 s 23,24; 1998 c 397 art 11 s 3; 2000 c 461 art 12 s 6 10

354A.092 SABBATICAL LEAVE.

Any teacher in the coordinated program of either the Minneapolis Teachers Retirement Fund Association or the St. Paul Teachers Retirement Fund Association or any teacher in the new law coordinated program of the Duluth Teachers Retirement Fund Association who is granted a sabbatical leave shall be entitled to receive allowable service credit in the applicable association for periods of sabbatical leave. To obtain the service credit, the teacher on sabbatical leave shall make an employee contribution to the applicable association. No teacher shall be entitled to receive more than three years of allowable service credit

pursuant to this section for a period or periods of sabbatical leave during any ten consecutive fiscal or calendar years, whichever is the applicable plan year for the teachers retirement fund association. If the teacher granted a sabbatical leave makes the employee contribution for a period of sabbatical leave pursuant to this section, the employing unit shall make an employer contribution on behalf of the teacher to the applicable association for that period of sabbatical leave in the manner described in section 354A.12, subdivision 2a. The employee and employer contributions shall be in an amount equal to the employee and employer contribution rates in effect for other active members of the association covered by the same program applied to a salary figure equal to the teacher's actual covered salary for the plan year immediately preceding the sabbatical leave period. Payment of the employee contribution authorized pursuant to this section shall be made by the teacher on or before June 30 of year next following the year in which the sabbatical leave terminated and shall be made without interest. For sabbatical leaves taken after June 30, 1986, the required employer contributions shall be paid by the employing unit within 30 days after notification by the association of the amount due. If the employee contributions for the sabbatical leave period are less than an amount equal to the applicable contribution rate applied to a salary figure equal to the teacher's actual covered salary for the plan year immediately preceding the sabbatical leave period, service credit shall be prorated. The prorated service credit shall be determined by the ratio between the amount of the actual payment which was made and the full contribution amount payable pursuant to this section.

HIST: 1979 c 217 s 7; 1981 c 224 s 134; 1981 c 269 s 2;
1Sp1985 c 12 art 11 s 10; 1996 c 305 art 1 s 87

354A.093 BREAK IN SERVICE TO PROVIDE UNIFORMED SERVICE.

SUBDIVISION 1. Eligibility. Any teacher in the coordinated program of either the Minneapolis Teachers Retirement Fund Association or the St. Paul Teachers Retirement Fund Association or any teacher in the new law coordinated program of the Duluth Teachers Retirement Fund Association who is absent from employment by reason of service in the uniformed services as defined in United States Code, title 38, section 4303(13) and who returns to the employer providing active teaching service upon discharge from uniformed service within the time frames required under United States Code, title 38, section 4312(e), may receive allowable service credit in the applicable association for all or a portion of the period of uniformed service, provided that the teacher did not separate from uniformed service with a dishonorable or bad conduct discharge or under other than honorable conditions.

SUBD. 2. Contributions. If the teacher makes the equivalent employee contribution for a period of service provided to the uniformed services under this section, the employing unit shall make an equivalent employer contribution on behalf of the teacher to the applicable association for the period being purchased in the manner described in section 354A.12, subdivision 2a. The equivalent employee and employer contributions must be in an amount equal to the employee and employer contribution

rates in effect for other active members of the association covered by the same program applied to a salary figure equal to the teacher's average annual salary rate that the teacher would have received if the leave or break in service had not occurred, or if the determination of that average salary rate is not reasonably certain, on the basis of the teacher's average salary rate during the 12 month period immediately preceding the period, or, if the preceding period is less than 12 months, the annualized rate derived from the teacher's average salary rate during the period of teacher employment rendered immediately preceding the period of uniformed service, with the result multiplied by the number of full and fractional years constituting the period of service provided to the uniformed service which the teacher is authorized to purchase under this section.

SUBD. 3. Prorating. If the payments made by a teacher under this section are less than the full amount determined under subdivision 2, the service credit must be prorated. The prorated service credit must be determined by the ratio between the amount of the actual equivalent employee payment which was made and the full equivalent employee payment required under this section.

SUBD. 4. Eligible payment period. (a) To receive service credit under this section, the contributions specified in this section must be transmitted to the applicable first class city teachers retirement fund association during the period which begins with the date the individual returns to teaching service and which has a duration of three times the length of the uniformed service period, but not to exceed five years.

(b) Notwithstanding paragraph (a), if the payment period determined under paragraph (a) is less than one year, the contributions required under this section to receive service credit may be made within one year from the discharge date.

SUBD. 5. Limits on service credit. The amount of service credit obtainable under this section may not exceed five years, unless a longer purchase period is required under United States Code, title 38, section 4312.

SUBD. 6. Interest requirements. The employer shall pay interest on all equivalent employee and employer contribution amounts payable under this section. Interest must be computed at a rate of 8.5 percent compounded annually from the end of each fiscal year of the leave or break in service to the end of the month in which payment is received.

HIST: 1979 c 217 s 8; 1981 c 269 s 3; 1Sp1985 c 12 art 11 s 11; 1996 c 305 art 1 s 88; 2004 c 267 art 3 s 7

354A.094 QUALIFIED PART TIME TEACHERS; PARTICIPATION IN FUND.

SUBDIVISION 1. Teachers, defined. For purposes of this section, the term "teachers" shall have the meaning given in section 122A.15, subdivision 1, except that the term shall not include superintendents.

SUBD. 2. Part time teaching position, defined. For purposes of this section, the term "part time teaching position" shall mean a teaching position within the district in which the teacher is employed for at least 50 full days or a fractional equivalent of 50 full days calculated using the appropriate minimum number of hours which would result in a full day of

service credit by the appropriate association and for which the teacher is compensated in an amount not to exceed 80 percent of the compensation rate established by the board for a full time teacher with identical education and experience within the district.

SUBD. 3. Qualified part time teacher program

participation requirements. (a) A teacher in the public schools of a city of the first class who has three years or more allowable service in the applicable retirement fund association or three years or more of full time teaching service in Minnesota public elementary schools, Minnesota secondary schools, and Minnesota State Colleges and Universities system may, by agreement with the board of the employing district, be assigned to teaching service within the district in a part time teaching position. The agreement must be executed before October 1 of the year for which the teacher requests to make retirement contributions under subdivision 4. A copy of the executed agreement must be filed with the executive director of the retirement fund association. If the copy of the executed agreement is filed with the association after October 1 of the year for which the teacher requests to make retirement contributions under subdivision 4, the employing school district shall pay a fine of \$5 for each calendar day that elapsed since the October 1 due date. The association may not accept an executed agreement that is received by the association more than 15 months late. The association may not waive the fine required by this section.

(b) Notwithstanding paragraph (a), if the teacher is also a legislator:

(1) the agreement in paragraph (a) must be executed before March 1 of the school year for which the teacher requests to make retirement contributions under subdivision 4; and

(2) the fines specified in paragraph (a) apply if the employing unit does not file the executed agreement with the executive director of the applicable Teachers Retirement Fund Association by March 1.

SUBD. 4. Retirement contributions. Notwithstanding any provision to the contrary in this chapter or the articles of incorporation or bylaws of an association relating to the salary figure to be used for the determination of contributions or the accrual of service credit, a teacher assigned to a part time position under this section shall continue to make employee contributions to and to accrue allowable service credit in the applicable association during the period of part time employment on the same basis and in the same amounts as would have been paid and accrued if the teacher had been employed on a full time basis provided that, prior to June 30 each year the member and the employing board make that portion of the required employer contribution to the applicable association in any proportion which they may agree upon, that is based on the difference between the amount of compensation that would have been paid if the teacher had been employed on a full time basis and the amount of compensation actually received by the teacher for services rendered in the part time assignment. The employer contributions to the applicable association on behalf of the teacher shall be based on the amount of compensation actually received by the teacher for the services rendered in the part time assignment in the manner described in section 354A.12, subdivision 2a. The employee and employer contributions shall be based upon the rates of contribution prescribed by section 354A.12. Full

membership, accrual of allowable service credit and employee contributions for part time teaching service by a teacher pursuant to this section and section 354.66 shall not continue for a period longer than ten years.

SUBD. 5. Limits on outside coverage. A teacher entitled to full membership, accrual of allowable service credit and employee contributions for part time teaching service pursuant to this section shall not be entitled during the same period of time to be a member of, accrue allowable service credit in or make employee contributions to any other Minnesota public pension plan, except a volunteer firefighters relief association governed by sections 69.771 to 69.776.

SUBD. 6. Insurance. A board of an employing district entering into an agreement authorized by this section shall take all steps necessary to assure continuance of any insurance programs furnished or authorized a full time teacher on an identical basis and with identical sharing of costs for a part time teacher pursuant to this section.

SUBD. 7. Qualification. Only teachers who are in the bargaining unit as defined in section 179A.03, subdivision 7, during the year preceding the period of part time employment pursuant to this section shall qualify for full membership in, accrual of service credit from, and employee contributions to a teachers retirement fund association for part time teaching service pursuant to subdivision 4. Notwithstanding the provisions of section 179A.03, subdivision 14, clauses (e) and (f), teachers who are employed on a part time basis for purposes of this section and who would therefore be disqualified from the bargaining unit by one or both of those provisions, shall continue to be in the bargaining unit during the period of part time employment pursuant to this section for purposes of compensation, fringe benefits and the grievance procedure.

SUBD. 8. One district limit. No teacher shall qualify for full membership in, accrual of service credit from and employee contributions to the Teachers Retirement Association or a teachers retirement fund association for part time teaching service pursuant to subdivision 4 or section 354.66, subdivision 4, in more than one district at the same time. No teacher shall qualify for full membership in, accrual of service credit from and employee contributions to a teachers retirement fund association during part time employment in a district pursuant to this section in any year if the teacher also takes a full time or part time teaching position in another Minnesota school district.

SUBD. 10. Nonqualified part time positions. Nothing in this section shall be construed to limit the authority of a school board to assign a teacher to a part time teaching position which does not qualify for employee contributions to a teachers retirement fund association pursuant to this section.

SUBD. 11. Substitute teaching; no coverage overlap. Neither subdivision 5 nor subdivision 8 shall be construed to prohibit a teacher who qualifies for full membership in, accrual of service credit from and employee contributions to a teachers retirement fund association pursuant to this section in any year from being employed as a substitute teacher by any school district during that year. Notwithstanding the provisions of this chapter or the bylaws of a retirement association, a

teacher may not pay retirement contributions or receive allowable service credit in the funds for other teaching service rendered for any part of any year for which the teacher qualifies for full membership in, accrual of service credit from and employee contributions to the Teachers Retirement Association or a teachers retirement fund association pursuant to section 354.66 or this section.

SUBD. 12. Information supplied by district. Each school district covered by the provisions of this chapter shall furnish to the appropriate teachers retirement fund association whatever information and reports deemed necessary by the board of trustees of the applicable teachers retirement fund association to administer the provisions of this section.

HIST: 1979 c 217 s 9; 1980 c 509 s 136 139; 1981 c 224 s

135 138; 1981 c 358 art 8 s 18; 1982 c 578 art 3 s 6; 1983 c 314 art 10 s 15 17; 1984 c 462 s 27; 1Sp1985 c 12 art 6 s 20; art 11 s 12; 1987 c 258 s 12; 1989 c 246 s 2; 1989 c 329 art 9 s 25; 1991 c 199 art 1 s 72; 1994 c 521 s 3,4; 1995 c 262 art 1 s 6; 1996 c 305 art 1 s 89; 1998 c 390 art 3 s 3,4; 1998 c 397 art 11 s 3; 2004 c 267 art 4 s 2

354A.095 PARENTAL AND MATERNITY LEAVE.

Basic or coordinated members of the St. Paul Teachers Retirement Fund Association, the Minneapolis Teachers Retirement Fund Association, and 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 following 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 on the member's average monthly salary rate 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.

HIST: 1989 c 319 art 2 s 21; 1990 c 570 art 12 s 46; 1994 c 542 s 2

354A.096 MEDICAL LEAVE.

Any teacher in the coordinated program of either the Minneapolis Teachers Retirement Fund Association or the St. Paul Teachers Retirement Fund Association or the new law coordinated program of the Duluth Teachers Retirement Fund Association who is on an authorized medical leave of absence and subsequently returns to teaching service is entitled to receive allowable service credit, not to exceed one year, for the period of leave, upon making the prescribed payment to the fund. This payment must include the required employee and employer contributions at the rates specified in section 354A.12, subdivisions 1 and 2, as applied to the member's average full time monthly salary rate on the date the leave of absence commenced plus annual interest at the rate of 8.5 percent per year from the end of the fiscal year during which the leave terminates to the end of the month during which payment is made. The member must pay the total amount required unless the employing unit, at its option, pays the employer contributions. The total amount required must be paid by the end of the fiscal year following the fiscal year in which the leave of

absence terminated or before the member retires, whichever is earlier. Payment must be accompanied by a copy of the resolution or action of the employing authority granting the leave and the employing authority, upon granting the leave, must certify the leave to the association in a manner specified by the executive director. A member may not receive more than one year of allowable service credit during any fiscal year by making payment under this section. A member may not receive disability benefits under section 354A.36 and receive allowable service credit under this section for the same period of time.

HIST: 1990 c 570 art 7 s 2; 1992 c 598 art 6 s 14

354A.097 PRIOR OR UNCREDITED MILITARY SERVICE CREDIT PURCHASE.

SUBDIVISION 1. Service credit purchase authorized. A teacher who has at least three years of allowable service credit with the teachers retirement fund association and who performed service in the United States armed forces before becoming a teacher as defined in section 354A.011, subdivision 27, or who failed to obtain service credit for a military leave of absence period under section 354A.093, is entitled to purchase allowable service credit for the initial period of enlistment, induction, or call to active duty without any voluntary extension by making payment under section 356.551 if the teacher has not purchased service credit from another Minnesota defined benefit public employee pension plan for the same period of service.

SUBD. 2. Application and documentation. A teacher who desires to purchase service credit under subdivision 1 must apply with the executive director or secretary of the respective teachers retirement fund association to make the purchase. The application must include all necessary documentation of the teacher's qualifications to make the purchase, signed written permission to allow the executive director or secretary to request and receive necessary verification of applicable facts and eligibility requirements, and any other relevant information that the executive director or secretary may require. Payment must be made before the teacher's effective date of retirement.

SUBD. 3. Service credit grant. Allowable service credit for the purchase period must be granted by the applicable teachers retirement fund association to the purchasing teacher on receipt of the purchase payment amount.

HIST: 1999 c 222 art 16 s 7; 2004 c 267 art 17 s 5; 1Sp2005 c 8 art 10 s 62

NOTE: This section, as added by Laws 1999, chapter 222, article 16, section 7, is repealed effective May 16, 2006. Laws 1999, chapter 222, article 16, section 16, as amended by Laws 2002, chapter 392, article 7, section 1; Laws 2003, 1st Spec. Session chapter 12, article 6, section 2; and Laws 2004, chapter 267, article 17, section 6.

354A.11 CERTAIN MONEY AND CREDITS OF TEACHERS EXEMPT.

All money deposited by a teacher or member or deposited by any other person or corporation, municipal or private, to the credit of a teacher or member of a teachers retirement fund association organized pursuant to this chapter, and all money, rights, and interests or annuities due or to become due to a teacher, member, or annuitant, or their beneficiaries, from any association shall not be assignable, shall be exempt from

garnishment, attachment, and execution or sale on any final process issued from a court and other legal process, except as provided in section 518.58, 518.581, or 518.6111, and shall not be subject to the estate tax provisions of this state.

HIST: (1366 2) 1939 c 72 s 1; 1967 c 605 s 1; 1971 c 789 s 7; 1979 c 217 s 10; 1979 c 303 art 3 s 31; 1982 c 578 art 1 s 9; 1983 c 286 s 11; 1984 c 547 s 8; 1987 c 157 s 7; 1997 c 203 art 6 s 92

354A.12 CONTRIBUTIONS BY EMPLOYEE AND EMPLOYER.

SUBDIVISION 1. Employee contributions. The contribution required to be paid by each member of a teachers retirement fund association shall not be less than the percentage of total salary specified below for the applicable association and program:

Association and Program	Percentage of Total Salary
Duluth Teachers Retirement Association	
old law and new law coordinated programs	5.5 percent
Minneapolis Teachers Retirement Association	
basic program	8.5 percent
coordinated program	5.5 percent
St. Paul Teachers Retirement Association	
basic program	8 percent
coordinated program	5.5 percent

Contributions shall be made by deduction from salary and must be remitted directly to the respective teachers retirement fund association at least once each month.

SUBD. 1A. Obligation for omitted salary deductions. If the full required contributions are not deducted from the salary of a teacher, payment of the shortage in such deductions is the sole obligation of the employing unit during the three year period following the end of the fiscal year in which the shortage occurred. The shortage is payable by the employing unit upon notification of the shortage by the executive director of the applicable retirement fund association. The employing unit shall also pay any employer contributions related to the shortage. The amount of the shortage in employee contributions and associated employer contributions is payable with interest at the preretirement interest assumption for the retirement fund as specified in section 356.215, subdivision 8, stated as a monthly rate from the date due until the date payment is received in the office of the association, with a minimum interest charge of \$10. If the shortage payment and interest is not paid by the employing unit within 60 days of notification, the executive director shall certify the amount of the shortage payment and interest to the commissioner of finance, who shall deduct the amount from any state aid or appropriation amount applicable to the employing unit.

SUBD. 2. Retirement contribution levy disallowed. Except as provided in subdivision 3b and in section 423A.02, subdivision 3, with respect to the city of Minneapolis and special school district No. 1 and in section 423A.02, subdivision 3, with respect to independent school district No. 625, notwithstanding any law to the contrary, levies for teachers retirement fund associations in cities of the first class, including levies for any employer Social Security taxes for teachers covered by the Duluth Teachers Retirement Fund Association or the Minneapolis Teachers Retirement Fund Association or the St. Paul Teachers Retirement Fund Association, are disallowed.

SUBD. 2A. Employer regular and additional contribution rates. (a) The employing units shall make the following employer contributions to teachers retirement fund associations:

(1) for any coordinated member of a teachers retirement fund association in a city of the first class, the employing unit shall pay the employer Social Security taxes in accordance with section 355.46, subdivision 3, clause (b);

(2) for any coordinated member of one of the following teachers retirement fund associations in a city of the first class, the employing unit shall make a regular employer contribution to the respective retirement fund association in an amount equal to the designated percentage of the salary of the coordinated member as provided below:

Duluth Teachers Retirement Fund Association	4.50 percent
Minneapolis Teachers Retirement Fund Association	4.50 percent
St. Paul Teachers Retirement Fund Association	4.50 percent;

(3) for any basic member of one of the following teachers retirement fund associations in a city of the first class, the employing unit shall make a regular employer contribution to the respective retirement fund in an amount equal to the designated percentage of the salary of the basic member as provided below:

Minneapolis Teachers Retirement Fund Association	8.50 percent
St. Paul Teachers Retirement Fund Association	8.00 percent

(4) for a basic member of a teachers retirement fund association in a city of the first class, the employing unit shall make an additional employer contribution to the respective fund in an amount equal to the designated percentage of the salary of the basic member, as provided below:

Minneapolis Teachers Retirement Fund Association	
July 1, 1993 June 30, 1994	4.85 percent
July 1, 1994, and thereafter	3.64 percent
St. Paul Teachers Retirement Fund Association	
July 1, 1993 June 30, 1995	4.63 percent
July 1, 1995, and thereafter	3.64 percent

(5) for a coordinated member of a teachers retirement fund association in a city of the first class, the employing unit shall make an additional employer contribution to the respective fund in an amount equal to the applicable percentage of the coordinated member's salary, as provided below:

Duluth Teachers Retirement Fund Association	1.29 percent
Minneapolis Teachers Retirement Fund Association	
July 1, 1993 June 30, 1994	0.50 percent
July 1, 1994, and thereafter	3.64 percent
St. Paul Teachers Retirement Fund Association	
July 1, 1993 June 30, 1994	0.50 percent
July 1, 1994 June 30, 1995	1.50 percent
July 1, 1997, and thereafter	3.84 percent

(b) The regular and additional employer contributions must be remitted directly to the respective teachers retirement fund association at least once each month. Delinquent amounts are payable with interest under the procedure in subdivision 1a.

(c) Payments of regular and additional employer contributions for school district or technical college employees who are paid from normal operating funds must be made from the appropriate fund of the district or technical college.

SUBD. 3A. Special direct state aid to first class city teachers retirement fund associations. (a) In fiscal year 1998, the state shall pay \$4,827,000 to the St. Paul Teachers Retirement Fund Association, \$17,954,000 to the Minneapolis Teachers Retirement Fund Association, and \$486,000 to the Duluth Teachers Retirement Fund Association. In each subsequent fiscal year, these payments to the first class city teachers retirement fund associations must be \$2,827,000 for St. Paul, \$12,954,000 for Minneapolis, and \$486,000 for Duluth.

(b) The direct state aids under this subdivision are payable October 1 annually. The commissioner of finance shall pay the direct state aid. The amount required under this subdivision is appropriated annually from the general fund to the commissioner of finance.

SUBD. 3B. Special direct state matching aid to the Minneapolis Teachers Retirement Fund Association. (a) Special School District No. 1 may make an additional employer contribution to the Minneapolis Teachers Retirement Fund Association. The city of Minneapolis may make a contribution to the Minneapolis Teachers Retirement Fund Association. This contribution may be made by a levy of the board of estimate and taxation of the city of Minneapolis and the levy, if made, is classified as that of a special taxing district for purposes of sections 275.065 and 276.04, and for all other property tax purposes.

(b) For every \$1,000 contributed in equal proportion by Special School District No. 1 and by the city of Minneapolis to the Minneapolis Teachers Retirement Fund Association under paragraph (a), the state shall pay to the Minneapolis Teachers Retirement Fund Association \$1,000, but not to exceed \$2,500,000 in total in fiscal year 1994. The superintendent of

Special School District No. 1, the mayor of the city of Minneapolis, and the executive director of the Minneapolis Teachers Retirement Fund Association shall jointly certify to the commissioner of finance the total amount that has been contributed by Special School District No. 1 and by the city of Minneapolis to the Minneapolis Teachers Retirement Fund Association. Any certification to the commissioner of education must be made quarterly. If the total certifications for a fiscal year exceed the maximum annual direct state matching aid amount in any quarter, the amount of direct state matching aid payable to the Minneapolis Teachers Retirement Fund Association must be limited to the balance of the maximum annual direct state matching aid amount available. The amount required under this paragraph, subject to the maximum direct state matching aid amount, is appropriated annually to the commissioner of finance.

(c) The commissioner of finance may prescribe the form of the certifications required under paragraph (b).

SUBD. 3C. Termination of supplemental contributions and direct matching and state aid. (a) The supplemental contributions payable to the Minneapolis Teachers Retirement Fund Association by special school district No. 1 and the city of Minneapolis under section 423A.02, subdivision 3, or to the St. Paul Teachers Retirement Fund Association by Independent School District No. 625 under section 423A.02, subdivision 3, or the direct state aids under subdivision 3a to the first class city teachers retirement associations, and the direct matching and state aid under subdivision 3b to the Minneapolis Teachers Retirement Fund Association terminate for the respective fund at the end of the fiscal year in which the accrued liability funding ratio for that fund, as determined in the most recent actuarial report for that fund by the actuary retained by the Legislative Commission on Pensions and Retirement, equals or exceeds the accrued liability funding ratio for the teachers retirement association, as determined in the most recent actuarial report for the Teachers Retirement Association by the actuary retained by the Legislative Commission on Pensions and Retirement.

(b) If the state direct matching, state supplemental, or state aid is terminated for a first class city teachers retirement fund association under paragraph (a), it may not again be received by that fund.

(c) If either the Minneapolis Teachers Retirement Fund Association, the St. Paul Teachers Retirement Fund Association, or the Duluth Teachers Retirement Fund Association remain funded at less than the funding ratio applicable to the teachers retirement association when the provisions of paragraph (b) become effective, then any state aid not distributed to that association must be immediately transferred to the other associations in proportion to the relative sizes of their unfunded actuarial accrued liabilities.

SUBD. 3D. Supplemental administrative expense assessment. (a) The active and retired membership of the Minneapolis Teachers Retirement Fund Association and of the St. Paul Teachers Retirement Fund Association is responsible for defraying supplemental administrative expenses other than investment expenses of the respective teacher retirement fund association.

(b) Investment expenses of the teachers retirement fund association are those expenses incurred by or on behalf of the retirement fund in connection with the investment of the assets of the retirement fund other than investment security transaction costs. Other administrative expenses are all expenses incurred by or on behalf of the retirement fund for all other retirement fund functions other than the investment of retirement fund assets. Investment and other administrative expenses must be accounted for using generally accepted accounting principles and in a manner consistent with the comprehensive annual financial report of the teachers retirement fund association for the immediately previous fiscal year under section 356.20.

(c) Supplemental administrative expenses other than investment expenses of a first class city teacher retirement fund association are those expenses for the fiscal year that:

(1) exceed, for the St. Paul Teachers Retirement Fund Association \$443,745, or for the Minneapolis Teacher Retirement Fund Association \$671,513, plus, in each case, an additional amount derived by applying the percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers All Items Index published by the Bureau of Labor Statistics of the United States Department of Labor since July 1, 2001, to the applicable dollar amount; and

(2) exceed the amount computed by applying the most recent percentage of pay administrative expense amount, other than investment expenses, for the teachers retirement association governed by chapter 354 to the covered payroll of the respective teachers retirement fund association for the fiscal year.

(d) The board of trustees of each first class city teachers retirement fund association shall allocate the total dollar amount of supplemental administrative expenses other than investment expenses determined under paragraph (c), clause (2), among the various active and retired membership groups of the teachers retirement fund association and shall assess the various membership groups their respective share of the supplemental administrative expenses other than investment expenses, in amounts determined by the board of trustees. The supplemental administrative expense assessments must be paid by the membership group in a manner determined by the board of trustees of the respective teachers retirement association.

Supplemental administrative expenses payable by the active members of the pension plan must be picked up by the employer in accordance with section 356.62.

(e) With respect to the St. Paul Teachers Retirement Fund Association, the supplemental administrative expense assessment must be fully disclosed to the various active and retired membership groups of the teachers retirement fund association.

The chief administrative officer of the St. Paul Teachers Retirement Fund Association shall prepare a supplemental administrative expense assessment disclosure notice, which must include the following:

(1) the total amount of administrative expenses of the St. Paul Teachers Retirement Fund Association, the amount of the investment expenses of the St. Paul Teachers Retirement Fund Association, and the net remaining

amount of administrative expenses of the St. Paul Teachers Retirement Fund Association;

(2) the amount of administrative expenses for the St. Paul Teachers Retirement Fund Association that would be equivalent to the teachers retirement association noninvestment administrative expense level described in paragraph (c);

(3) the total amount of supplemental administrative expenses required for assessment calculated under paragraph (c);

(4) the portion of the total amount of the supplemental administrative expense assessment allocated to each membership group and the rationale for that allocation;

(5) the manner of collecting the supplemental administrative expense assessment from each membership group, the number of assessment payments required during the year, and the amount of each payment or the procedure used to determine each payment; and

(6) any other information that the chief administrative officer determines is necessary to fairly portray the manner in which the supplemental administrative expense assessment was determined and allocated.

(f) The disclosure notice must be provided annually in the annual report of the association.

(g) The supplemental administrative expense assessments must be deposited in the applicable teachers retirement fund upon receipt.

(h) Any omitted active membership group assessments that remain undeducted and unpaid to the teachers retirement fund association for 90 days must be paid by the respective school district. The school district may recover any omitted active membership group assessment amounts that it has previously paid. The teachers retirement fund association shall deduct any omitted retired membership group assessment amounts from the benefits next payable after the discovery of the omitted amounts.

SUBD. 4. Limitation on certain articles of incorporation or bylaw amendments. No amendment to the bylaws or articles of incorporation of a teachers retirement fund association in a city of the first class affecting benefits, contributions or actuarial assumptions shall be made without approval by the legislature. Approval shall be deemed granted and the amendment shall become effective only upon enactment of special or general legislation detailing the substance of the amendment and upon submission of the text of the proposed amendment to the articles of incorporation or bylaws by the teachers retirement fund association involved to the Legislative Commission on Pensions and Retirement prior to the effective date of the amendment. Notwithstanding any provision of the articles of incorporation or bylaws to the contrary, amendments may be adopted at an annual meeting or at a special meeting called for that purpose, without further local approval.

SUBD. 5. Reporting and remittance requirements. (a) Each employing unit shall provide to the appropriate teachers retirement fund association the following member data regarding all new or returning employees before the employee's first payroll date in a format approved by the executive secretary or director. Data changes and the dates of those

changes must be reported to the association on an ongoing basis for the payroll cycle in which they occur. Data on the member includes:

(1) legal name, address, date of birth, association member number, employer assigned employee number, and Social Security number;

(2) association status, including, but not limited to, basic, coordinated, exempt annuitant, exempt technical college teacher, or exempt independent contractor or consultant;

(3) employment status, including, but not limited to, full time, part time, intermittent, substitute, or part time mobility;

(4) employment position, including, but not limited to, teacher, superintendent, principal, administrator, or other;

(5) employment activity, including, but not limited to, hire, termination, resumption of employment, disability, or death;

(6) leaves of absence; and

(7) other information as may be required by the association.

(b) Each employing unit shall provide the following data to the appropriate association for each payroll cycle in a format approved by the executive secretary or director:

(1) an association member number;

(2) employer assigned employee number;

(3) Social Security number;

(4) amount of each salary deduction;

(5) amount of salary as defined in section 354A.011, subdivision 24, from which each deduction was made;

(6) reason for payment;

(7) service credit;

(8) the beginning and ending dates of the payroll period covered and the date of actual payment;

(9) fiscal year of salary earnings;

(10) total remittance amount including employee, employer, and employer additional contributions; and

(11) other information as may be required by the association.

(c) On or before August 1 each year, each employing unit must report to the appropriate association giving an itemized summary for the preceding 12 months of the total amount that was withheld from the salaries of teachers for deductions and all other information required by the association.

(d) An employing unit that does not comply with the reporting requirements under this section shall pay a fine of \$5 per calendar day until the association receives the required member data.

(e) An employing unit shall remit all amounts that are due to the association and shall furnish for each pay period an itemized statement indicating the total amount that is due and is transmitted with any other information required by the association. All amounts due and other employer obligations that are not remitted within 30 days of notification by the association must be certified by the director or secretary to the commissioner of finance, who shall deduct the amount from any state aid or appropriation amount applicable to the employing unit and shall transmit the deducted amount to the applicable association.

HIST: 1975 c 306 s 30; 1976 c 238 s 1; 1976 c 239 s 107; 1978 c 781 s 8; 1979 c 293 s 3; 1980 c 614 s 143; 1981 c 269 s 4; 1982 c 578 art 3 s 7; 1Sp1985 c 12 art 11 s 13; 1Sp1986 c 1 art 9 s 24; 1987 c 258 s 12; 1989 c 246 s 2; 1991 c 317 s 3; 1992 c 598 art 5 s 1; 1993 c 336 art 1 s 3 7; 1993 c 357 s 1 6; 1994 c 420 s 1; 1995 c 141 art 3 s 12; 1995 c 262 art 2 s 2; 1Sp1995 c 3 art 16 s 13; 1996 c 438 art 4 s 5,6; 1997 c 233 art 3 s 2 6; 1Sp2001 c 10 art 3 s 22; 2002 c 392 art 6 s 3; art 11 s 52; 2003 c 130 s 12

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 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 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.

HIST: 1975 c 306 s 32; 1976 c 329 s 31; 1979 c 217 s 12; 1980 c 342 s 14; 1Sp1981 c 4 art 2 s 35; 1987 c 284 art 2 s 6; 1989 c 319 art 13 s 73

354A.23 MINNEAPOLIS AND ST. PAUL TEACHERS RETIREMENT FUND ASSOCIATIONS; BASIC PROGRAMS.

SUBDIVISION 1. Minneapolis Teachers Retirement Fund Association basic program. There is established within the Minneapolis Teachers Retirement Fund Association a basic program which shall be a continuation of the retirement program in existence prior to July 1, 1978 to provide retirement coverage for teachers who are not covered by any agreement or modification made between the state and the Secretary of Health, Education and Welfare making the provisions of the federal Old Age, Survivors and Disability Insurance Act applicable to certain teachers covered by the teachers retirement fund association. The provisions governing the basic program shall be the applicable portions of this chapter, the articles of incorporation and bylaws in effect as of March 31, 1975, the amendments to the articles of incorporation and bylaws adopted subsequent to legislative approval contained in Laws 1976, chapter 238, section 13 and Laws 1977, chapter 429, section 59, and any applicable amendments to the articles of incorporation or bylaws adopted subsequent to July 1, 1979 in accordance with the provisions of section 354A.12, subdivision 4.

SUBD. 2. St. Paul Teachers Retirement Fund Association basic program. There is established within the St. Paul Teachers Retirement Fund Association a basic program which shall be a continuation of the retirement program in existence prior to July 1, 1978 to provide

retirement coverage for teachers who are not covered by any agreement or modification made between the state and the Secretary of Health, Education and Welfare making the provisions of the federal Old Age, Survivors and Disability Insurance Act applicable to certain teachers covered by the teachers retirement fund association. The provisions governing the basic program shall be the applicable portions of this chapter, the articles of incorporation and bylaws in effect as of March 31, 1976, the amendments to the articles of incorporation and bylaws adopted subsequent to legislative approval contained in Laws 1976, chapter 238, section 14, and Laws 1977, chapter 429, section 60, the provisions of Laws 1977, chapter 429, section 61, and any applicable amendments to the articles of incorporation or bylaws adopted subsequent to July 1, 1979 in accordance with the provisions of section 354A.12, subdivision 4.

SUBD. 3. Eligibility for refunds and interest. Notwithstanding anything to the contrary in the articles and bylaws of the basic programs enumerated in chapter 354A, eligibility for payment and the payment of interest on refunds and interest on repayment of refunds shall be determined in the same manner as for the coordinated programs covered by this chapter.

HIST: 1979 c 217 s 13; 1984 c 564 s 39; 1993 c 336 art 1 s 8

354A.29 ST. PAUL TEACHERS RETIREMENT FUND ASSOCIATION POSTRETIREMENT ADJUSTMENT.

SUBDIVISION 1. Articles of incorporation and bylaws. Permission is granted for the St. Paul Teachers Retirement Fund Association under Minnesota Statutes, section 354A.12, subdivision 4, to amend its articles of incorporation and bylaws to provide postretirement adjustments under this section.

SUBD. 2. Elimination of prior lump sum postretirement adjustment mechanism. As a condition precedent to the implementation of subdivisions 3 to 6, the lump sum postretirement adjustment mechanism in effect on July 1, 1997, must be eliminated and the articles of incorporation and bylaws of the association must be amended accordingly.

SUBD. 3. Postretirement adjustment. (a) The postretirement adjustment described in the articles and bylaws of the St. Paul Teachers Retirement Fund Association must be determined by the board annually after June 30 using the procedures under this section.

(b) Each eligible person who has been receiving an annuity or benefit under the articles of incorporation, the bylaws, or this chapter for at least 12 months as of the end of the fiscal year is eligible to receive a postretirement adjustment of 2.0 percent that is payable each January 1.

SUBD. 4. Additional investment percentage adjustment. (a) An excess investment earnings percentage adjustment must be computed and paid under this subdivision to those annuitants and eligible benefit recipients who have been receiving an annuity or benefit for at least 12 months as determined each June 30 by the board of trustees.

(b) The board shall also determine the five year annualized rate of return attributable to the assets of the St. Paul Teachers Retirement Fund

Association under the formula specified in section 11A.04, clause (11), and the amount of the excess five year annualized rate of return over the preretirement interest assumption specified in section 356.215.

(c) The excess investment percentage adjustment must be determined by multiplying the quantity one minus the rate of contribution deficiency, as specified in the most recent actuarial report of the actuary retained by the Legislative Commission on Pensions and Retirement under section 356.215, by the rate of return excess as determined in paragraph (b).

(d) The excess investment percentage adjustment is payable to all annuitants and benefit recipients on the following January 1.

SUBD. 5. Effect on annuity. The adjustments calculated under subdivisions 3 and 4 must be included in all annuities or benefits paid to the recipient after the adjustments take effect.

SUBD. 6. Lump sum postretirement adjustment transition. This subdivision applies to all annuitants and beneficiaries of the association who received a lump sum postretirement adjustment before the calculation of the first postretirement adjustment under subdivisions 3 and 4. Before the calculation of the first postretirement adjustment under subdivisions 3 and 4, the annual retirement annuity must be increased by the amount of the lump sum postretirement adjustment described in the association bylaws and paid to the annuitant or beneficiary in 1997 before July 1, 1997, or if the annuitant or beneficiary was not eligible for a lump sum postretirement adjustment, then the annual benefit paid to that annuitant or benefit recipient must be increased by the cumulative percentage increase in the Consumer Price Index for urban wage earners and clerical workers All Items Index published by the United States Department of Labor, Bureau of Labor Statistics, from the date of the initial receipt of a retirement annuity or benefit of the person whose service is the basis of the benefit to June 30, 1997.

HIST: 1997 c 233 art 3 s 7

354A.30 MINNEAPOLIS AND ST. PAUL TEACHERS RETIREMENT FUND ASSOCIATIONS; COORDINATED PROGRAM.

There is established a coordinated program within the Minneapolis Teachers Retirement Fund Association and a coordinated program within the St. Paul Teachers Retirement Fund Association to provide retirement coverage for teachers who are covered by an agreement or modification made between the state and the secretary of health, education and welfare making the provisions of the federal Old Age, Survivors and Disability Insurance Act applicable to certain teachers covered by the teachers retirement fund association. The provisions governing the coordinated program shall be sections 354A.31 to 354A.41 and any other applicable provisions of this chapter.

HIST: 1979 c 217 s 15

354A.31 COORDINATED PROGRAM RETIREMENT BENEFITS.

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 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.

SUBD. 1A. 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 must be made in writing on a form prescribed by the executive secretary or director and must be substantiated by written proof of the member's age and identity. The notarized signature of a member's spouse on a retirement annuity application acknowledging the member's annuity selection meets the notice requirement to the spouse under section 356.46, subdivision 3. An application for a retirement annuity is not complete until all necessary supporting documents are received by the executive secretary or director.

SUBD. 2. Time and manner of payments. A coordinated member or former coordinated member may make application to the board of the teachers retirement fund association for a retirement annuity any time after the member has satisfied the age and service requirements specified in subdivision 1, but no application for retirement may be accepted by the board more than 60 days prior to the termination of teaching service. The retirement annuity shall begin to accrue after the occurrence of a retirement precondition event, which for purposes of this subdivision is the later of the termination of teaching service for the school district in which the teachers retirement fund association exists, the filing of an application for a retirement annuity with the board, or receipt of the final salary payment. Accrual shall commence on the sixteenth day of the month if the retirement precondition event occurs on or before the fifteenth day of that month or on the first day of the month next following if the retirement precondition event occurs on or after the sixteenth day of the month.

SUBD. 2A. Applications after retirement. If an application for retirement is filed with the board during the 90 day period immediately following the termination of teaching service, the annuity may begin to accrue as if the application for retirement had been filed with the board on the date teaching service terminated. In no event may an annuity begin to accrue more than one month before the date of final salary receipt.

SUBD. 3. Resumption of teaching after commencement of a retirement annuity. (a) Any person who retired and is receiving a coordinated program retirement annuity under the provisions of sections 354A.31 to 354A.41 or any person receiving a basic program retirement annuity under the governing sections in the articles of incorporation or bylaws and who has resumed teaching service for the school district in which the teachers retirement fund association exists is entitled to continue to receive retirement annuity payments, except 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 United States Code, title 42, section 403. The amount of the reduction must be one third 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.

(b) 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.

(c) After a person has reached the age of 70, no reemployment income maximum 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.

(d) The amount of the retirement annuity reduction must be handled or disposed of as provided in section 356.47.

(e) For the purpose of this subdivision, income from teaching service includes: (i) all income for services performed as a consultant or independent contractor; or income resulting from working with the school district in any capacity; and (ii) 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 the school district in which the teachers retirement fund association exists and at the same level as the position occupied by the person who resumes teaching service.

(f) On or before February 15 of each year, each applicable employing unit shall report to the teachers retirement fund association the amount of postretirement income as defined in this subdivision, earned as a teacher, consultant, or independent contractor during the previous calendar year by each retiree of the teachers retirement fund association for teaching service performed after retirement. The report must be in a format approved by the executive secretary or director.

SUBD. 3A. No annuity reduction. (a) The annuity reduction provisions of subdivision 3 do not apply to a person who:

(1) retires from the technical college system with at least ten years of service credit in the system from which the person retires;

(2) was employed on a full time basis immediately preceding retirement as a technical college faculty member;

(3) begins drawing an annuity from a first class city teachers retirement association; and

(4) returns to work on not less than a one third time basis and not more than a two thirds time basis in the technical college system under an agreement in which the person may not earn a salary of more than \$46,000 in a calendar year from the technical college system.

(b) Initial participation, the amount of time worked, and the duration of participation under this section must be mutually agreed upon by the employer and the employee. The employer may require up to a one year notice of intent to participate in the program as a condition of participation under this section. The employer shall determine the time of year the employee shall work.

(c) Notwithstanding any law to the contrary, a person eligible under paragraphs (a) and (b) may not earn further service credit in a first class city teachers retirement association and is not eligible to participate in the individual retirement account plan or the supplemental retirement plan established in chapter 354B as a result of service under this section. No employer or employee contribution to any of these plans may be made on behalf of such a person.

SUBD. 4. Computation of the normal coordinated retirement annuity; Minneapolis and St. Paul funds. (a) This subdivision applies to the coordinated programs of the Minneapolis Teachers Retirement Fund Association and the St. Paul Teachers Retirement Fund Association.

(b) The normal coordinated retirement annuity is an amount equal to a retiring coordinated member's average salary under section 354A.011, subdivision 7a, multiplied by the retirement annuity formula percentage.

(c) This paragraph, in conjunction with subdivision 6, applies to a person who first became a member or a member in a pension fund listed in section 356.30, subdivision 3, before July 1, 1989, unless paragraph (d), in conjunction with subdivision 7, produces a higher annuity amount, in which case paragraph (d) will apply. The retirement annuity formula percentage for purposes of this paragraph is the percent specified in section 356.315, subdivision 1, per year for each year of coordinated service for the first ten years and the percent specified in section 356.315, subdivision 2, for each year of coordinated service thereafter.

(d) This paragraph applies to a person who has become at least 55 years old and who first becomes a member after June 30, 1989, and to any other member who has become at least 55 years old and whose annuity amount, when calculated under this paragraph and in conjunction with subdivision 7 is higher than it is when calculated under paragraph (c), in conjunction with the provisions of subdivision 6. The retirement annuity formula percentage for purposes of this paragraph is the percent specified in section 356.315, subdivision 2, for each year of coordinated service.

SUBD. 4A. Computation of the normal coordinated retirement annuity; Duluth fund. (a) This subdivision applies to the new law coordinated program of the Duluth Teachers Retirement Fund Association.

(b) The normal coordinated retirement annuity is an amount equal to a retiring coordinated member's average salary under section 354A.011, subdivision 7a, multiplied by the retirement annuity formula percentage.

(c) This paragraph, in conjunction with subdivision 6, applies to a person who first became a member or a member in a pension fund listed in section 356.30, subdivision 3, before July 1, 1989, unless paragraph (d), in conjunction with subdivision 7, produces a higher annuity amount, in which case paragraph (d) applies. The retirement annuity formula percentage for purposes of this paragraph is the percent specified in section 356.315, subdivision 1, per year for each year of coordinated service for the first ten years and the percent specified in section 356.315, subdivision 2, for each subsequent year of coordinated service.

(d) This paragraph applies to a person who is at least 55 years old and who first becomes a member after June 30, 1989, and to any other

member who is at least 55 years old and whose annuity amount, when calculated under this paragraph and in conjunction with subdivision 7, is higher than it is when calculated under paragraph (c) in conjunction with subdivision 6. The retirement annuity formula percentage for purposes of this paragraph is the percent specified in section 356.315, subdivision 2, for each year of coordinated service.

SUBD. 5. Unreduced normal retirement annuity. Upon retirement at normal retirement age with at least three years of service credit, a coordinated member is entitled to a normal retirement annuity calculated under subdivision 4 or 4a, whichever applies.

SUBD. 6. Reduced retirement annuity. This subdivision applies only to a person who first became a coordinated member or a member of a pension fund listed in section 356.30, subdivision 3, before July 1, 1989, and whose annuity is higher when calculated using the retirement annuity formula percentage in subdivision 4, paragraph (c), or subdivision 4a, paragraph (c), in conjunction with this subdivision than when calculated under subdivision 4, paragraph (d), or subdivision 4a, paragraph (d), in conjunction with subdivision 7.

(a) Upon retirement at an age before normal retirement age with 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 (c), or subdivision 4a, paragraph (c), reduced by one quarter of one percent for each month that the coordinated member is under normal retirement age 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.

(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 (c), or subdivision 4a, paragraph (c), without any reduction by reason of early retirement.

SUBD. 7. Actuarial reduction for early retirement.

This subdivision applies to a person who has become at least 55 years old and first becomes a coordinated member after June 30, 1989, and to any other coordinated member who has become at least 55 years old and whose annuity is higher when calculated using the retirement annuity formula percentage in subdivision 4, paragraph (d), and subdivision 4a, paragraph (d), in conjunction with this subdivision than when calculated under subdivision 4, paragraph (c), or subdivision 4a, paragraph (c), 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 (d), or subdivision 4a, paragraph (d), 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.

SUBD. 8. Determining applicable law. An employee who returns to covered service following a termination and who is not receiving a retirement annuity under this section must have earned at least 85 days of credited service following the return to covered service to be eligible for improved benefits resulting from any law change enacted subsequent to that termination.

HIST: 1979 c 217 s 16; 1981 c 224 s 139; 1987 c 372 art 9 s 29 31; 1989 c 319 art 2 s 22; art 13 s 74 78; 1990 c 570 art 12 s 47 49; 1992 c 598 art 6 s 15; 1993 c 336 art 1 s 9; art 2 s 1; 1994 c 542 s 3; 1995 c 141 art 3 s 13; 1995 c 262 art 1 s 7; art 2 s 6,7; 1997 c 233 art 3 s 8,9; 2000 c 461 art 2 s 8,9; 1Sp2001 c 10 art 3 s 23; 2002 c 392 art 11 s 52; 2003 c 2 art 1 s 39,40; 1Sp2005 c 8 art 1 s 21,22; art 10 s 63

354A.32 OPTIONAL RETIREMENT ANNUITIES.

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 that guarantees payment of the balance of the annuity recipient's accumulated deductions to a designated beneficiary upon the death of the annuity recipient. 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.

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

disabliant if the designated optional beneficiary dies first but has not 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.

(d) The restoration of the normal single life annuity under this subdivision will take effect on the first of the month following the date of death of the designated optional annuity beneficiary or on the first of the month following one year before the date on which a certified copy of the death record of the designated optional annuity beneficiary is received in the office of the appropriate teachers retirement fund association, whichever date is later.

HIST: 1979 c 217 s 17; 1981 c 269 s 6; 1983 c 286 s 12; 1987 c 259 s 49; 1989 c 319 art 13 s 79,80; 1990 c 570 art 12 s 50,51; 1Sp2001 c 9 art 15 s 32

354A.33 SOCIAL SECURITY LEVELING ADJUSTMENT OPTION.

Any coordinated member who retires prior to the time the member becomes eligible for Social Security old age retirement benefits shall be entitled to elect to receive a Social Security leveling adjustment optional annuity from the teachers retirement fund association. The Social Security leveling adjustment optional annuity shall be established by the board of the teachers retirement fund association. It shall take the form of an annuity payable for the period prior to the member's becoming eligible for Social Security old age retirement benefits in an amount greater than the amount of the member's annuity calculated pursuant to section 354A.31 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 amounts payable immediately subsequent to becoming eligible for Social Security old age retirement benefits in an amount less than the amount of the member's annuity calculated pursuant to section 354A.31 on the basis of the age of the member at retirement. The optional form shall be the actuarial equivalent to the normal forms provided in section 354A.31. In establishing the optional form, the board shall obtain the written recommendation of the commission retained actuary and the recommendation shall be a part of the permanent records of the board.

HIST: 1979 c 217 s 18; 1987 c 259 s 50

354A.34 DISPOSITION OF UNPAID PERIOD CERTAIN FOR LIFE OR GUARANTEED REFUND OPTIONAL ANNUITIES.

If a retiree from a coordinated program who has elected a period certain and for life thereafter or a guaranteed refund optional annuity form dies without having a designated beneficiary who has survived the retiree, any remaining unpaid guaranteed annuity payments shall be computed at the rate of interest specified in section 356.215, subdivision 8, and paid in one lump sum to the estate of the retiree. If a retiree from a coordinated program who has elected a period certain and for life or a guaranteed

refund optional annuity form dies with a designated beneficiary who has survived the retiree but the designated beneficiary dies without there existing another designated beneficiary, any remaining unpaid guaranteed annuity payments shall be computed at the rate of interest specified in section 356.215, subdivision 8, and paid in one lump sum to the estate of the designated beneficiary.

HIST: 1979 c 217 s 19; 1Sp1985 c 7 s 35; 2002 c 392 art 11 s 52

354A.35 SURVIVOR BENEFITS.

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 six percent per annum compounded annually.

SUBD. 2. Death while eligible to retire; surviving spouse optional annuity. (a) The surviving spouse of a coordinated member who has credit for at least three years of service and dies prior to retirement may elect to receive, instead of a refund with interest under subdivision 1, an annuity equal to the 100 percent joint and survivor annuity the member could have qualified for had the member terminated service on the date of death. The surviving spouse eligible for a surviving spouse benefit under this paragraph 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. A surviving spouse eligible for surviving spouse benefits under paragraph (b) or (c) may apply for an annuity at any time after the member's death. The member's surviving spouse shall be paid a joint and survivor annuity under section 354A.32 and computed under section 354A.31.

(b) If the member was under age 55 and has credit for at least 30 years of allowable service on the date of death, the surviving spouse may elect to receive a 100 percent joint and survivor annuity based on the age of the member and surviving spouse on the date of death. The annuity is payable using the full early retirement reduction under section 354A.31, subdivision 6, paragraph (a), to age 55 and one half of the early retirement reduction from age 55 to the age payment begins.

(c) If the member was under age 55 and has credit for at least three years of allowable service on the date of death but did not yet qualify for retirement, the surviving spouse may elect to receive the 100 percent joint and survivor annuity based on the age of the member and the survivor at the time of death. The annuity is payable using the full early retirement reduction under section 354A.31, subdivision 6 or 7, to age 55 and one half of the early retirement reduction from age 55 to the date payment begins.

Sections 354A.37, subdivision 2, and 354A.39 apply to a deferred annuity or surviving spouse benefit payable under this section. The

benefits are payable for the life of the surviving spouse, or upon expiration of the term certain benefit payment under subdivision 2b.

SUBD. 2A. Modification in survivor coverage in certain instances. Any person who elected joint and survivor annuity coverage pursuant to subdivision 2 prior to July 1, 1981 and the spouse of the person shall be entitled to modify that election by making a joint specification in writing on a form prescribed by the executive secretary that the benefits provided in this section, whichever is applicable, shall be paid only to a designated beneficiary. Authority for any person and the spouse of the person to modify the prior election shall expire on the date of the retirement of the person who elected the coverage or the date of death of the person who elected the coverage, whichever occurs first.

SUBD. 2B. Survivor coverage term certain. In lieu of the 100 percent optional annuity under subdivision 2, or a refund under subdivision 1, the surviving spouse of a deceased member may elect to receive survivor coverage in a term certain of five, ten, 15, or 20 years, but monthly payments must not exceed 75 percent of the average high five monthly salary of the deceased member. The monthly term certain annuity must be actuarially equivalent to the 100 percent optional annuity under subdivision 2.

If a surviving spouse elects a term certain annuity and dies before the expiration of the specified term certain period, the commuted value of the remaining annuity payments must be paid in a lump sum to the survivor's estate.

SUBD. 2C. Dependent child survivor coverage. If there is no surviving spouse eligible for benefits under subdivision 2, a dependent child or children as defined in section 354A.011, subdivision 12a, is eligible for monthly payments. Payments to a dependent child must be paid from the date of the member's death to the date the dependent child attains age 20 if the child is under age 15. If the child is 15 years or older on the date of death, payment must be made for five years. The payment to a dependent child is an amount actuarially equivalent to the value of a 100 percent optional annuity under subdivision 2 using the age of the member and age of the dependent child at the date of death. If there is more than one dependent child, each dependent child shall receive a proportionate share of the actuarial value of the employee's account.

SUBD. 3. Death after retirement. If a retiree from a coordinated program dies after retirement, the retiree or the retiree's designated beneficiary shall be entitled to the annuity payment due for the full month during which death occurs unless an optional annuity was elected by the retiree pursuant to subdivision 2 or section 354A.32. If a joint and survivor optional annuity covering the spouse of the retiree was elected by the retiree from a coordinated program, the retiree's surviving spouse shall be paid a joint and survivor annuity as provided in section 354A.32 and computed pursuant to section 354A.31. If an optional annuity other than a joint and survivor optional annuity covering the spouse of the retiree was elected by the retiree from a coordinated program, the optional annuity shall be paid according to its terms.

SUBD. 4. Payment of minimal refund and benefit amounts. If a coordinated member or former coordinated member dies without having

designated a beneficiary or if the designated beneficiary dies without there existing any other designated beneficiary and prior to making application for the refund credited to the deceased coordinated member or coordinated former member, and if the amount of the refund does not exceed \$1,500, the board in its discretion may, in absence of probate proceedings, make payment 90 days after the date of death of the coordinated member or former coordinated member to the surviving spouse of the deceased coordinated member or former coordinated member, or if none, to the next of kin as determined under the laws of descent of the state. A payment under this subdivision shall be a bar to recovery by any other person or persons. Any retirement annuity in any amount which has accrued at the time of the death of a coordinated retiree may be paid by the board in its discretion using the procedure set forth in this subdivision.

SUBD. 5. Payment to designated beneficiary. Any coordinated member and the spouse of the coordinated member may make a joint specification in writing on a form prescribed by the executive secretary that the benefits provided in subdivision 1 or 2, shall be paid only to a designated beneficiary. For purposes of this subdivision, a designated beneficiary may only be either a former spouse or a child, either natural or adopted, of the member.

HIST: 1979 c 217 s 20; 1981 c 156 s 5; 1981 c 224 s 140,141; 1982 c 578 art 3 s 8; 1983 c 286 s 13; 1Sp1985 c 7 s 25; 1986 c 458 s 19; 1987 c 372 art 9 s 32; 1989 c 319 art 13 s 81,82; 1993 c 336 art 5 s 1; art 6 s 17 19; 1Sp2001 c 10 art 3 s 24

354A.36 PERMANENT DISABILITY BENEFITS.

SUBDIVISION 1. Minimum age, service, and salary requirements. Any coordinated member who has at least 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 two years of the required allowable service shall be required to have been rendered subsequent to the last interruption in service.

SUBD. 2. Time and manner of payments. The disability benefit shall begin to accrue from the later of either 90 days following the commencement of the permanent disability or the first day of the month following the date on which the written application for the disability benefit has been filed with the board, but payment shall not begin to accrue until any salary which is received by the disabled coordinated member for either annual or sick leave during the period of disability ceases.

SUBD. 3. Computation of disability benefit. The coordinated permanent disability benefit is an amount equal to the normal coordinated retirement annuity computed under 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 or age 62 with at least 30 years of service credit as specified in section 354A.31, subdivision 6.

SUBD. 3A. Optional annuity election. A disabled coordinated member may elect to receive the normal disability benefit or an optional annuity as provided in section 354A.32. The election of an optional annuity shall be made prior to commencement of payment of the disability benefit and shall be effective 30 days after receipt of the election or the date on which the disability benefit begins to accrue, whichever occurs later. Upon becoming effective, the optional annuity shall begin to accrue on the same date as provided for the disability benefit.

SUBD. 4. Determination of disability. The board of the teachers retirement fund association shall make the final determination of the existence of a permanent and total disability. The board shall have the coordinated member examined by at least two licensed physicians, licensed chiropractors, or licensed psychologists who are selected by the board. After making any required examinations, each physician, chiropractor, or psychologist with respect to a mental impairment, shall make a written report to the board concerning the coordinated member, which shall include a statement of the expert opinion of the physician, chiropractor, or psychologist as to whether or not the member is permanently and totally disabled within the meaning of section 354A.011, subdivision 14. The board shall also obtain a written statement from the employer as to whether or not the coordinated member was terminated or separated from active employment due to a disability which is deemed by the employer to reasonably prevent further service by the member to the employer and which caused the coordinated member not to be entitled to further compensation from the employer for services rendered by the member. If, after consideration of the reports of the physicians, chiropractors, or psychologists with respect to a mental impairment, and any evidence presented by the member or by any other interested parties, the board determines that the coordinated member is totally and permanently disabled within the meaning of section 354A.011, subdivision 14, it shall grant the coordinated member a disability benefit. A member who is placed on a leave of absence without compensation as a result of the disability is not barred from receiving a disability benefit under this section.

SUBD. 5. Offset against benefits paid under other laws. The coordinated disability benefit shall be reduced by any amounts received or receivable by a coordinated member from the school district under applicable workers' compensation laws.

SUBD. 6. Requirement for regular physical examinations. At least once each year during the first five years following the granting of a disability benefit to a coordinated member by the board and at least once in every three year period thereafter, the board shall require the disability benefit recipient to undergo an expert examination as a condition for continued entitlement of the benefit recipient to receive a disability benefit. The expert examination must be made at the place of residence of the disability benefit recipient or at any other place mutually agreeable to the disability benefit recipient and the board. The expert examination must be made by a physician or physicians, by a chiropractor or chiropractors, or by one or more psychologists engaged by the board. The physician or physicians, the chiropractor or chiropractors, or the psychologist or psychologists with respect to a mental impairment,

conducting the expert examination shall make a written report to the board concerning the disability benefit recipient and the recipient's disability, including a statement of the expert opinion of the physician, chiropractor, or psychologist as to whether or not the member remains permanently and totally disabled within the meaning of section 354A.011, subdivision 14. If the board determines from consideration of the written expert examination report of the physician, of the chiropractor, or of the psychologist, with respect to a mental impairment, that the disability benefit recipient is no longer permanently and totally disabled or if the board determines that the benefit recipient is engaged or is able to engage in a gainful occupation, unless the disability benefit recipient is partially employed under subdivision 7, then further disability benefit payments from the fund must be discontinued. The discontinuation of disability benefits must occur immediately if the disability recipient is reinstated to the district payroll following sick leave and within 60 days of the determination by the board following the expert examination and report of the physician or physicians, chiropractor or chiropractors, or psychologist or psychologists engaged by the board that the disability benefit recipient is no longer permanently and totally disabled within the meaning of section 354A.011, subdivision 14.

SUBD. 7. Partial reemployment of disability benefit recipient. If a disability benefit recipient resumes gainful employment but the compensation from the employment is less than the recipient's salary at the date of disability or the salary paid currently to positions similar to the position which the recipient held at the date of disability, the recipient shall be entitled to a disability benefit from the board in an amount which when added to the compensation for the partial reemployment does not exceed the lower of the recipient's salary at the date of disability or the salary paid currently to positions similar to the position which the recipient held at the date of disability, and does not in any event exceed the disability benefit originally computed pursuant to subdivision 3.

SUBD. 8. Examination refusal. If a disability benefit recipient refuses to submit to a medical examination as provided in subdivision 6, then further disability benefit payments from the fund shall be discontinued and all rights of the recipient to a disability benefit shall be revoked by the board.

SUBD. 9. Return to teaching service. Any disability benefit recipient who resumes active teaching service in the district in which the teachers retirement fund association is located shall also resume making employee contributions to the fund pursuant to section 354A.12, subdivision 1.

SUBD. 10. Retirement status upon attaining normal retirement age. 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, 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 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 normal retirement age. If an optional annuity is elected, the election shall be effective on the date on which the person attains the 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 normal retirement age.

HIST: 1979 c 217 s 21; 1981 c 68 s 27,28; 1987 c 372 art 9 s 33; 1989 c 319 art 13 s 83 85; 1992 c 598 art 6 s 16; 2004 c 267 art 8 s 31,32

354A.37 REFUNDS.

SUBDIVISION 1. Eligibility for refund. Any coordinated member who ceases to render teaching service for the school district in which the teachers retirement fund association is located shall be entitled to a refund in lieu of any other annuity or benefit from the teachers retirement fund association other than an annuity from a tax shelter annuity program and fund as authorized pursuant to section 354A.021, subdivision 5. The amount of the refund shall be calculated pursuant to subdivision 3. The application for the refund shall not be made prior to 30 days after the cessation of teaching services if the coordinated member has not resumed active teaching services for the district. Payment of the refund shall be made within 90 days after receipt of the refund application by the board.

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 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 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.

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 six percent per annum compounded annually.

SUBD. 4. Certain refunds at normal retirement age. Any coordinated member who has attained the normal retirement age 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 six percent compounded annually.

SUBD. 5. Unclaimed minimal refund amounts; disposition. If a coordinated member ceases to render teaching services for the school district in which the teachers retirement fund association is located but does not apply for a refund pursuant to subdivision 1 within five years after the end of the plan year next following the cessation of teaching services and if the amount of the refund that the former coordinated member would have been entitled to pursuant to subdivision 3 is \$500 or less, then the amount of the refund and any accumulated interest shall be credited to and become a part of the retirement fund. If the former coordinated member subsequently renders teaching services for the school district in which the teachers retirement fund association is located and the amount of the refund that the former coordinated member would have previously been entitled to pursuant to subdivision 3 is at least \$5, then the amount of the refund and any accumulated interest shall be restored to the member's individual account. If the amount of the refund that the former coordinated member would have previously been entitled to pursuant to subdivision 3 is at least \$5 and the former coordinated member applies for a refund pursuant to subdivision 1 or for an annuity pursuant to sections 354A.31 and 354A.32 or section 356.30, the amount of the refund and any accumulated interest shall be restored to the member's individual account.

HIST: 1979 c 217 s 22; 1984 c 564 s 40,41; 1989 c 319 art 13 s 86 88

354A.38 EFFECT OF REFUND; REPAYMENT OF REFUND.

SUBDIVISION 1. Effect of refund; termination of service credit. If a coordinated member or former coordinated member applies for and accepts a refund pursuant to section 354A.37, all allowable service which was credited to the member or former member shall be terminated.

SUBD. 2. Repayment of refund. A coordinated member with at least two years of allowable service credited subsequent to the member's last application for and acceptance of a refund pursuant to section 354A.37 shall be entitled to repay the refund. The amount of the refund repayment shall be calculated pursuant to subdivision 3. If the member has previously applied for and accepted more than one refund, and the previous refund or refunds have not been repaid, then the member shall be entitled only to repay all outstanding refunds and shall not be entitled to repay only the most recent refund.

SUBD. 3. Computation of refund repayment amount. If the coordinated member elects to repay a refund under subdivision 2, the repayment to the fund must be in an amount equal to refunds the member has accepted plus interest at the rate of 8.5 percent compounded annually from the date that the refund was accepted to the date that the refund is repaid.

HIST: 1979 c 217 s 23; 1980 c 509 s 141; 1992 c 598 art 6 s 17

354A.39 SERVICE IN OTHER PUBLIC RETIREMENT FUNDS; ANNUITY.

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 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 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 three or more years.

HIST: 1979 c 217 s 24; 1981 c 37 s 2; 1981 c 269 s 7; 1981 c 298 s 11; 1987 c 372 art 9 s 34; 1989 c 319 art 13 s 89

354A.40 COMPUTATION OF BENEFITS WITH PARTIAL SERVICE AS COORDINATED MEMBER.

SUBDIVISION 1. Retirement annuity. Any coordinated member of either the Minneapolis Teachers Retirement Fund Association or of the St. Paul Teachers Retirement Fund Association who has credited service prior to July 1, 1978 shall be entitled to receive a retirement annuity when otherwise qualified, the calculation of which shall utilize the applicable retirement annuity formula specified in articles of incorporation and bylaws of the teachers retirement fund association governing the basic program for that portion of credited service which was served prior to July 1, 1978, and the retirement annuity formula specified in section 354A.31 for the remainder of the member's credited service, both applied to the member's average salary as specified in section 354A.31, subdivision 4. The formula percentages to be used in calculating the coordinated portion of the retirement annuity or coordinated service under this section shall recognize the coordinated service as a continuation of any service prior to July 1, 1978.

HIST: 1979 c 217 s 25

354A.41 ADMINISTRATION OF COORDINATED PROGRAM.

SUBDIVISION 1. Administrative provisions. The provisions of the articles of incorporation and bylaws of the Minneapolis or the St. Paul Teachers Retirement Fund Association, whichever is applicable, relating to the administration of the fund shall govern the administration of the coordinated program and the provisions of the articles of incorporation and bylaws of the Duluth Teachers Retirement Fund Association relating to the administration of the fund shall govern the administration of the new law coordinated program in instances where the administrative provisions are not inconsistent with the provisions of sections 354A.31 to 354A.41, including but not limited to provisions relating to the composition and function of the board of trustees, the investment of assets of the teachers retirement fund association, and the definition of the plan year.

SUBD. 2. Actuarial valuations. In any actuarial valuation of the Minneapolis Teachers Retirement Fund Association, the St. Paul Teachers Retirement Fund Association, or the Duluth Teachers Retirement Fund Association under section 356.215 prepared by the commission retained actuary or supplemental actuarial valuation prepared by an approved actuary retained by the teachers retirement fund association, there shall be included a finding of the condition of the fund showing separately the basic and coordinated programs or the old law coordinated and new law coordinated programs, as appropriate. The finding shall include the level normal cost and the applicable employee and employer contribution rates for each program.

HIST: 1979 c 217 s 26; 1981 c 269 s 8; 1Sp1985 c 7 s 35; 1987 c 259 s 51

General Laws That Pertain to Retirement Systems in Minnesota

General Retirement Laws

CHAPTER 356 RETIREMENT SYSTEMS, GENERALLY

- 356.001 Purpose of public plans.
- 356.195 Service credit purchase procedures for strike periods.
- 356.20 Public pension fund financial reporting requirement.
- 356.214 Actuarial valuation preparation; joint retention of consulting actuary.
- 356.215 Actuarial valuations and experience studies.
- 356.219 Disclosure of public pension plan investment portfolio and performance information.
- 356.22 Interpretation.
- 356.23 Supplemental valuations; alternative reports and valuations.
- 356.24 Supplemental pension or deferred compensation plans, restrictions upon government units.
- 356.245 Local elected officials.
- 356.25 Local governmental pension fund prohibitions; exclusions.
- 356.30 Combined service annuity.
- 356.302 Disability benefit with combined service.
- 356.303 Survivor benefit with combined service.
- 356.315 Retirement benefit formula percentages.
- 356.32 Proportionate annuity at age 65.
- 356.40 Date for payment of annuities and benefits.
- 356.401 Exemption from process.
- 356.403 Normal retirement age; savings clause.
- 356.405 Combined payment of retirement annuities.
- 356.406 Loss of entitlement to benefits for survivor causing death of pension plan member.
- 356.407 Restoration of survivor benefits.
- 356.41 Benefit adjustments for certain disability and survivor benefits.
- 356.42 Postretirement adjustment; lump sum payments.
- 356.43 Supplemental benefit; lump-sum payments; Minneapolis Employees Retirement Fund.

- 356.431 Conversion of lump-sum postretirement and supplemental payment to an increased monthly annuity.
- 356.44 Partial payment of pension plan refund.
- 356.441 Payment acceptance allowed.
- 356.46 Application for retirement annuity; procedure for electing annuity form.
- 356.465 Supplemental needs trust as optional annuity form recipient.
- 356.47 Disposition of amount in excess of reemployed annuitant earnings limitations.
- 356.49 Provision of information in event of marriage dissolution.
- 356.50 Service and salary credit from back pay awards in the event of wrongful discharge.
- 356.551 Post July 1, 2004, prior service credit purchase payment amount determination procedure.
- 356.611 Limitation on public employee salaries for pension purposes.
- 356.62 Payment of employee contribution.
- 356.63 Limitation on use of public pension plan assets.
- 356.635 Internal Revenue Code compliance.
- 356.64 Real estate investments.
- 356.65 Disposition of abandoned public pension fund amounts.
- 356.82 Savings clause.
- 356.87 Health insurance withholding.
- 356.90 Combined payment.

356.001 PURPOSE OF PUBLIC PLANS.

SUBDIVISION 1. Exclusive benefit of members and beneficiaries. (a) The public plans and funds specified in subdivision 4 are established to provide for the retirement of their members and to provide funds for the beneficiaries of members in the event of death of a member.

(b) The public plans and funds are established and must be maintained for the exclusive benefit of the members and the beneficiaries of the members. Except as provided in subdivisions 2 and 3, no part of the moneys of the plans and funds may revert to the plan or fund or be used for or diverted to purposes other than the exclusive benefit of the members or their beneficiaries.

SUBD. 2. Allowable expenses. The necessary, reasonable, and direct expenses of maintaining, protecting, and administering the public plan or

fund, as authorized in the laws governing the plan or fund, must be considered as expenditures for the exclusive benefit of the members or their beneficiaries.

SUBD. 3. Effect of amendments or termination. (a) If a public plan or fund defined in subdivision 4 is terminated or the plan or fund provisions are amended, no part of the moneys held in the plan or fund may be used for or diverted to any purpose other than the exclusive benefit of the members or their beneficiaries, except as provided in this subdivision.

(b) If a plan or fund is terminated, all affected members have a nonforfeitable interest in their benefits that were accrued and funded to date. The value of the accrued benefits to be credited to the account of each affected member must be calculated as of the date of termination and the funding ratio of the plan or fund must be applied to the accrued benefit of each affected member.

(c) The board of trustees of the plan or fund shall, as soon as administratively feasible following the termination, pay each eligible member or beneficiary on behalf of a member the amount in the member's account in a lump sum. In the case of a member whose whereabouts is unknown, the board shall notify the member at the last known address by certified mail with return receipt requested advising the member of the member's right to a pending distribution. If the member cannot be located in this manner, the board shall establish a custodial account for the member's benefit in a federally insured bank, savings association, or credit union in which the member's account balance must be deposited. If the board receives proof of death of a member that is satisfactory to the board, the account balance must be paid to the beneficiary of the member.

SUBD. 4. Covered plans and funds. This section applies to all public pension and retirement plans and funds established under the laws of the state of Minnesota that receive contributions from moneys derived from taxation.

SUBD. 5. Construction. Nothing contained in this section may be construed to authorize, or otherwise imply, a legislative policy or intent favoring the termination of any plan or fund to which this section applies.

HIST: 1983 c 286 s 23; 1995 c 202 art 1 s 25; 2002 c 392 art 11 s 1

356.195 SERVICE CREDIT PURCHASE PROCEDURES FOR STRIKE PERIODS.

SUBDIVISION 1. Covered plans. This section applies to all defined benefit plans specified in section 356.30, subdivision 3.

SUBD. 2. Purchase procedure for strike periods. (a) An employee covered by a plan specified in subdivision 1 may purchase allowable service credit in the applicable plan for any period of time during which the employee was on a public employee strike without pay, not to exceed a period of one year, if the employee makes a payment in lieu of salary deductions as specified in paragraph (b) or (c), whichever applies. The employing unit, at its option, may pay the employer portion of the amount specified in paragraph (b) on behalf of its employees.

(b) If payment is received by the applicable pension plan executive director within one year from the end of the strike, the payment amount

is equal to the applicable employee and employer contribution rates specified in law for the applicable plan during the strike period, applied to the employee's rate of salary in effect at the conclusion of the strike for the period of the strike without pay, plus compound interest at a monthly rate of 0.71 percent from the last day of the strike period until the date payment is received.

(c) If payment is received by the applicable pension fund director after one year and before five years from the end of the strike, the payment amount is the amount determined under section 356.551.

(d) Payments may not be made more than five years after the end of the strike.

HIST: 1Sp2005 c 8 art 2 s 1

PUBLIC PENSION PLAN ACTUARIAL, FINANCIAL, AND INVESTMENT REPORTING

356.20 PUBLIC PENSION FUND FINANCIAL REPORTING REQUIREMENT.

SUBDIVISION 1. Report required. (a) The governing or managing board or administrative officials of the public pension and retirement funds enumerated in subdivision 2 shall annually prepare and file a financial report following the close of each fiscal year.

(b) This requirement also applies to any plan or fund which may be a successor to any organization so enumerated or to any newly formed retirement plan, fund or association operating under the control or supervision of any public employee group, governmental unit, or institution receiving a portion of its support through legislative appropriations.

(c) The report must be prepared under the supervision and at the direction of the management of each fund and must be signed by the presiding officer of the managing board of the fund and the chief administrative official of the fund.

SUBD. 2. Covered public pension plans and funds.

This section applies to the following public pension plans:

- (1) the general state employees retirement plan of the Minnesota State Retirement System;
- (2) the general employees retirement plan of the Public Employees Retirement Association;
- (3) the Teachers Retirement Association;
- (4) the State Patrol retirement plan;
- (5) the Minneapolis Teachers Retirement Fund Association;
- (6) the St. Paul Teachers Retirement Fund Association;
- (7) the Duluth Teachers Retirement Fund Association;
- (8) the Minneapolis Employees Retirement Fund;
- (9) the University of Minnesota faculty retirement plan;
- (10) the University of Minnesota faculty supplemental retirement plan;
- (11) the judges retirement fund;

(12) a police or firefighter's relief association specified or described in section 69.77, subdivision 1a, or 69.771, subdivision 1;

(13) the public employees police and fire plan of the Public Employees Retirement Association;

(14) the correctional state employees retirement plan of the Minnesota State Retirement System; and

(15) the local government correctional service retirement plan of the Public Employees Retirement Association.

SUBD. 3. Filing requirement. The financial report is a public record. A copy of the report or a synopsis of the report containing the information required by this section must be distributed annually to each member of the fund and to the governing body of each governmental subdivision of the state which makes employers contributions thereto or in whose behalf taxes are levied for the employers' contribution. A signed copy of the report must be delivered to the executive director of the Legislative Commission on Pensions and Retirement and to the Legislative Reference Library not later than six months after the close of each fiscal year or one month following the completion and delivery to the retirement fund of the actuarial valuation report of the fund by the actuary retained by the Legislative Commission on Pensions and Retirement, if applicable, whichever is later.

SUBD. 4. Contents of financial report. (a) The financial report required by this section must contain financial statements and disclosures that indicate the financial operations and position of the retirement plan and fund. The report must conform with generally accepted governmental accounting principles, applied on a consistent basis. The report must be audited. The report must include, as part of its exhibits or its footnotes, an actuarial disclosure item based on the actuarial valuation calculations prepared by the actuary retained under section 356.214 or by the actuary retained by the retirement fund or plan, whichever applies, according to applicable actuarial requirements enumerated in section 356.215, and specified in the most recent standards for actuarial work adopted by the Legislative Commission on Pensions and Retirement. The accrued assets, the accrued liabilities, including accrued reserves, and the unfunded actuarial accrued liability of the fund or plan must be disclosed. The disclosure item must contain a declaration by the actuary retained under section 356.214 or the actuary retained by the fund or plan, whichever applies, specifying that the required reserves for any retirement, disability, or survivor benefits provided under a benefit formula are computed in accordance with the entry age actuarial cost method and in accordance with the most recent applicable standards for actuarial work adopted by the Legislative Commission on Pensions and Retirement.

(b) Assets of the fund or plan contained in the disclosure item must include the following statement of the actuarial value of current assets as defined in section 356.215, subdivision 1:

	Value at cost	Value at market
Cash, cash equivalents, and short term securities
Accounts receivable

Accrued investment income	.....	.....
Fixed income investments	.....	.....
Equity investments other		
than real estate	.....	.....
Real estate investments	.....	.....
Equipment	.....	.....
Participation in the Minnesota		
postretirement investment		
fund or the retirement		
benefit fund	.....	.....
Other	.....	.....
Total assets		
Value at cost	.....
Value at market	.....
Actuarial value of current assets	.....

(c) The unfunded actuarial accrued liability of the fund or plan contained in the disclosure item must include the following measures of unfunded actuarial accrued liability, using the actuarial value of current assets:

(1) the unfunded actuarial accrued liability, determined by subtracting the current assets and the present value of future normal costs from the total current and expected future benefit obligations; and

(2) the unfunded pension benefit obligation, determined by subtracting the current assets from the actuarial present value of credited projected benefits.

If the current assets of the fund or plan exceed the actuarial accrued liabilities, the excess must be disclosed and indicated as a surplus.

(d) The pension benefit obligations schedule included in the disclosure must contain the following information on the benefit obligations:

(1) the pension benefit obligation, determined as the actuarial present value of credited projected benefits on account of service rendered to date, separately identified as follows:

- (i) for annuitants;
 - retirement annuities;
 - disability benefits;
 - surviving spouse and child benefits;
- (ii) for former members without vested rights;
- (iii) for deferred annuitants' benefits, including any augmentation;
- (iv) for active employees;
 - accumulated employee contributions, including allocated investment income;
 - employer financed benefits vested;
 - employer financed benefits nonvested;
 - total pension benefit obligation; and

(2) if there are additional benefits not appropriately covered by the foregoing items of benefit obligations, a separate identification of the obligation.

(e) The report must contain an itemized exhibit describing the administrative expenses of the plan, including, but not limited to, the following items, classified on a consistent basis from year to year, and with any further meaningful detail:

- (1) personnel expenses;
- (2) communication related expenses;
- (3) office building and maintenance expenses;
- (4) professional services fees; and
- (5) other expenses.

(f) The report must contain an itemized exhibit describing the investment expenses of the plan, including, but not limited to, the following items, classified on a consistent basis from year to year, and with any further meaningful detail:

- (1) internal investment related expenses; and
- (2) external investment related expenses.

(g) Any additional statements or exhibits or more detailed or subdivided itemization of a disclosure item that will enable the management of the fund to portray a true interpretation of the fund's financial condition must be included in the additional statements or exhibits.

SUBD. 4A. Financial report for police or firefighters relief association. For any police or firefighter's relief association referred to in subdivision 2, clause (12), a financial report duly filed and meeting the requirements of section 69.051 must be deemed to have met the requirements of subdivision 4.

HIST: 1965 c 359 s 1; 1969 c 249 s 1; 1971 c 7 s 1 3; 1971 c 197 s 4; 1971 c 281 s 1,2; 1975 c 192 s 1,2; 1978 c 563 s 6 8; 1979 c 50 s 49; 1981 c 37 s 2; 1981 c 224 s 168; 1981 c 298 s 11; 1984 c 564 s 42; 1Sp1985 c 7 s 26; 1986 c 359 s 26; 1987 c 259 s 52 54; 1987 c 372 art 1 s 19; 1991 c 269 art 3 s 2; 1995 c 141 art 3 s 20; 1997 c 233 art 1 s 56; 1999 c 222 art 2 s 16; 2002 c 392 art 11 s 2 6; 1Sp2005 c 8 art 3 s 6

356.214 ACTUARIAL VALUATION PREPARATION; JOINT RETENTION OF CONSULTING ACTUARY.

SUBDIVISION 1. Joint retention. (a) The chief administrative officers of the Minnesota State Retirement System, the Public Employees Retirement Association, the Teachers Retirement Association, the Duluth Teachers Retirement Fund Association, the Minneapolis Teachers Retirement Fund Association, the Minneapolis Employees Retirement Fund, and the St. Paul Teachers Retirement Fund Association, jointly, on behalf of the state, its employees, its taxpayers, and its various public pension plans, shall contract with an established actuarial consulting firm to conduct annual actuarial valuations and related services for the retirement plans named in paragraph (b). The principal from the actuarial consulting firm on the contract must be an approved actuary under section 356.215, subdivision 1, paragraph (c). Prior to becoming effective, the contract under this section is subject to a review and approval by the Legislative Commission on Pensions and Retirement.

(b) The contract for actuarial services must include the preparation of actuarial valuations and related actuarial work for the following retirement plans:

- (1) the teachers retirement plan, Teachers Retirement Association;

(2) the general state employees retirement plan, Minnesota State Retirement System;

(3) the correctional employees retirement plan, Minnesota State Retirement System;

(4) the State Patrol retirement plan, Minnesota State Retirement System;

(5) the judges retirement plan, Minnesota State Retirement System;

(6) the Minneapolis employees retirement plan, Minneapolis Employees Retirement Fund;

(7) the public employees retirement plan, Public Employees Retirement Association;

(8) the public employees police and fire plan, Public Employees Retirement Association;

(9) the Duluth teachers retirement plan, Duluth Teachers Retirement Fund Association;

(10) the Minneapolis teachers retirement plan, Minneapolis Teachers Retirement Fund Association;

(11) the St. Paul teachers retirement plan, St. Paul Teachers Retirement Fund Association;

(12) the legislators retirement plan, Minnesota State Retirement System;

(13) the elective state officers retirement plan, Minnesota State Retirement System; and

(14) local government correctional service retirement plan, Public Employees Retirement Association.

(c) The contract must require completion of the annual actuarial valuation calculations on a fiscal year basis, with the contents of the actuarial valuation calculations as specified in section 356.215, and in conformity with the standards for actuarial work adopted by the Legislative Commission on Pensions and Retirement.

The contract must require completion of annual experience data collection and processing and a quadrennial published experience data study for the plans listed in paragraph (b), clauses (1), (2), and (7), as provided for in the standards for actuarial work adopted by the commission. The experience data collection, processing, and analysis must evaluate the following:

(1) individual salary progression;

(2) the rate of return on investments based on the current asset value;

(3) payroll growth;

(4) mortality;

(5) retirement age;

(6) withdrawal; and

(7) disablement.

The contract must include provisions for the preparation of cost analyses by the jointly retained actuary for proposed legislation that include changes in benefit provisions or funding policies prior to their consideration by the Legislative Commission on Pensions and Retirement.

(d) The actuary retained by the joint retirement systems shall annually prepare a report to the legislature, including a commentary on the actuarial valuation calculations for the plans named in paragraph (b) and summarizing the results of the actuarial valuation calculations. The

actuary shall include with the report the actuary's recommendations to the legislature concerning the appropriateness of the support rates to achieve proper funding of the retirement plans by the required funding dates. The actuary shall, as part of the quadrennial experience study, include recommendations to the legislature on the appropriateness of the actuarial valuation assumptions required for evaluation in the study.

(e) If the actuarial gain and loss analysis in the actuarial valuation calculations indicates a persistent pattern of sizable gains or losses, as directed by the joint retirement systems or as requested by the chair of the Legislative Commission on Pensions and Retirement, the actuary shall prepare a special experience study for a plan listed in paragraph (b), clause (3), (4), (5), (6), (8), (9), (10), (11), (12), (13), or (14), in the manner provided for in the standards for actuarial work adopted by the commission.

(f) The term of the contract between the joint retirement systems and the actuary retained may not exceed five years. The joint retirement system administrative officers shall establish procedures for the consideration and selection of contract bidders and the requirements for the contents of an actuarial services contract under this section. The procedures and requirements must be submitted to the Legislative Commission on Pensions and Retirement for review and comment prior to final approval by the joint administrators. The contract is subject to the procurement procedures under chapter 16C. The consideration of bids and the selection of a consulting actuarial firm by the chief administrative officers must occur at a meeting that is open to the public and reasonable timely public notice of the date and the time of the meeting and its subject matter must be given.

(g) The actuarial services contract may not limit the ability of the Minnesota legislature and its standing committees and commissions to rely on the actuarial results of the work prepared under the contract.

(h) The joint retirement systems shall designate one of the retirement system executive directors as the actuarial services contract manager.

SUBD. 2. Allocation of actuarial costs. (a) The actuarial services contract manager shall assess each retirement plan specified in subdivision 1, paragraph (b), its appropriate portion of the total compensation paid to the actuary retained by the joint retirement systems for the actuarial valuation calculations and quadrennial experience studies. The total assessment is 100 percent of the amount of contract compensation for the actuarial consulting firm for actuarial valuation calculations, including any public employees police and fire plan consolidation accounts of the Public Employees Retirement Association established after March 1, 1999, annual experience data collection and processing, and quadrennial experience studies.

The portion of the total assessment payable by each retirement system or pension plan must be determined based on each plan's proportion of the actuarial services required, as determined by the retained actuary, to complete the actuarial valuation calculations, annual experience data collection and processing, and quadrennial experience studies for all plans.

The assessment must be made within 30 days following the end of the fiscal year and must be reported to the chief administrative officers of the

applicable retirement plans. The amount of the assessment is appropriated from the retirement fund applicable to the retirement plan.

(b) The actuarial services contract manager shall assess each retirement plan or each interest group which requested the preparation of a cost analysis for proposed legislation the cost of the actuary retained by the joint retirement systems incurred in the cost analysis preparation. With respect to interest groups, the actuarial services contract manager shall obtain a written commitment for the payment of the assessment in advance of the cost analysis preparation and may require an advance deposit or advance payment before authorizing the cost analysis preparation. The retirement plan or the interest group shall pay the assessment within 30 days of the date on which the assessment is billed. The amount of the assessment is appropriated from the retirement fund applicable to the retirement plan for cost analyses requested by a retirement plan or system.

(c) The actuarial services contract manager shall assess to the Legislative Commission on Pensions and Retirement the cost of the actuarial cost analysis preparation for the proposed legislation requested by the chair of the Legislative Commission on Pensions and Retirement or by the commission executive director. The commission shall pay the assessment within 30 days of the date on which the assessment is billed.

SUBD. 3. Reporting to commission. A copy of the actuarial valuations, experience studies, and actuarial cost analyses prepared by the actuary retained by the joint retirement systems under the contract provided for in this section must be filed with the executive director of the Legislative Commission on Pensions and Retirement at the same time that the document is transmitted to the actuarial services contract manager or to any other document recipient.

HIST: 2004 c 223 s 6

356.215 ACTUARIAL VALUATIONS AND EXPERIENCE STUDIES.

SUBDIVISION 1. Definitions. (a) For the purposes of sections 3.85 and 356.20 to 356.23, each of the terms in the following paragraphs have the meaning given.

(b) "Actuarial valuation" means a set of calculations prepared by the actuary retained by the Legislative Commission on Pensions and Retirement if so required under section 3.85, or otherwise, by an approved actuary, to determine the normal cost and the accrued actuarial liabilities of a benefit plan, according to the entry age actuarial cost method and based upon stated assumptions including, but not limited to rates of interest, mortality, salary increase, disability, withdrawal, and retirement and to determine the payment necessary to amortize over a stated period any unfunded accrued actuarial liability disclosed as a result of the actuarial valuation of the benefit plan.

(c) "Approved actuary" means a person who is regularly engaged in the business of providing actuarial services and who has at least 15 years of service to major public employee pension or retirement funds or who is a fellow in the Society of Actuaries.

(d) "Entry age actuarial cost method" means an actuarial cost method under which the actuarial present value of the projected benefits of each

individual currently covered by the benefit plan and included in the actuarial valuation is allocated on a level basis over the service of the individual, if the benefit plan is governed by section 69.773, or over the earnings of the individual, if the benefit plan is governed by any other law, between the entry age and the assumed exit age, with the portion of the actuarial present value which is allocated to the valuation year to be the normal cost and the portion of the actuarial present value not provided for at the valuation date by the actuarial present value of future normal costs to be the actuarial accrued liability, with aggregation in the calculation process to be the sum of the calculated result for each covered individual and with recognition given to any different benefit formulas which may apply to various periods of service.

(e) "Experience study" means a report providing experience data and an actuarial analysis of the adequacy of the actuarial assumptions on which actuarial valuations are based.

(f) "Current assets" means:

(1) for the July 1, 2001, actuarial valuation, the market value of all assets as of June 30, 2001, reduced by:

(i) 30 percent of the difference between the market value of all assets as of June 30, 1999, and the actuarial value of assets used in the July 1, 1999, actuarial valuation;

(ii) 60 percent of the difference between the actual net change in the market value of assets between June 30, 1999, and June 30, 2000, and the computed increase in the market value of assets between June 30, 1999, and June 30, 2000, if the assets had increased at the percentage preretirement interest rate assumption used in the July 1, 1999, actuarial valuation; and

(iii) 80 percent of the difference between the actual net change in the market value of assets between June 30, 2000, and June 30, 2001, and the computed increase in the market value of assets between June 30, 2000, and June 30, 2001, if the assets had increased at the percentage preretirement interest rate assumption used in the July 1, 2000, actuarial valuation;

(2) for the July 1, 2002, actuarial valuation, the market value of all assets as of June 30, 2002, reduced by:

(i) ten percent of the difference between the market value of all assets as of June 30, 1999, and the actuarial value of assets used in the July 1, 1999, actuarial valuation;

(ii) 40 percent of the difference between the actual net change in the market value of assets between June 30, 1999, and June 30, 2000, and the computed increase in the market value of assets between June 30, 1999, and June 30, 2000, if the assets had increased at the percentage preretirement interest rate assumption used in the July 1, 1999, actuarial valuation;

(iii) 60 percent of the difference between the actual net change in the market value of assets between June 30, 2000, and June 30, 2001, and the computed increase in the market value of assets between June 30, 2000, and June 30, 2001, if the assets had increased at the percentage preretirement interest rate assumption used in the July 1, 2000, actuarial valuation; and

(iv) 80 percent of the difference between the actual net change in the market value of assets between June 30, 2001, and June 30, 2002, and the computed increase in the market value of assets between June 30, 2001, and June 30, 2002, if the assets had increased at the percentage preretirement interest rate assumption used in the July 1, 2001, actuarial valuation; or

(3) for any actuarial valuation after July 1, 2002, the market value of all assets as of the preceding June 30, reduced by:

(i) 20 percent of the difference between the actual net change in the market value of assets between the June 30 that occurred three years earlier and the June 30 that occurred four years earlier and the computed increase in the market value of assets over that fiscal year period if the assets had increased at the percentage preretirement interest rate assumption used in the actuarial valuation for the July 1 that occurred four years earlier;

(ii) 40 percent of the difference between the actual net change in the market value of assets between the June 30 that occurred two years earlier and the June 30 that occurred three years earlier and the computed increase in the market value of assets over that fiscal year period if the assets had increased at the percentage preretirement interest rate assumption used in the actuarial valuation for the July 1 that occurred three years earlier;

(iii) 60 percent of the difference between the actual net change in the market value of assets between the June 30 that occurred one year earlier and the June 30 that occurred two years earlier and the computed increase in the market value of assets over that fiscal year period if the assets had increased at the percentage preretirement interest rate assumption used in the actuarial valuation for the July 1 that occurred two years earlier; and

(iv) 80 percent of the difference between the actual net change in the market value of assets between the immediately prior June 30 and the June 30 that occurred one year earlier and the computed increase in the market value of assets over that fiscal year period if the assets had increased at the percentage preretirement interest rate assumption used in the actuarial valuation for the July 1 that occurred one year earlier.

(g) "Unfunded actuarial accrued liability" means the total current and expected future benefit obligations, reduced by the sum of current assets and the present value of future normal costs.

(h) "Pension benefit obligation" means the actuarial present value of credited projected benefits, determined as the actuarial present value of benefits estimated to be payable in the future as a result of employee service attributing an equal benefit amount, including the effect of projected salary increases and any step rate benefit accrual rate differences, to each year of credited and expected future employee service.

SUBD. 2. Requirements. (a) It is the policy of the legislature that it is necessary and appropriate to determine annually the financial status of tax supported retirement and pension plans for public employees. To achieve this goal:

(1) the actuary retained under section 356.214 shall prepare annual actuarial valuations of the retirement plans enumerated in section

356.214, subdivision 1, paragraph (b), and quadrennial experience studies of the retirement plans enumerated in section 356.214, subdivision 1, paragraph (b), clauses (1), (2), and (7); and

(2) the commissioner of finance may have prepared by the actuary retained by the commission, two years after each set of quadrennial experience studies, quadrennial projection valuations of at least one of the retirement plans enumerated in section 356.214, subdivision 1, paragraph (b), for which the commissioner determines that the analysis may be beneficial.

(b) The governing or managing board or administrative officials of each public pension and retirement fund or plan enumerated in section 356.20, subdivision 2, clauses (9), (10), and (12), shall have prepared by an approved actuary annual actuarial valuations of their respective funds as provided in this section. This requirement also applies to any fund or plan that is the successor to any organization enumerated in section 356.20, subdivision 2, or to the governing or managing board or administrative officials of any newly formed retirement fund, plan, or association operating under the control or supervision of any public employee group, governmental unit, or institution receiving a portion of its support through legislative appropriations, and any local police or fire fund to which section 356.216 applies.

SUBD. 2A. Projection valuation requirements. (a) A quadrennial projection valuation authorized under subdivision 2 is intended to serve as an additional analytical tool with which policy makers may assess the future funding status of public plans through forecasting and testing various potential outcomes over time if certain plan assumptions or valuation methods were to be modified.

(b) In consultation with the retirement fund directors, the state economist, the state demographer, the commissioner of finance, and the commissioner of employee relations, the actuary retained by the Legislative Commission on Pensions and Retirement shall perform the quadrennial projection valuations on behalf of the commissioner of finance, testing future implications for plan funding by modifying assumptions and methods currently in place. The commission retained actuary shall provide advice to the commissioner as to the periods over which such projections should be made, the nature and scope of the scenarios to be analyzed, and the measures of funding status to be employed, and shall report the results of these analyses in the same manner as for quadrennial experience studies.

SUBD. 3. Reports. (a) The actuarial valuations required annually must be made as of the beginning of each fiscal year.

(b) Two copies of the valuation must be delivered to the executive director of the Legislative Commission on Pensions and Retirement, to the commissioner of finance and to the Legislative Reference Library, not later than the first day of the sixth month occurring after the end of the previous fiscal year.

(c) Two copies of a quadrennial experience study must be filed with the executive director of the Legislative Commission on Pensions and Retirement, with the commissioner of finance, and with the Legislative Reference Library, not later than the first day of the 11th month occurring

after the end of the last fiscal year of the four year period which the experience study covers.

(d) For actuarial valuations and experience studies prepared at the direction of the Legislative Commission on Pensions and Retirement, two copies of the document must be delivered to the governing or managing board or administrative officials of the applicable public pension and retirement fund or plan.

SUBD. 4. Actuarial valuation; contents. (a) The actuarial valuation must be made in conformity with the requirements of the definition contained in subdivision 1 and the most recent standards for actuarial work adopted by the Legislative Commission on Pensions and Retirement.

(b) The actuarial valuation must measure all aspects of the benefit plan of the fund in accordance with changes in benefit plans, if any, and salaries reasonably anticipated to be in force during the ensuing fiscal year. The actuarial valuation must be prepared in accordance with the entry age actuarial cost method. The actuarial valuation required under this section must include the information required in subdivisions 5 to 15.

SUBD. 5. Normal cost. For a fund providing benefits in whole or in part under a defined benefit plan, the actuarial valuation must indicate the level normal cost of the benefits provided under the laws governing the fund as of the date of the valuation, calculated in accordance with the entry age actuarial cost method. The normal cost must be expressed as a level percentage of the present value of future payrolls of the active participants of the fund as of the date of the valuation.

SUBD. 6. Accrued liability. For a fund providing benefits under a defined benefit plan, the actuarial valuation must contain an exhibit indicating the actuarial accrued liabilities of the fund. This figure is the present value of future benefits reduced by the present value of future normal costs, calculated in accordance with the entry age actuarial cost method.

SUBD. 7. Defined contribution plan accumulations. For each fund providing benefits under a money purchase or defined contribution plan, the actuarial valuation must contain an exhibit indicating the member contributions accumulated at interest, as apportioned to members accounts, to the date of the valuation. These accumulations must be separately tabulated in a manner which properly reflects any differences in money purchase or defined contribution annuity rates which may apply.

SUBD. 8. Interest and salary assumptions. (a) The actuarial valuation must use the applicable following preretirement interest assumption and the applicable following postretirement interest assumption:

plan	preretirement interest rate assumption	postretirement interest rate assumption
general state employees retirement plan	8.5%	6.0%
correctional state employees retirement plan	8.5	6.0

State Patrol retirement plan	8.5	6.0
legislators retirement plan	8.5	6.0
elective state officers retirement plan	8.5	6.0
judges retirement plan	8.5	6.0
general public employees retirement plan	8.5	6.0
public employees police and fire retirement plan	8.5	6.0
local government correctional service retirement plan	8.5	6.0
teachers retirement plan	8.5	6.0
Minneapolis employees retirement plan	6.0	5.0
Duluth teachers retirement plan	8.5	8.5
Minneapolis teachers retirement plan	8.5	8.5
St. Paul teachers retirement plan	8.5	8.5
Minneapolis Police Relief Association	6.0	6.0
Fairmont Police Relief Association	5.0	5.0
Minneapolis Fire Department Relief Association	6.0	6.0
Virginia Fire Department Relief Association	5.0	5.0
Bloomington Fire Department Relief Association	6.0	6.0
local monthly benefit volunteer firefighters relief associations	5.0	5.0

(b) The actuarial valuation must use the applicable following single rate future salary increase assumption, the applicable following modified single rate future salary increase assumption, or the applicable following graded rate future salary increase assumption:

(1) single rate future salary increase assumption

plan	future salary increase assumption
legislators retirement plan	5.0%
elective state officers retirement plan	5.0
judges retirement plan	5.0
Minneapolis Police Relief Association	4.0
Fairmont Police Relief Association	3.5
Minneapolis Fire Department Relief Association	4.0

Virginia Fire Department Relief Association	3.5
Bloomington Fire Department Relief Association	4.0
(2) modified single rate future salary increase assumption plan	future salary increase assumption the prior calendar year amount increased first by 1.0198 percent to prior fiscal year date and then increased by 4.0 percent annually for each future year
Minneapolis employees retirement plan	
(3) select and ultimate future salary increase assumption or graded rate future salary increase assumption plan	future salary increase assumption
general state employees retirement plan	select calculation and assumption A
correctional state employees retirement plan	assumption H
State Patrol retirement plan	assumption H
general public employees retirement plan	select calculation and assumption B
public employees police and fire fund retirement plan	assumption C
local government correctional service retirement plan	assumption H
teachers retirement plan	assumption D
Duluth teachers retirement plan	assumption E
Minneapolis teachers retirement plan	assumption F
St. Paul teachers retirement plan	assumption G

The select calculation is: during the ten year select period, a designated percent is multiplied by the result of ten minus T, where T is the number of completed years of service, and is added to the applicable future salary increase assumption. The designated percent is 0.2 percent for the correctional state employees retirement plan, the State Patrol retirement plan, the public employees police and fire plan, and the local government correctional service plan; 0.3 percent for the general state employees retirement plan, the general public employees retirement plan, the teachers retirement plan, the Duluth Teachers Retirement Fund Association, and the St. Paul Teachers Retirement Fund Association; and 0.4 percent for the Minneapolis Teachers Retirement Fund Association.

The ultimate future salary increase assumption is:

age	A	B	C	D	E	F	G	H
16	0.07	0.07	0.12	0.08	0.08	0.07	0.07	7.7500
17	6.90	6.90	11.50	8.15	8.00	6.50	6.90	7.7500
18	6.85	6.85	11.50	8.10	8.00	6.50	6.90	7.7500
19	6.80	6.80	11.50	8.05	8.00	6.50	6.90	7.7500
20	6.75	6.40	11.50	6.00	6.90	6.50	6.90	7.7500
21	6.75	6.40	11.50	6.00	6.90	6.50	6.90	7.1454
22	6.75	6.40	11.00	6.00	6.90	6.50	6.90	7.0725
23	6.75	6.40	10.50	6.00	6.85	6.50	6.85	7.0544
24	6.75	6.40	10.00	6.00	6.80	6.50	6.80	7.0363
25	6.75	6.40	9.50	6.00	6.75	6.50	6.75	7.0000
26	6.75	6.36	9.20	6.00	6.70	6.50	6.70	7.0000
27	6.75	6.32	8.90	6.00	6.65	6.50	6.65	7.0000
28	6.75	6.28	8.60	6.00	6.60	6.50	6.60	7.0000
29	6.75	6.24	8.30	6.00	6.55	6.50	6.55	7.0000
30	6.75	6.20	8.00	6.00	6.50	6.50	6.50	7.0000
31	6.75	6.16	7.80	6.00	6.45	6.50	6.45	7.0000
32	6.75	6.12	7.60	6.00	6.40	6.50	6.40	7.0000
33	6.75	6.08	7.40	6.00	6.35	6.50	6.35	7.0000
34	6.75	6.04	7.20	6.00	6.30	6.50	6.30	7.0000
35	6.75	6.00	7.00	6.00	6.25	6.50	6.25	7.0000
36	6.75	5.96	6.80	6.00	6.20	6.50	6.20	6.9019
37	6.75	5.92	6.60	6.00	6.15	6.50	6.15	6.8074
38	6.75	5.88	6.40	5.90	6.10	6.50	6.10	6.7125
39	6.75	5.84	6.20	5.80	6.05	6.50	6.05	6.6054
40	6.75	5.80	6.00	5.70	6.00	6.50	6.00	6.5000
41	6.75	5.76	5.90	5.60	5.90	6.50	5.95	6.3540
42	6.75	5.72	5.80	5.50	5.80	6.50	5.90	6.2087
43	6.65	5.68	5.70	5.40	5.70	6.50	5.85	6.0622
44	6.55	5.64	5.60	5.30	5.60	6.50	5.80	5.9048
45	6.45	5.60	5.50	5.20	5.50	6.50	5.75	5.7500
46	6.35	5.56	5.45	5.10	5.40	6.40	5.70	5.6940
47	6.25	5.52	5.40	5.00	5.30	6.30	5.65	5.6375
48	6.15	5.48	5.35	5.00	5.20	6.20	5.60	5.5822
49	6.05	5.44	5.30	5.00	5.10	6.10	5.55	5.5404
50	5.95	5.40	5.25	5.00	5.00	6.00	5.50	5.5000
51	5.85	5.36	5.25	5.00	5.00	5.90	5.45	5.4384
52	5.75	5.32	5.25	5.00	5.00	5.80	5.40	5.3776
53	5.65	5.28	5.25	5.00	5.00	5.70	5.35	5.3167
54	5.55	5.24	5.25	5.00	5.00	5.60	5.30	5.2826
55	5.45	5.20	5.25	5.00	5.00	5.50	5.25	5.2500

56	5.35	5.16	5.25	5.00	5.00	5.40	5.20	5.2500
57	5.25	5.12	5.25	5.00	5.00	5.30	5.15	5.2500
58	5.25	5.08	5.25	5.10	5.00	5.20	5.10	5.2500
59	5.25	5.04	5.25	5.20	5.00	5.10	5.05	5.2500
60	5.25	5.00	5.25	5.30	5.00	5.00	5.00	5.2500
61	5.25	5.00	5.25	5.40	5.00	5.00	5.00	5.2500
62	5.25	5.00	5.25	5.50	5.00	5.00	5.00	5.2500
63	5.25	5.00	5.25	5.60	5.00	5.00	5.00	5.2500
64	5.25	5.00	5.25	5.70	5.00	5.00	5.00	5.2500
65	5.25	5.00	5.25	5.70	5.00	5.00	5.00	5.2500
66	5.25	5.00	5.25	5.70	5.00	5.00	5.00	5.2500
67	5.25	5.00	5.25	5.70	5.00	5.00	5.00	5.2500
68	5.25	5.00	5.25	5.70	5.00	5.00	5.00	5.2500
69	5.25	5.00	5.25	5.70	5.00	5.00	5.00	5.2500
70	5.25	5.00	5.25	5.70	5.00	5.00	5.00	5.2500
71	5.25	5.00	5.25	5.70	5.00	5.00	5.00	5.2500

(c) The actuarial valuation must use the applicable following payroll growth assumption for calculating the amortization requirement for the unfunded actuarial accrued liability where the amortization retirement is calculated as a level percentage of an increasing payroll:

plan	payroll growth assumption
general state employees retirement plan	5.00%
correctional state employees retirement plan	5.00
State Patrol retirement plan	5.00
legislators retirement plan	5.00
elective state officers retirement plan	5.00
judges retirement plan	5.00
general public employees retirement plan	6.00
public employees police and fire retirement plan	6.00
local government correctional service retirement plan	6.00
teachers retirement plan	5.00
Duluth teachers retirement plan	5.00
Minneapolis teachers retirement plan	5.00
St. Paul teachers retirement plan	5.00

SUBD. 9. Other assumptions. The actuarial valuation must use assumptions concerning mortality, disability, retirement, withdrawal, retirement age, and any other relevant demographic or economic factor. These assumptions must be set at levels consistent with those determined in the most recent quadrennial experience study completed under

subdivision 16, if required, or representative of the best estimate of future experience, if a quadrennial experience study is not required.

The actuarial valuation must contain an exhibit indicating any actuarial assumptions used in preparing the valuation report.

SUBD. 10. Public sector accounting disclosure information. The actuarial valuation must contain those actuarial calculations that are necessary to allow the retirement plan administration or participating employing units to prepare the pension related portions of annual financial reporting that meet generally accepted accounting principles for the public sector.

SUBD. 11. Amortization contributions. (a) In addition to the exhibit indicating the level normal cost, the actuarial valuation must contain an exhibit indicating the additional annual contribution sufficient to amortize the unfunded actuarial accrued liability. For funds governed by chapters 3A, 352, 352B, 352C, 353, 354, 354A, and 490, the additional contribution must be calculated on a level percentage of covered payroll basis by the established date for full funding in effect when the valuation is prepared. For funds governed by chapter 3A, sections 352.90 through 352.951, chapters 352B, 352C, sections 353.63 through 353.68, and chapters 353C, 354A, and 490, the level percent additional contribution must be calculated assuming annual payroll growth of 6.5 percent. For funds governed by sections 352.01 through 352.86 and chapter 354, the level percent additional contribution must be calculated assuming an annual payroll growth of five percent. For the fund governed by sections 353.01 through 353.46, the level percent additional contribution must be calculated assuming an annual payroll growth of six percent. For all other funds, the additional annual contribution must be calculated on a level annual dollar amount basis.

(b) For any fund other than the Minneapolis Employees Retirement Fund and the Public Employees Retirement Association general plan, if 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 itself or 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 is the first actuarial valuation date occurring after June 1, 2020.

(c) For any fund or plan other than the Minneapolis Employees Retirement Fund and the Public Employees Retirement Association general plan, if 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 itself or 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 must be determined using the following procedure:

(i) the unfunded actuarial accrued liability of the fund must be determined in accordance with the plan provisions governing annuities and retirement benefits and the actuarial assumptions in effect before an applicable change;

(ii) the level annual dollar contribution or level percentage, whichever is applicable, needed to amortize the unfunded actuarial accrued liability amount determined under item (i) by the established date for full funding in effect before the change must be calculated using the interest assumption specified in subdivision 8 in effect before the change;

(iii) the unfunded actuarial accrued liability of the fund must 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, needed to amortize the difference between the unfunded actuarial accrued liability amount calculated under item (i) and the unfunded actuarial accrued liability amount calculated under item (iii) over a period of 30 years from the end of the plan year in which the applicable change is effective must be calculated using the applicable interest assumption specified in subdivision 8 in effect after any applicable change;

(v) the level annual dollar or level percentage amortization contribution under item (iv) must be added to the level annual dollar amortization contribution or level percentage calculated under item (ii);

(vi) the period in which the unfunded actuarial accrued liability amount determined in item (iii) is amortized by the total level annual dollar or level percentage amortization contribution computed under item (v) must be calculated using the interest assumption specified in subdivision 8 in effect after any applicable change, rounded to the nearest integral number of years, but not to exceed 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 not to 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 under item (vi) must be added to the date as of which the actuarial valuation was prepared and the date obtained is the new established date for full funding.

(d) For the Minneapolis Employees Retirement Fund, the established date for full funding is June 30, 2020.

(e) For the general employees retirement plan of the Public Employees Retirement Association, the established date for full funding is June 30, 2031.

(f) For the retirement plans for which the annual actuarial valuation indicates an excess of valuation assets over the actuarial accrued liability, the valuation assets in excess of the actuarial accrued liability must be recognized as a reduction in the current contribution requirements by an amount equal to the amortization of the excess expressed as a level

percentage of pay over a 30 year period beginning anew with each annual actuarial valuation of the plan.

SUBD. 12. Actuarial gains and losses. The actuarial valuation must contain an exhibit consisting of an analysis by the actuary explaining the net increase or decrease in the unfunded actuarial accrued liability since the last valuation. The explanation must subdivide the net increase or decrease in the unfunded actuarial accrued liability into at least the following parts:

(1) increases or decreases in the unfunded actuarial accrued liability because of changes in benefits;

(2) increases and decreases in the unfunded actuarial accrued liability because of changes in actuarial assumptions;

(3) increases or decreases in the unfunded actuarial accrued liability attributable to actuarial gains or losses resulting from any experience deviations from the assumptions on which the valuation is based, as follows:

(i) actual investment earnings;

(ii) actual postretirement mortality rates;

(iii) actual salary increase rates; and

(iv) the remainder of the increase or decrease not attributable to any separate source;

(4) increases or decreases in unfunded actuarial accrued liability because of other reasons, including the effect of any amortization contribution paid or additional amortization contribution previously calculated but unpaid; and

(5) increases or decreases in unfunded actuarial accrued liability because of changes in eligibility requirements or groups included in the membership of the fund.

SUBD. 13. Membership tabulation. (a) The actuarial valuation must contain a tabulation of active membership and annuitants in the fund. If the membership of a fund is under more than one general benefit program, a separate tabulation must be made for each general benefit program.

(b) The tabulations must be prepared by the administration of the pension fund and must contain the following information:

(1) Active members	Number
As of last valuation date	
New entrants	
Total	
Separations from active service	
Refund of contributions	
Separation with deferred annuity	
Separation with neither refund nor deferred annuity	
Disability	
Death	
Retirement with service annuity	
Total separations	
As of current valuation date	

(2) Annuitants	Number
As of last valuation date	
New entrants	
Total	
Terminations	
Deaths	
Other	
Total terminations	
As of current valuation date	

(c) The tabulation required under paragraph (b), clause (2), must be made separately for each of the following classes of benefit recipients:

- (1) service retirement annuitants;
- (2) disability benefit recipients;
- (3) survivor benefit recipients; and
- (4) deferred annuitants.

SUBD. 14. **Administrative expenses.** (a) The actuarial valuation must indicate the administrative expenses of the fund, expressed both in dollars and as a percentage of covered payroll.

(b) Administrative expenses are the costs incurred by the retirement plans in the course of operating the plan, excluding investment expenses. Investment expenses include all expenses incurred for the retention of professional external investment managers and professional investment consultants, custodian bank fees, investment transaction costs, and the costs incurred by the retirement plans to manage investment portfolios or assets internally. Investment expenses must be deducted from the investment return used in the actuarial valuation, and must not be included in administrative expenses when calculating the allowance for expenses.

SUBD. 15. **Benefit plan summary.** The actuarial valuation must contain a summary of the principal provisions of the benefit plan upon which the valuation is based.

SUBD. 16. **Quadrennial experience study; contents.** A quadrennial experience study, if required, must contain an analysis by the approved actuary of the experience of the fund and a comparison of the experience with the actuarial assumptions on which the most recent actuarial valuation of the retirement fund was based.

SUBD. 17. **Actuarial services by approved actuaries.** (a) The actuarial valuation or quadrennial experience study must be made and any actuarial consulting services for a retirement fund or plan must be provided by an approved actuary. The actuarial valuation or quadrennial experience study must include a signed written declaration that it has been prepared according to sections 356.20 to 356.23 and according to the most recent standards for actuarial work adopted by the Legislative Commission on Pensions and Retirement.

(b) Actuarial valuations or experience studies prepared by an approved actuary retained by a retirement fund or plan must be submitted to the Legislative Commission on Pensions and Retirement within ten days of the submission of the document to the retirement fund or plan.

SUBD. 18. Establishment of actuarial assumptions. (a) The actuarial assumptions used for the preparation of actuarial valuations under this section that are other than those set forth in this section may be changed only with the approval of the Legislative Commission on Pensions and Retirement.

(b) A change in the applicable actuarial assumptions may be proposed by the governing board of the applicable pension fund or relief association, by the actuary retained by the joint retirement systems under section 356.214, by the actuarial advisor to a pension fund governed by chapter 352, 353, 354, or 354A, or by the actuary retained by a local police or firefighters relief association governed by sections 69.77 or 69.771 to 69.776, if one is retained.

HIST: 1975 c 192 s 3; 1978 c 563 s 9,10; 1979 c 184 s 1; 1981 c 224 s 169; 1984 c 564 s 43; 1Sp1985 c 7 s 27; 1986 c 359 s 26; 1986 c 458 s 20; 1987 c 259 s 55; 1989 c 319 art 13 s 90,91; 1991 c 199 art 2 s 24; 1991 c 269 art 3 s 3 19; 1991 c 345 art 4 s 3,4; 1993 c 336 art 4 s 1; 1993 c 352 s 7; 1995 c 141 art 3 s 14,15; 1997 c 233 art 1 s 57 59; 1997 c 241 art 4 s 1; 1998 c 390 art 8 s 2; 1999 c 222 art 4 s 14; 2000 c 461 art 1 s 3 6; 1Sp2001 c 10 art 11 s 18; 2002 c 392 art 9 s 1; art 11 s 7,53; 2004 c 223 s 7,8; 1Sp2005 c 8 art 11 s 2

NOTE: The amendment to subdivision 8, by Laws 2005, First Special Session chapter 8, article 11, section 2, with respect to the Bloomington Fire Department Relief Association, is effective the day after the Bloomington City Council and its chief clerical officer comply with section 645.021, subdivisions 2 and 4. Laws 2005, First Special Session chapter 8, article 11, section 19.

356.219 DISCLOSURE OF PUBLIC PENSION PLAN INVESTMENT PORTFOLIO AND PERFORMANCE INFORMATION.

SUBDIVISION 1. Report required. (a) Except as indicated in subdivision 4, the State Board of Investment, on behalf of the public pension funds and programs for which it is the investment authority, and any Minnesota public pension plan that is not fully invested through the State Board of Investment, including a local police or firefighters' relief association governed by sections 69.77 or 69.771 to 69.775, shall report the information specified in subdivision 3 to the state auditor. The state auditor may prescribe a form or forms for the purposes of the reporting requirements contained in this section.

(b) A local police or firefighters' relief association governed by section 69.77 or sections 69.771 to 69.775 is fully invested during a given calendar year for purposes of this section if all assets of the applicable pension plan beyond sufficient cash equivalent investments to cover six months expected expenses are invested under section 11A.17. The board of any fully invested public pension plan remains responsible for submitting investment policy statements and subsequent revisions as required by subdivision 3, paragraph (a).

(c) For purposes of this section, the State Board of Investment is considered to be the investment authority for any Minnesota public pension fund required to be invested by the State Board of Investment under section 11A.23, or for any Minnesota public pension fund authorized to invest in the supplemental investment fund under section 11A.17 and which is fully invested by the State Board of Investment.

SUBD. 2. Asset class definition. (a) For purposes of this section, "asset class" means any of the following asset groupings as authorized in applicable law, bylaws, or articles of incorporation:

(1) cash and any cash equivalent investments with maturities of one year or less when issued;

(2) debt securities with maturities greater than one year when issued, including but not limited to mortgage participation certificates and pools, asset backed securities, guaranteed investment contracts, and authorized government and corporate obligations of corporations organized under laws of the United States or any state, or the Dominion of Canada or its provinces;

(3) stocks or convertible issues of any corporation organized under laws of the United States or any state, or the Dominion of Canada or its provinces, or any corporation listed on the New York Stock Exchange or the American Stock Exchange;

(4) international stocks or convertible issues;

(5) international debt securities; and

(6) real estate and venture capital.

(b) If the pension plan is investing under section 69.77, subdivision 9, section 69.775, or any other applicable law, in open end investment companies registered under the federal Investment Company Act of 1940, or in the Minnesota supplemental investment fund under section 11A.17, this investment must be included under an asset class indicated in paragraph (a), clauses (1) through (6), as appropriate. If the investment vehicle includes underlying securities from more than one asset class as indicated by paragraph (a), clauses (1) through (6), the investment may be treated as a separate asset class.

SUBD. 3. Content of reports. (a) The report required by subdivision 1 must include a written statement of the investment policy in effect on June 30, 1997, if that statement has not been previously submitted. Following that date, subsequent reports must include investment policy changes and the effective date of each policy change rather than a complete statement of investment policy, unless the state auditor requests submission of a complete current statement. The report must also include the information required by the following paragraphs, as applicable.

(b) If a public pension plan has a total market value of \$10,000,000 or more as of the beginning of the calendar year, the report required by subdivision 1 must include the market value of the total portfolio and the market value of each investment account, investment portfolio, or asset class included in the pension fund as of the beginning of the calendar year and for each month, and the amount and date of each injection and withdrawal to the total portfolio and to each investment account, investment portfolio, or asset class. If a public pension plan once files a report under this paragraph, it must continue reporting under this paragraph for any subsequent year in which the public pension plan is not fully invested as specified in subdivision 1, paragraph (b), even if asset values drop below \$10,000,000 in market value in that subsequent year.

(c) For public pension plans to which paragraph (b) applies, the report required by subdivision 1 must also include a calculation of the total time

weighted rate of return available from index matching investments assuming the asset class performance targets and target asset mix indicated in the written statement of investment policy. The provided information must include a description of indices used in the analyses and an explanation of why those indices are appropriate. This paragraph does not apply to any fully invested plan, as defined by subdivision 1, paragraph (b). Reporting by the State Board of Investment under this paragraph is limited to information on the Minnesota public pension plans required to be invested by the State Board of Investment under section 11A.23.

(d) If a public pension plan has a total market value of less than \$10,000,000 as of the beginning of the calendar year and was never required to file under paragraph (b), the report required by subdivision 1 must include the amount and date of each total portfolio injection and withdrawal. In addition, the report must include the market value of the total portfolio as of the beginning of the calendar year and for each quarter.

(e) Any public pension plan reporting under paragraph (b) or (d) may include computed time weighted rates of return with the report, in addition to all other required information, as applicable. If these returns are supplied, the individual who computed the returns must certify that the returns are net of all costs and fees, including investment management fees, and that the procedures used to compute the returns are consistent with Bank Administration Institute studies of investment performance measurement and Association for Investment Management and Research presentation standards.

(f) For public pension plans reporting under paragraph (d), the public pension plan must retain supporting information specifying the date and amount of each injection and withdrawal to each investment account and investment portfolio. The public pension plan must also retain the market value of each investment account and investment portfolio at the beginning of the calendar year and for each quarter. Information that is required to be collected and retained for any given year or years under this paragraph must be submitted to the Office of the State Auditor if the Office of the State Auditor requests in writing that the information be submitted by a public pension plan or plans, or be submitted by the State Board of Investment for any plan or plans for which the State Board of Investment is the investment authority under this section. If the state auditor requests information under this subdivision, and the public plan fails to comply, the pension plan is subject to penalties under subdivision 5, unless penalties are waived by the state auditor under that subdivision.

SUBD. 4. Alternative reporting; certain plans. In lieu of requirements in subdivision 3, the applicable administration for the individual retirement account plans under chapters 354B and 354D and for the University of Minnesota faculty retirement plan shall submit computed time weighted rates of return to the Office of the State Auditor. These time weighted rates of return must cover the most recent complete calendar year, and must be computed separately for each investment option available to plan members. To the extent feasible, the returns must be computed net of all investment costs, fees, and charges, so that the computed return reflects the net time weighted return available to the

investor. If this is not practical, the existence of any remaining investment cost, fee, or charge which could further lower the net return must be disclosed. The procedures used to compute the returns must be consistent with Bank Administration Institute studies of investment performance measurement and Association for Investment Management and Research presentation standards, or, if applicable, Securities Exchange Commission requirements. The individual who computes the returns must certify that the supplied returns comply with this subdivision. The applicable plan administrator must also submit, with the return information, the total amounts invested by the plan members, in aggregate, in each investment option as of the last day of the calendar year.

SUBD. 5. Penalty for noncompliance. Failure to comply with the reporting requirements of this section must result in a withholding of all state aid or state appropriation to which the pension plan may otherwise be directly or indirectly entitled until the pension plan has complied with the reporting requirements. The state auditor shall instruct the commissioners of revenue and finance to withhold any state aid or state appropriation from any pension plan that fails to comply with the reporting requirements contained in this section, until the pension plan has complied with the reporting requirements. The state auditor may waive the withholding of state aid or state appropriations if the state auditor determines in writing that compliance would create an excessive hardship for the pension plan.

SUBD. 6. Investment disclosure report. (a) The state auditor shall prepare an annual report to the legislature on the investment performance of the various public pension plans subject to this section. The content of the report is specified in paragraphs (b) to (e).

(b) For each public pension plan reporting under subdivision 3, paragraph (b), the state auditor shall compute and report total portfolio and asset class time weighted rates of return, net of all investment related costs and fees.

(c) For each public pension plan reporting under subdivision 3, paragraph (d), the state auditor shall compute and report total portfolio time weighted rates of return, net of all costs and fees. If the state auditor has requested data for a plan under subdivision 3, paragraph (f), the state auditor may also compute and report asset class time weighted rates of return, net of all costs and fees.

(d) The report by the state auditor must include the information submitted by the pension plans under subdivision 3, paragraph (c), or a synopsis of that information.

(e) The report by the state auditor may also include a presentation of multiyear performance, information collected under subdivision 4, and any other information or analysis deemed appropriate by the state auditor.

SUBD. 7. Expense of report. All administrative expenses incurred relating to the investment report by the state auditor described in subdivision 6 must be borne by the Office of the State Auditor and may not be charged back to the entities described in subdivisions 1 or 4.

SUBD. 8. Timing of reports. (a) For salaried firefighter relief associations, police relief associations, and volunteer firefighter relief associations, the information required under this section must be submitted by the due date for reports required under section 69.051, subdivision 1 or 1a, as applicable. If a relief association satisfies the definition of a fully invested plan under subdivision 1, paragraph (b), for the calendar year covered by the report required under section 69.051, subdivision 1 or 1a, as applicable, the chief administrative officer of the covered pension plan shall certify that compliance on a form prescribed by the state auditor. The state auditor shall transmit annually to the State Board of Investment a list or lists of covered pension plans which submitted certifications in order to facilitate reporting by the State Board of Investment under paragraph (c) of this subdivision.

(b) For the Minneapolis Teachers Retirement Fund Association, the St. Paul Teachers Retirement Fund Association, the Duluth Teachers Retirement Fund Association, the Minneapolis Employees Retirement Fund, the University of Minnesota faculty supplemental retirement plan, and the applicable administrators for the University of Minnesota faculty retirement plan and the individual retirement account plans under chapters 354B and 354D, the information required under this section must be submitted to the state auditor by June 1 of each year.

(c) The State Board of Investment, on behalf of pension funds specified in subdivision 1, paragraph (c), must report information required under this section by September 1 of each year.

HIST: 1994 c 565 art 2 s 1; 1995 c 262 art 9 s 1; 1996 c 438 art 10 s 1; 1997 c 241 art 10 s 4; 2002 c 392 art 1 s 8; art 11 s 10

356.22 INTERPRETATION.

SUBDIVISION 1. Provision of additional valuations. No provision in sections 356.20 to 356.23 may be construed in any way to limit any of the enumerated pension and retirement funds from furnishing additional actuarial valuations or experience studies, or additional data and actuarial calculations, as may be requested by the legislature or any standing committee or by the Legislative Commission on Pensions and Retirement.

SUBD. 2. Accelerated amortization. No provision in sections 356.20 to 356.23 may be construed to preclude any public pension and retirement fund enumerated in section 356.20, subdivision 2, from requesting, or the legislature from providing for, the amortization of any unfunded actuarial accrued liability in a shorter period of time than by the established date for full funding as determined under section 356.215, subdivision 11.

SUBD. 3. Additional required valuations. The legislature or any committee or commission which has assigned to it the subject of public pensions or public retirement plans may require actuarial valuations and experience studies in conformity with the provisions of sections 356.20 to 356.23 from any public pension and retirement plan or fund, whether enumerated in sections 356.20 to 356.23 or otherwise.

HIST: 1965 c 359 s 3; 1975 c 192 s 4,5; 1979 c 184 s 2; 1981 c 224 s 171; 1Sp1985 c 7 s 35; 1987 c 259 s 57; 2002 c 392 art 11 s 11

356.23 SUPPLEMENTAL VALUATIONS; ALTERNATIVE REPORTS AND VALUATIONS.

SUBDIVISION 1. **Supplemental actuarial valuations.** Any supplemental actuarial valuations prepared on behalf of any governing or managing board of any pension and retirement fund enumerated in section 356.20, subdivision 2, by an approved actuary, must be prepared in accordance with the applicable provisions of sections 356.20 to 356.23 and with the standards adopted by the Legislative Commission on Pensions and Retirement. Any pension and retirement fund which prepares an alternative actuarial valuation under subdivision 2 also must have a supplemental actuarial valuation prepared.

SUBD. 2. **Alternative reports and valuations.** In addition to the financial reports and actuarial valuations required by sections 356.20 to 356.23, the governing or managing board of any fund concerned may submit alternative reports and actuarial valuations for distribution to the legislature, any of its committees, or the Legislative Commission on Pensions and Retirement on a different basis or on different assumptions than are specified in sections 356.20 to 356.23. The assumptions and basis of any alternative reports and valuations must be clearly stated in the document.

HIST: 1965 c 359 s 4; 1971 c 7 s 7; 1975 c 192 s 6; 1984 c 655 art 1 s 59; 1987 c 259 s 58; 2002 c 392 art 11 s 12

LIMITATIONS ON SUPPLEMENTAL AND LOCAL RETIREMENT PLANS

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

SUBDIVISION 1. **Restriction; exceptions.** It is unlawful for a school district or other governmental subdivision or state agency to levy taxes for, or to 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;
- (3) to the individual retirement account plan established by chapter 354B;
- (4) to a plan that provides solely for severance pay under section 465.72 to a retiring or terminating employee;
- (5) for employees other than personnel employed by the Board of Trustees of the Minnesota State Colleges and Universities and covered under the Higher Education Supplemental Retirement Plan under chapter 354C, if the supplemental plan coverage is provided for in a personnel policy of the public employer or in the collective bargaining agreement between the public employer and 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;

(i) to the state of Minnesota deferred compensation plan under section 352.96; or

(ii) in payment of the applicable portion of the contribution made to any investment eligible under section 403(b) of the Internal Revenue Code, if the employing unit has complied with any applicable pension plan provisions of the Internal Revenue Code with respect to the tax sheltered annuity program during the preceding calendar year;

(6) for personnel employed by the Board of Trustees of the Minnesota State Colleges and Universities and not covered by clause (5), to the supplemental retirement plan under chapter 354C, if the supplemental plan coverage is 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 \$2,700 a year for each employee;

(7) to a supplemental plan or to a governmental trust to save for postretirement health care expenses qualified for tax preferred treatment under the Internal Revenue Code, if the supplemental plan coverage is provided for in a personnel policy or in the collective bargaining agreement of a public employer with the exclusive representative of the covered employees in an appropriate unit;

(8) to the laborer's national industrial pension fund for the employees of a governmental subdivision who are covered by a collective bargaining agreement that provides for coverage by that fund and that sets forth a fund contribution rate, but not to exceed an employer contribution of \$2,000 per year per employee;

(9) to the plumbers' and pipefitters' national pension fund or to a plumbers' and pipefitters' local pension fund for the employees of a governmental subdivision who are covered by a collective bargaining agreement that provides for coverage by that fund and that sets forth a fund contribution rate, but not to exceed an employer contribution of \$2,000 per year per employee;

(10) to the international union of operating engineers pension fund for the employees of a governmental subdivision who are covered by a collective bargaining agreement that provides for coverage by that fund and that sets forth a fund contribution rate, but not to exceed an employer contribution of \$2,000 per year per employee; or

(11) to a supplemental plan organized and operated under the federal Internal Revenue Code, as amended, that is wholly and solely funded by the employee's accumulated sick leave, accumulated vacation leave, and accumulated severance pay.

SUBD. 1B. Vendor restrictions. A personnel policy for unrepresented employees, a collective bargaining agreement for represented employees, or a school board for school district employees may establish limits on the number of vendors of plans covered by the exceptions set forth in subdivision 1 that it will utilize and conditions under which those vendors

may contact employees both during working hours and after working hours.

SUBD. 1C. State Board of Investment review. (a) Any insurance company, mutual fund company, or similar company providing investments eligible under section 403(b) of the Internal Revenue Code and eligible to receive employer contributions under this section may request the State Board of Investment, in conjunction with the Department of Commerce, to review the financial standing of the company, the competitiveness of its investment options and returns, and the level of all charges and fees impacting those returns.

(b) The State Board of Investment may establish a fee for each review. The State Board of Investment must maintain and have available a list of all reviewed companies.

(c) In reviewing companies under this section, the State Board of Investment must not be considered to be acting as a fiduciary or to be engaged in a fiduciary activity under chapter 356A or common law.

SUBD. 2. Limit on certain contributions or benefit changes. No change in benefits or employer contributions in a supplemental pension plan to which this section applies that occurs after May 6, 1971, is effective without prior legislative authorization.

HIST: 1971 c 222 s 1; 1980 c 600 s 7; 1981 c 224 s 172; 1988 c 605 s 9; 1988 c 709 art 11 s 6; 1989 c 319 art 12 s 3; 1992 c 464 art 1 s 42; 1992 c 487 s 4; 1993 c 192 s 90; 1993 c 239 art 3 s 1; 1993 c 300 s 12; 1995 c 141 art 3 s 16; art 4 s 7; 1995 c 212 art 4 s 64; 1999 c 222 art 18 s 1; 2000 c 461 art 12 s 15; art 13 s 1 3; 1Sp2001 c 1 art 2 s 24; 1Sp2001 c 10 art 7 s 2; 2002 c 392 art 10 s 1; art 11 s 13 16; 1Sp2003 c 12 art 7 s 1

356.245 LOCAL ELECTED OFFICIALS.

An elected official who is covered by section 353.01, subdivision 2a, is eligible to participate in the state of Minnesota deferred compensation plan under section 356.24. The applicable local governmental unit may make the matching employer contributions authorized by that section on the part of a participating elected official.

HIST: 1988 c 709 art 9 s 3; 2002 c 392 art 11 s 17

356.25 LOCAL GOVERNMENTAL PENSION FUND PROHIBITIONS; EXCLUSIONS.

Notwithstanding any other provision of law or charter to the contrary, no city, county, public agency or instrumentality, or other political subdivision is required or permitted to establish for any of its employees a local pension plan or fund financed in whole or in part from public funds, other than:

(1) a supplemental pension or deferred compensation plan authorized under section 356.24; or

(2) a volunteer firefighter's relief association that is established under chapter 424A and is governed by sections 69.771 to 69.776.

HIST: 1975 c 405 s 1; 1977 c 429 s 63; 1981 c 224 s 173; 1984 c 655 art 1 s 60; 2002 c 392 art 10 s 2; art 11 s 18

PUBLIC RETIREMENT PLAN PORTABILITY MECHANISMS

356.30 COMBINED SERVICE ANNUITY.

SUBDIVISION 1. **Eligibility; computation of annuity.** (a)

Notwithstanding any provisions of the laws governing the retirement plans enumerated in subdivision 3, a person who has met the qualifications of paragraph (b) may elect to receive a retirement annuity from each enumerated retirement plan in which the person has at least one half year of allowable service, based on the allowable service in each plan, subject to the provisions of paragraph (c).

(b) A person may receive, upon retirement, a retirement annuity from each enumerated retirement plan in which the person has at least one half year of allowable service, and augmentation of a deferred annuity calculated under the laws governing each public pension plan or fund named in subdivision 3, from the date the person terminated all public service if:

(1) the person has allowable service totaling an amount that allows the person to receive an annuity in any two or more of the enumerated plans; and

(2) the person has not begun to receive an annuity from any enumerated plan or the person has made application for benefits from each applicable plan and the effective dates of the retirement annuity with each plan under which the person chooses to receive an annuity are within a one year period.

(c) The retirement annuity from each plan must be based upon the allowable service, accrual rates, and average salary in the applicable plan except as further specified or modified in the following clauses:

(1) the laws governing annuities must be the law in effect on the date of termination from the last period of public service under a covered retirement plan with which the person earned a minimum of one half year of allowable service credit during that employment;

(2) the "average salary" on which the annuity from each covered plan in which the employee has credit in a formula plan must be based on the employee's highest five successive years of covered salary during the entire service in covered plans;

(3) the accrual rates to be used by each plan must be those percentages prescribed by each plan's formula as continued for the respective years of allowable service from one plan to the next, recognizing all previous allowable service with the other covered plans;

(4) the allowable service in all the plans must be combined in determining eligibility for and the application of each plan's provisions in respect to reduction in the annuity amount for retirement prior to normal retirement age; and

(5) the annuity amount payable for any allowable service under a nonformula plan of a covered plan must not be affected, but such service and covered salary must be used in the above calculation.

(d) This section does not apply to any person whose final termination from the last public service under a covered plan was before May 1, 1975.

(e) For the purpose of computing annuities under this section, the accrual rates used by any covered plan, except the public employees

police and fire plan, the judges' retirement fund, and the State Patrol retirement plan, must not exceed the percent specified in section 356.315, subdivision 4, per year of service for any year of service or fraction thereof. The formula percentage used by the judges' retirement fund must not exceed the percentage rate specified in section 356.315, subdivision 8, per year of service for any year of service or fraction thereof. The accrual rate used by the public employees police and fire plan and the State Patrol retirement plan must not exceed the percentage rate specified in section 356.315, subdivision 6, per year of service for any year of service or fraction thereof. The accrual rate or rates used by the legislators retirement plan and the elective state officers retirement plan must not exceed 2.5 percent, but this limit does not apply to the adjustment provided under section 3A.02, subdivision 1, paragraph (c), or 352C.031, paragraph (b).

(f) Any period of time for which a person has credit in more than one of the covered plans must be used only once for the purpose of determining total allowable service.

(g) If the period of duplicated service credit is more than one half year, or the person has credit for more than one half year, with each of the plans, each plan must 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 plans for the period.

(h) If the period of duplicated service credit is less than one half year, or when added to other service credit with that plan is less than one half year, the service credit must be ignored and a refund of contributions made to the person in accord with that plan's refund provisions.

SUBD. 2. Repayment of refunds. A person who has service credit in one of the retirement plans enumerated in subdivision 3 and who is employed or was formerly employed in a position covered by one of these covered plans but also has received a refund from any other of these covered plans, may repay the refund to the respective plan under terms and conditions that are consistent with the laws governing the other plan, except that the person need not be a currently contributing member of the plan 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 covered plans enumerated in subdivision 3 or before the date of retirement from the plan to which the refund is repaid, whichever is earlier.

SUBD. 2A. Purchases of prior service. If a purchase of prior service is made under the provisions of Laws 1988, chapter 709, article 3, or any similar special or general law provision which allows a purchase of service credit in any of the retirement plans enumerated in subdivision 3, the amount of required reserves calculated as prescribed in Laws 1988, chapter 709, article 3, must be paid to each plan based on the amount of benefit increase payable from that plan as a result of the purchase of prior service.

SUBD. 3. Covered plans. This section applies to the following retirement plans:

- (1) the general state employees retirement plan of the Minnesota State Retirement System, established under chapter 352;
- (2) the correctional state employees retirement plan of the Minnesota State Retirement System, established under chapter 352;
- (3) the unclassified employees retirement program, established under chapter 352D;
- (4) the State Patrol retirement plan, established under chapter 352B;
- (5) the legislators retirement plan, established under chapter 3A;
- (6) the elective state officers' retirement plan, established under chapter 352C;
- (7) the general employees retirement plan of the Public Employees Retirement Association, established under chapter 353;
- (8) the public employees police and fire retirement plan of the Public Employees Retirement Association, established under chapter 353;
- (9) the local government correctional service retirement plan of the Public Employees Retirement Association, established under chapter 353E;
- (10) the Teachers Retirement Association, established under chapter 354;
- (11) the Minneapolis Employees Retirement Fund, established under chapter 422A;
- (12) the Minneapolis Teachers Retirement Fund Association, established under chapter 354A;
- (13) the St. Paul Teachers Retirement Fund Association, established under chapter 354A;
- (14) the Duluth Teachers Retirement Fund Association, established under chapter 354A; and
- (15) the judges' retirement fund, established by sections 490.121 to 490.132.

HIST: 1975 c 232 s 1; 1981 c 37 s 2; 1981 c 298 s 11; 1983 c 286 s 14; 1986 c 444; 1987 c 372 art 1 s 20; art 9 s 35; 1989 c 319 art 2 s 23; art 5 s 4; art 13 s 92; 1991 c 340 s 31; 1992 c 432 art 2 s 45; 1994 c 528 art 2 s 14; 1995 c 141 art 3 s 20; 1995 c 262 art 1 s 13; art 3 s 6; 1997 c 233 art 1 s 61,62; 1999 c 222 art 2 s 17; 2000 c 461 art 3 s 44; art 18 s 3; 2002 c 392 art 11 s 19

356.302 DISABILITY BENEFIT WITH COMBINED SERVICE.

SUBDIVISION 1. Definitions. (a) The terms used in this section are defined in this subdivision.

(b) "Average salary" means the highest average of covered salary for the appropriate period of credited service that is required for the calculation of a disability benefit by the covered retirement plan and that is drawn from any period of credited service and successive years of covered salary in a covered retirement plan.

(c) "Covered retirement plan" or "plan" means a retirement plan listed in subdivision 7.

(d) "Duty related" means a disabling illness or injury that occurred while the person was actively engaged in employment duties or that arose out of the person's active employment duties.

(e) "General employee retirement plan" means a covered retirement plan listed in subdivision 7, clauses (1) to (8) and (13).

(f) "Occupationally disabled" means the condition of having a medically determinable physical or mental impairment that makes a person unable to satisfactorily perform the minimum requirements of the person's employment position or a substantially similar employment position.

(g) "Public safety employee retirement plan" means a covered retirement plan listed in subdivision 7, clauses (9) to (12).

(h) "Totally and permanently disabled" means the condition of having a medically determinable physical or mental impairment that makes a person unable to engage in any substantial gainful activity and that is expected to continue or has continued for a period of at least one year or that is expected to result directly in the person's death.

SUBD. 2. Entitlement. Notwithstanding any provision of law to the contrary governing any covered retirement plan, a member of a covered retirement plan may receive a combined service disability benefit from each covered retirement plan in which the person has credit for at least one half year of allowable service if that person meets the applicable qualifying conditions. Subdivision 3 applies to a member of a general employee retirement plan. Subdivision 4 applies to a member of a public safety employee retirement plan. Subdivision 5 applies to a member of a covered retirement plan with both general employee and public safety employee retirement plan service.

SUBD. 3. General employee plan eligibility requirements. A disabled member of a covered retirement plan who has credit for allowable service in a combination of general employee retirement plans is entitled to a combined service disability benefit if the member:

(1) is less than the normal retirement age on the date of the application for the disability benefit;

(2) has become totally and permanently disabled;

(3) has credit for allowable service in any combination of general employee retirement plans totaling at least three years;

(4) has credit for at least one half year of allowable service with the current general employee retirement plan before the commencement of the disability;

(5) has at least three continuous years of allowable service credit by the general employee retirement plan or has at least a total of three years of allowable service credit by a combination of general employee retirement plans in a 72 month period during which no interruption of allowable service credit from a termination of employment exceeded 29 days; and

(6) was not receiving a retirement annuity or disability benefit from any covered general employee retirement plan at the time of the commencement of the disability.

SUBD. 4. Public safety plan eligibility requirements. A disabled member of a covered retirement plan who has credit for allowable service in a combination of public safety employee retirement plans is entitled to a combined service disability benefit if the member:

(1) has become occupationally disabled;

(2) has credit for allowable service in any combination of public safety employee retirement plans totaling at least one year if the disability is duty related or totaling at least three years if the disability is not duty related;

(3) has credit for at least one half year of allowable service with the current public safety employee retirement plan before the commencement of the disability; and

(4) was not receiving a retirement annuity or disability benefit from any covered public safety employee retirement plan at the time of the commencement of the disability.

SUBD. 5. General and public safety plan eligibility requirements. A disabled member of a covered retirement plan who has credit for allowable service in a combination of both a public safety employee retirement plan and general employee retirement plan must meet the qualifying requirements in subdivisions 3 and 4 to receive a combined service disability benefit from the applicable general employee and public safety employee retirement plans, except that the person need only be a member of a covered retirement plan at the time of the commencement of the disability and that the minimum allowable service requirements of subdivisions 3, clauses (3) and (5), and 4, clauses (3) and (4), may be met in any combination of covered retirement plans.

SUBD. 6. Combined service disability benefit computation. (a) The combined service disability benefit from each covered retirement plan must be based on the allowable service in each retirement plan, except as specified in paragraphs (b) to (f).

(b) The disability benefit must be governed by the law in effect for each covered retirement plan on the date of the commencement of the member's most recent qualifying disability as a member of a covered retirement plan.

(c) All plans must base the disability benefit on the same average salary figure to the extent practicable.

(d) If the method of the covered retirement plan used to compute a disability benefit varies based on the length of allowable service credit, the benefit accrual formula percentages used by the plan must recognize the allowable service credit in the plan as a continuation of any previous allowable service credit with other covered retirement plans.

(e) If the covered retirement plan is a defined benefit or formula plan and the method used to compute a disability benefit does not vary based on the length of allowable service credit, the portion of the specified benefit amount from the plan must bear the same proportion to the total specified benefit amount as the allowable service credit in that plan bears to the total allowable service credit in all covered retirement plans. If the covered retirement plan is a defined contribution or nonformula plan, the disability benefit amount for allowable service under the plan is not affected, but the service and the covered salary under the plan must be used as applicable in calculations by other covered retirement plans.

(f) A period for which a person has allowable service credit in more than one covered retirement plan must be used only once in determining the total allowable service credit for calculating the combined service disability benefit, with any period of duplicated service credit handled as provided in section 356.30, subdivision 1, paragraphs (g) and (h).

(g) If a person is entitled to a minimum benefit payable from one of the public pension plans enumerated in section 356.30, subdivision 3, the person may receive additional credit for only those years of service in

another covered pension plan that, when added to the years of service in the pension plan that is paying the minimum benefit, exceed the years of service on which the minimum benefit is based.

(h) A partially employed recipient of a disability benefit must have any current reemployment income plus the total disability payments from all plans enumerated in subdivision 7 added together, and then compared to their final salary rate as a public employee. If current income plus the total disability payments exceed the final salary of the person at the time of retirement, then disability benefit payments from all the plans must be reduced on a prorated basis relative to the years of service in each fund so that earnings plus benefit payments do not exceed the final salary rate.

SUBD. 7. Covered retirement plans. This section applies to the following retirement plans:

(1) the general state employees retirement plan of the Minnesota State Retirement System, established by chapter 352;

(2) the unclassified state employees retirement program of the Minnesota State Retirement System, established by chapter 352D;

(3) the general employees retirement plan of the Public Employees Retirement Association, established by chapter 353;

(4) the Teachers Retirement Association, established by chapter 354;

(5) the Duluth Teachers Retirement Fund Association, established by chapter 354A;

(6) the Minneapolis Teachers Retirement Fund Association, established by chapter 354A;

(7) the St. Paul Teachers Retirement Fund Association, established by chapter 354A;

(8) the Minneapolis Employees Retirement Fund, established by chapter 422A;

(9) the state correctional employees retirement plan of the Minnesota State Retirement System, established by chapter 352;

(10) the State Patrol retirement plan, established by chapter 352B;

(11) the public employees police and fire plan of the Public Employees Retirement Association, established by chapter 353;

(12) the local government correctional service retirement plan of the Public Employees Retirement Association, established by chapter 353E; and

(13) the judges' retirement plan, established by sections 490.121 to 490.132.

HIST: 1987 c 284 art 8 s 1; 1988 c 709 art 5 s 39,40; 1989 c 319 art 5 s 5; 1990 c 570 art 12 s 56,57; 1992 c 432 art 2 s 46; 1993 c 307 art 2 s 18; art 4 s 51; 1995 c 141 art 3 s 20; 1999 c 222 art 2 s 18; 2000 c 461 art 3 s 46; 2002 c 392 art 11 s 20; 2004 c 267 art 8 s 33

356.303 SURVIVOR BENEFIT WITH COMBINED SERVICE.

SUBDIVISION 1. Definitions. (a) The terms used in this section are defined in this subdivision.

(b) "Average salary" means the highest average of covered salary for the appropriate period of credited service that is required for the calculation of a survivor annuity or a survivor benefit, whichever applies, by the

covered retirement plan and that is drawn from any period of credited service and covered salary in a covered retirement plan.

(c) "Covered retirement plan" or "plan" means a retirement plan enumerated in subdivision 4.

(d) "Deceased member" means a person who on the date of death was an active member of a covered retirement plan and who has reached the minimum age, if any, that is required by the covered retirement plan as part of qualifying for a survivor annuity or survivor benefit.

(e) "Surviving child" means a child of a deceased member (1) who is unmarried; (2) who has not reached age 18, or, if a full time student, who has not reached a higher age as specified by the applicable covered retirement plan; and (3) if specified by that plan, who was actually dependent on the deceased member for a specified proportion of support before the deceased member's death. "Surviving child" includes a natural child, an adopted child, or a child of a deceased member who is conceived during the member's lifetime and who is born after the member's death.

(f) "Surviving spouse" means the legally married husband or wife, whichever applies, of the deceased member who was residing with the deceased member on the date of death and who, if specified by the applicable covered retirement plan, had been married to the deceased member for a specified period of time before the death of the deceased member.

(g) "Survivor annuity" means the entitlement to a future amount payable to a survivor as the remainder interest of an optional annuity form implied by law as having been chosen by a deceased member before the date of death and effective on the date of death or provided automatically.

(h) "Survivor benefit" means an entitlement to a future amount payable to a survivor that is not included in the definition of a survivor annuity.

SUBD. 2. Entitlement; eligibility. Notwithstanding any provision of law to the contrary governing a covered retirement plan, a person who is the survivor of a deceased member of a covered retirement plan may receive a combined service survivor benefit from each covered retirement plan in which the deceased member had credit for at least one half year of allowable service if the deceased member:

(1) had credit for sufficient allowable service in any combination of covered retirement plans to meet any minimum allowable service credit requirement of the covered retirement fund for qualification for a survivor benefit or annuity;

(2) had credit for at least one half year of allowable service with the most recent covered retirement plan before the date of death and was an active member of that covered retirement plan on the date of death; and

(3) was not receiving a retirement annuity from any covered retirement plan on the date of death.

SUBD. 3. Combined service survivor benefit computation. (a) The combined service survivor annuity or survivor benefit from each covered retirement plan must be based on the allowable service in each covered retirement plan, except as provided by paragraphs (b) to (f).

(b) The survivor annuity or survivor benefit must be governed by the law in effect for each covered retirement plan on the date of the death of the deceased member.

(c) All plans must base the survivor annuity or survivor benefit on the same average salary figure if the annuity or benefit is salary related.

(d) If the method of the covered retirement plan used to compute a survivor benefit or annuity varies based on the length of allowable service credit, the benefit accrual formula percentages used by the plan must recognize the allowable service credit in the plan as a continuation of any previous allowable service credit with other covered retirement plans.

(e) If the covered retirement plan is a defined benefit or formula plan and the method used to compute a survivor benefit or annuity does not vary based on the length of allowable service credit, the portion of the specified benefit or annuity amount from the covered retirement plan must bear the same proportion to the total specified benefit or annuity amount as the allowable service credit in that plan bears to the total allowable service credit in all covered retirement plans. If the covered retirement plan is a defined contribution or nonformula plan, the survivor benefit amount for allowable service under the plan is not affected, but the service and covered salary under the plan must be used in calculations by other covered retirement plans.

(f) A period for which a deceased member had allowable service credit in more than one covered retirement plan must be used only once in determining the total allowable service credit for calculating the combined service survivor annuity or survivor benefit. A period of duplicated service credit must be handled as provided in section 356.30, subdivision 1, paragraphs (g) and (h).

(g) If a person is entitled to a minimum benefit payable from a public pension plan named in section 356.30, subdivision 3, the person may receive additional credit for only those years of service in another covered pension plan that, when added to the years of service in the pension plan that is paying the minimum benefit, exceed the years of service on which the minimum benefit is based.

SUBD. 4. Covered retirement plans. This section applies to the following retirement plans:

(1) the legislators retirement plan, established by chapter 3A;

(2) the general state employees retirement plan of the Minnesota State Retirement System, established by chapter 352;

(3) the correctional state employees retirement plan of the Minnesota State Retirement System, established by chapter 352;

(4) the State Patrol retirement plan, established by chapter 352B;

(5) the elective state officers retirement plan, established by chapter 352C;

(6) the unclassified state employees retirement program, established by chapter 352D;

(7) the general employees retirement plan of the Public Employees Retirement Association, established by chapter 353;

(8) the public employees police and fire plan of the Public Employees Retirement Association, established by chapter 353;

(9) the local government correctional service retirement plan of the Public Employees Retirement Association, established by chapter 353E;

(10) the Teachers Retirement Association, established by chapter 354;

(11) the Duluth Teachers Retirement Fund Association, established by chapter 354A;

(12) the Minneapolis Teachers Retirement Fund Association, established by chapter 354A;

(13) the St. Paul Teachers Retirement Fund Association, established by chapter 354A;

(14) the Minneapolis Employees Retirement Fund, established by chapter 422A; and

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

HIST: 1987 c 284 art 8 s 2; 1989 c 319 art 5 s 6; 1992 c 432 art 2 s 47; 1995 c 141 art 3 s 20; 1999 c 222 art 2 s 19; 2000 c 461 art 3 s 46; 2002 c 392 art 11 s 21

RETIREMENT ANNUITIES

356.315 RETIREMENT BENEFIT FORMULA PERCENTAGES.

SUBDIVISION 1. **Coordinated plan members.** The applicable benefit accrual rate is 1.2 percent.

SUBD. 2. **Coordinated plan members.** The applicable benefit accrual rate is 1.7 percent.

SUBD. 2A. **Coordinated members.** The applicable benefit accrual rate is 2.0 percent.

SUBD. 3. **Basic plan members.** The applicable benefit accrual rate is 2.2 percent.

SUBD. 4. **Basic plan members.** The applicable benefit accrual rate is 2.7 percent.

SUBD. 5. **Correctional plan members.** The applicable benefit accrual rate is 2.4 percent.

SUBD. 5A. **Local government correctional service plan.** The applicable benefit accrual rate is 1.9 percent.

SUBD. 6. **State troopers plan and police and fire plan members.** The applicable benefit accrual rate is 3.0 percent.

SUBD. 7. **Judges plan.** The applicable benefit accrual rate is 2.7 percent.

SUBD. 8. **Judges plan.** The applicable benefit accrual rate is 3.2 percent.

SUBD. 9. **Future benefit accrual rate increases.**

After January 2, 1998, benefit accrual rate increases under this section must apply only to allowable service or formula service rendered after the effective date of the benefit accrual rate increase.

HIST: 2002 c 392 art 11 s 22

356.32 PROPORTIONATE ANNUITY AT AGE 65.

SUBDIVISION 1. **Proportionate retirement annuity.** (a) Notwithstanding any provision to the contrary of the laws governing any of the retirement funds enumerated 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 covered plans, and who terminates active service under a mandatory retirement law or policy

or at age 65 or older, or at the normal retirement age if this age is not age 65, for any reason is entitled upon making written application on the form prescribed by the chief administrative officer of the plan to a proportionate retirement annuity from each covered plan in which the person has allowable service credit.

(b) The proportionate annuity must 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.

(c) Nothing in this section prevents the imposition of the appropriate early retirement reduction of an annuity which commences before the normal retirement age.

SUBD. 2. Covered retirement plans. The provisions of this section apply to the following retirement plans:

(1) the general state employees retirement plan of the Minnesota State Retirement System, established under chapter 352;

(2) the correctional state employees retirement plan of the Minnesota State Retirement System, established under chapter 352;

(3) the State Patrol retirement plan, established under chapter 352B;

(4) the general employees retirement plan of the Public Employees Retirement Association, established under chapter 353;

(5) the public employees police and fire plan of the Public Employees Retirement Association, established under chapter 353;

(6) the Teachers Retirement Association, established under chapter 354;

(7) the Minneapolis Employees Retirement Fund, established under chapter 422A;

(8) the Duluth Teachers Retirement Fund Association, established under chapter 354A;

(9) the Minneapolis Teachers Retirement Fund Association, established under chapter 354A; and

(10) the St. Paul Teachers Retirement Fund Association, established under chapter 354A.

HIST: 1975 c 183 s 2; 1976 c 130 s 1; 1978 c 649 s 3; 1978 c 796 s 44; 1979 c 40 s 10; 1979 c 217 s 27; 1980 c 342 s 15; 1981 c 37 s 2; 1981 c 224 s 174; 1981 c 298 s 11; 1987 c 372 art 1 s 21; 1989 c 319 art 13 s 93; 1995 c 141 art 3 s 20; 1997 c 233 art 1 s 63; 2002 c 392 art 11 s 23

356.40 DATE FOR PAYMENT OF ANNUITIES AND BENEFITS.

(a) Notwithstanding any law to the contrary, all annuities and benefits payable on and after December 1, 1977 by a covered retirement fund, as defined in section 356.30, subdivision 3, must be paid in advance for each month during the first week of that month. The bylaws of local retirement funds must be amended accordingly.

(b) In no event, however, may this section authorize the payment of both a retirement annuity and a surviving spouse's benefit in one month where the law governing the applicable retirement fund provides for the payment of the retired member's retirement annuity to the surviving spouse for the month in which the retired member dies.

HIST: 1977 c 388 s 3; 2002 c 392 art 11 s 24

356.401 EXEMPTION FROM PROCESS.

SUBDIVISION 1. **Exemption; exceptions.** None of the money, annuities, or other benefits provided for in the governing law of a covered retirement plan is assignable either in law or in equity or subject to state estate tax, or to execution, levy, attachment, garnishment, or other legal process, except as provided in subdivision 2 or section 518.58, 518.581, or 518.6111.

SUBD. 2. **Automatic deposits.** (a) The chief administrative officer of a covered retirement plan may remit, through an automatic deposit system, annuity, benefit, or refund payments only to a financial institution associated with the National Automated Clearinghouse Association or a comparable successor organization that is trustee for a person who is eligible to receive the annuity, benefit, or refund.

(b) Upon the request of a retiree, disabiltant, survivor, or former member, the chief administrative officer of a covered retirement plan may remit the annuity, benefit, or refund check to the applicable financial institution for deposit in the person's individual account or the person's joint account. An overpayment to a joint account after the death of the annuitant or benefit recipient must be repaid to the fund of the applicable covered retirement plan by the joint tenant if the overpayment is not repaid to that fund by the financial institution associated with the National Automated Clearinghouse Association or its successor. The governing board of the covered retirement plan may prescribe the conditions under which these payments may be made.

SUBD. 3. **Covered retirement plans.** The provisions of this section apply to the following retirement plans:

- (1) the legislators retirement plan, established by chapter 3A;
- (2) the general state employees retirement plan of the Minnesota State Retirement System, established by chapter 352;
- (3) the correctional state employees retirement plan of the Minnesota State Retirement System, established by chapter 352;
- (4) the State Patrol retirement plan, established by chapter 352B;
- (5) the elective state officers retirement plan, established by chapter 352C;
- (6) the unclassified state employees retirement program, established by chapter 352D;
- (7) the general employees retirement plan of the Public Employees Retirement Association, established by chapter 353;
- (8) the public employees police and fire plan of the Public Employees Retirement Association, established by chapter 353;
- (9) the public employees defined contribution plan, established by chapter 353D;
- (10) the local government correctional service retirement plan of the Public Employees Retirement Association, established by chapter 353E;
- (11) the Teachers Retirement Association, established by chapter 354;
- (12) the Duluth Teachers Retirement Fund Association, established by chapter 354A;

(13) the Minneapolis Teachers Retirement Fund Association, established by chapter 354A;

(14) the St. Paul Teachers Retirement Fund Association, established by chapter 354A;

(15) the individual retirement account plan, established by chapter 354B;

(16) the higher education supplemental retirement plan, established by chapter 354C;

(17) the Minneapolis employees retirement fund, established by chapter 422A;

(18) the Minneapolis Police Relief Association, established by chapter 423B;

(19) the Minneapolis Firefighters Relief Association, established by chapter 423C; and

(20) the judges retirement fund, established by sections 490.121 to 490.132.

HIST: 1Sp2005 c 8 art 10 s 64

356.403 NORMAL RETIREMENT AGE; SAVINGS CLAUSE.

The intent of the legislature in sections 352.01, subdivision 25; 353.01, subdivision 37; 354.05, subdivision 38; and 354A.011, subdivision 15a, is to create a normal retirement age for persons first covered by those sections after May 16, 1989, 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 age conform to the retirement age in the federal Social Security law. No person first covered by any of those sections after May 16, 1989, has a right to a normal retirement age that is less than the retirement age in the federal Social Security law.

HIST: 2002 c 392 art 11 s 25

356.405 COMBINED PAYMENT OF RETIREMENT ANNUITIES.

(a) The Public Employees Retirement Association and the Minnesota State Retirement System are permitted to combine payments to retirees. The total payment must be equal to the amount that is payable if payments were kept separate. The retiree must agree, in writing, to have the payment combined.

(b) Each plan must calculate the benefit amounts under the laws governing the plan and the required reserves and future mortality losses or gains must be paid or accrued to the plan from which the service was earned. Each plan must account for its portion of the payment separately, and there may be no additional actuarial liabilities realized by either plan.

(c) The plan making the payment would be responsible for issuing one payment and making address changes, tax withholding changes, and other administrative functions needed to process the payment.

HIST: 2002 c 392 art 11 s 26

SURVIVOR BENEFITS

356.406 LOSS OF ENTITLEMENT TO BENEFITS FOR SURVIVOR CAUSING DEATH OF PENSION PLAN MEMBER.

SUBDIVISION 1. **Definitions.** (a) Each of the words or terms defined in this subdivision has the meaning indicated.

(b) "Public pension plan" means any retirement plan or fund enumerated in section 356.20, subdivision 2, or 356.30, subdivision 3, any relief association governed by section 69.77 or sections 69.771 to 69.775, any retirement plan governed by chapter 354B or 354C, the Hennepin County supplemental retirement plan governed by sections 383B.46 to 383B.52, or any housing and redevelopment authority retirement plan.

(c) "Public pension plan member" means a person who is a participant covered by a public pension plan; a former participant of a public pension plan who has sufficient service to be entitled to receive a future retirement annuity or service pension; a recipient of a retirement annuity, service pension, or disability benefit from a public pension plan; or a former participant of a public pension plan who has member or employee contributions to the person's credit in the public pension plan.

(d) "Survivor" means the surviving spouse, a former spouse, a surviving child, a joint annuitant, a designated recipient of a second or remainder portion of an optional annuity form, a beneficiary, or the estate of a deceased public pension plan member, as those terms are commonly understood or defined in the benefit plan document of the public pension plan.

(e) "Survivor benefit" means a surviving spouse benefit, surviving child benefit, second or remainder portion of an optional annuity form, a death benefit, a funeral benefit, or a refund of member or employee contributions payable on account of the death of a public pension plan member as provided for in the benefit plan document of the public pension plan.

SUBD. 2. **Suspension of survivor benefits upon felony charge.** During the pendency of a charge of a survivor of a felony that caused the death of a public pension plan member, of criminal liability for a death by wrongful act felony, or of conspiracy to commit a death by wrongful act felony, the entitlement of that survivor to receive a survivor benefit is suspended.

SUBD. 3. **Forfeiture of survivor benefits upon felony conviction.** On final conviction of a survivor of a felony that caused the death of a public pension plan member, of criminal liability for a death by wrongful act felony, or of conspiracy to commit a death by wrongful act felony, the entitlement of that survivor to receive a survivor benefit is forfeited, including entitlement for any previously suspended survivor benefits under subdivision 2.

SUBD. 4. **Suspension or forfeiture actions separate.** The charge of one survivor under subdivision 2 or the conviction of one survivor under subdivision 3 does not affect the entitlement of another survivor to a survivor benefit.

SUBD. 5. **Recovery of certain benefits.** If monthly benefits or a refund of the balance of a participant or former participant's account have

already been paid to an individual who is later charged or convicted as described under this section, the executive director or chief administrative officer of the public pension plan shall attempt to recover the amounts paid. Payment may be made to the next beneficiary or survivor only in an amount equal to the amount recovered and in the amount of any future payments that would legally accrue to another survivor under the applicable laws of the retirement plan.

SUBD. 6. Disposition of forfeited survivor benefits. If the benefit plan document governing the public pension plan does not provide for the disposition of forfeited benefits, survivor benefits forfeited under this section must be deposited in the general fund of the state.

HIST: 2002 c 392 art 11 s 27

356.407 RESTORATION OF SURVIVOR BENEFITS.

SUBDIVISION 1. Restoration upon termination of remarriage.

Notwithstanding any provision to the contrary of the laws governing any of the retirement plans enumerated in subdivision 2, any person who was receiving a surviving spouse's benefit from any of those plans and whose benefit terminated solely because of remarriage is, if the remarriage terminates for any reason, again entitled upon reapplication to a surviving spouse's benefit; provided, however, that the person is not entitled to retroactive payments for the period of remarriage. The benefit resumes at the level which the person would have been receiving if there had been no remarriage. This section applies prospectively to any person who first becomes entitled to receive a surviving spouse's benefit on or after May 18, 1975, and also applies retroactively to any person who first became entitled to receive a surviving spouse's benefit before May 18, 1975; provided, however, that no person is entitled to retroactive payments for any period of time before May 18, 1975.

SUBD. 2. Covered funds. The provisions of this section apply to the following retirement funds:

(1) the general employees retirement plan of the Public Employees Retirement Association established under chapter 353;

(2) the public employees police and fire plan of the Public Employees Retirement Association established under chapter 353;

(3) the State Patrol retirement plan established under chapter 352B;

(4) the legislators retirement plan established under chapter 3A;

(5) the elective state officers retirement plan established under chapter 352C;

(6) the Teachers Retirement Association established under chapter 354; and

(7) the Minneapolis Employees Retirement Fund established under chapter 422A.

HIST: 2002 c 392 art 11 s 28

POSTRETIREMENT INCREASES

356.41 BENEFIT ADJUSTMENTS FOR CERTAIN DISABILITY AND SURVIVOR BENEFITS.

Disability benefits payable to a disabled person, if not otherwise included in the participation in the Minnesota postretirement investment fund, and survivor benefits payable to a survivor from any public pension plan which participates in the Minnesota postretirement investment fund must be adjusted in the same manner, at the same times and in the same amounts as are benefits payable from the Minnesota postretirement investment fund to eligible benefit recipients of that public pension plan. If a disability benefit is not included in the participation in the Minnesota postretirement investment fund, the disability benefit is recomputed as a retirement annuity and the recipient would have been eligible for an adjustment under this section if the disability benefit was not recomputed, the recipient remains eligible for the adjustment under this section after the recomputation. For the survivor of a deceased annuitant who receives a survivor benefit calculated under a prior law rather than the second portion of a joint and survivor annuity, any period of receipt of a retirement annuity by the annuitant must be utilized in determining the period of receipt for eligibility to receive an adjustment under this section. No recipient, however, is entitled to more than one adjustment under this section or section 11A.18 applicable to one benefit at one time by reason of this section.

HIST: 1978 c 665 s 1; 1980 c 607 art 14 s 45 subd 2; 1982 c 578 art 3 s 11; 1987 c 259 s 59; 2002 c 392 art 11 s 29

356.42 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);

(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);

(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);

(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);

(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 annuity or benefit recipients, 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.

(c) For basic plan annuity or benefit recipients, 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 eligible basic plan annuity or benefit recipient 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 must be paid on December 1 to those persons receiving an annuity or benefit on the preceding November 30. This section does not authorize the payment of a postretirement adjustment to an estate if the annuity or benefit recipient dies before the November 30 eligibility date. 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 or returns the amount of adjustment to the retirement fund. Written notice of the waiver of the postretirement adjustment is irrevocable for the year during which it was made.

SUBD. 3. Covered retirement plans. The postretirement adjustment provided in this section applies to the following retirement funds:

- (1) the general employees retirement plans of the Public Employees Retirement Association;
- (2) the public employees police and fire plan of the Public Employees Retirement Association;
- (3) the teachers retirement association;
- (4) the State Patrol retirement plan;
- (5) the state employees retirement plan of the Minnesota State Retirement System;
- (6) the Minneapolis Teachers Retirement Fund Association established under chapter 354A;
- (7) the St. Paul Teachers Retirement Fund Association established under chapter 354A; and
- (8) the Duluth Teachers Retirement Fund Association established under chapter 354A.

HIST: 2002 c 392 art 11 s 30

356.43 SUPPLEMENTAL BENEFIT; 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 supplemental benefit lump sum payment from the retirement fund in the amount specified in subdivision 2.

SUBD. 2. Amount of payment. (a) For any person receiving an annuity or benefit on November 30, 1991, and entitled to receive a supplemental benefit lump sum payment under subdivision 1, the payment is \$28 for each full year of allowable service credited to the person by the retirement fund.

In 1992 and each following year, each eligible benefit recipient is entitled to receive the amount received in the preceding year increased by the same percentage applied on the most recent January 1 to regular annuities paid from the Minneapolis Employees Retirement Fund.

(b) The payment provided for in this section is payable on December 1, 1991, to those persons receiving an annuity or benefit on November 30, 1991. In subsequent years, the payment must be made on December 1 to those persons receiving an annuity or benefit on the preceding November 30. This section does not authorize payment to an estate if the annuity or benefit recipient dies before the November 30 eligibility date. The payment provided for in this section must be paid automatically unless the intended recipient files a written notice with the retirement fund requesting that it not be paid.

SUBD. 3. State appropriation. Payments under this section are the responsibility of the Minneapolis Employees Retirement Fund. A separate state aid is provided toward the level dollar amortized cost of the payments. For state fiscal years 1992 to 2001 inclusive, there is appropriated annually \$550,000 from the general fund to the commissioner of finance to be added, in quarterly installments, to the annual state contribution amount determined under section 422A.101, subdivision 3. After fiscal year 2001, any difference between the

cumulative benefit amounts actually paid under this section after fiscal year 1991 and the amounts paid to the retirement fund by the state under this subdivision, plus investment earnings on the aid, shall be included by the retirement fund board and the actuary retained by the Legislative Commission on Pensions and Retirement in determining the financial requirements of the fund and contributions under section 422A.101.

HIST: 2002 c 392 art 11 s 31

356.431 CONVERSION OF LUMP SUM POSTRETIREMENT AND SUPPLEMENTAL PAYMENT TO AN INCREASED MONTHLY ANNUITY.

SUBDIVISION 1. Lump sum postretirement payment conversion. For benefits paid after December 31, 2001, to eligible persons under sections 356.42 and 356.43, the amount of the most recent lump sum benefit payable to an eligible recipient under sections 356.42 and 356.43 must be divided by 12. The result must be added to the monthly annuity or benefit otherwise payable to an eligible recipient, must become a permanent part of the benefit recipient's pension, and must be included in any pension benefit subject to future increases.

SUBD. 2. Transfer of required reserves to Minnesota postretirement investment fund. Public employee retirement funds participating in the State Board of Investment postretirement investment fund shall transfer the required reserves for the postretirement conversion under subdivision 1 to the postretirement investment fund by January 31, 2002.

HIST: 2002 c 392 art 11 s 32; 2005 c 10 art 5 s 3

REFUNDS

356.44 PARTIAL PAYMENT OF PENSION PLAN REFUND.

(a) Notwithstanding any provision of law to the contrary, a member of a pension plan listed in section 356.30, subdivision 3, with at least two years of forfeited service taken from a single pension plan, may repay a portion of all refunds. A partial refund repayment must comply with this section.

(b) The minimum portion of a refund repayment is one third of the total service credit period of all refunds taken from a single plan.

(c) The cost of the partial refund repayment is the product of the cost of the total repayment multiplied by the ratio of the restored service credit to the total forfeited service credit. The total repayment amount includes interest at the annual rate of 8.5 percent, compounded annually, from the refund date to the date repayment is received.

(d) The restored service credit must be allocated based on the relationship the restored service bears to the total service credit period for all refunds taken from a single pension plan.

(e) This section does not authorize a public pension plan member to repay a refund if the law governing the plan does not authorize the repayment of a refund of member contributions.

HIST: 2002 c 392 art 11 s 33

356.441 PAYMENT ACCEPTANCE ALLOWED.

SUBDIVISION 1. Payment authorization. The repayment of a refund and interest on that refund or the payment of equivalent contributions and interest for an eligible leave of absence, as permitted under laws governing any public pension plan in Minnesota, may be made:

(1) with funds distributed or transferred from a plan qualified under the federal Internal Revenue Code of 1986, section 401, subsection (a) or (k); 403; 408; or 457, subsection (b), as amended from time to time; or

(2) with funds distributed from an individual retirement account or individual retirement annuity, if done solely in a manner that is eligible for treatment as a nontaxable rollover or transfer under the applicable federal law.

SUBD. 2. Separate accounting requirement. Nontaxable rollovers or transfer amounts under subdivision 1 received by a public pension fund must be separately accounted for as member contributions not previously taxed. Before accepting any rollovers or transfers to which this section applies, the executive director shall require the member to provide written documentation to demonstrate that the amounts to be rolled over or transferred are eligible for a tax free rollover or transfer and qualify for that treatment under the federal Internal Revenue Code of 1986, as amended.

HIST: 2002 c 392 art 11 s 34; 2004 c 267 art 9 s 22

OPTIONAL ANNUITY FORMS

356.46 APPLICATION FOR RETIREMENT ANNUITY; PROCEDURE FOR ELECTING ANNUITY FORM.

SUBDIVISION 1. Definitions. As used in this section, each of the following terms shall have the meaning given.

(a) "Annuity form" means the payment procedure and duration of a retirement annuity or disability benefit available to a member of a public pension fund, based on the period over which a retirement annuity or disability benefit is payable, determined by the number of persons to whom the retirement annuity or disability benefit is payable, and the amount of the retirement annuity or disability benefit which is payable to each person.

(b) "Joint and survivor optional annuity" means an optional annuity form which provides a retirement annuity or disability benefit to a retired member and the spouse of the member on a joint basis during the lifetime of the retired member and all or a portion of the original retirement annuity or disability benefit amount to the surviving spouse in the event of the death of the retired member.

(c) "Optional annuity form" means an annuity form which is elected by a member and is not provided automatically as the standard annuity form of the public pension plan.

(d) "Public pension plan" means a public pension plan as defined under section 356.63, paragraph (b).

(e) "Retirement annuity" means a series of monthly payments to which a former or retired member of a public pension fund is entitled due to attaining a specified age and acquiring credit for a specified period of service, which includes a retirement annuity, retirement allowance, or service pension.

(f) "Disability benefit" means a series of monthly payments to which a former or disabled member of a public pension fund is entitled due to a physical or mental inability to engage in specified employment.

SUBD. 2. Provision of information on annuity forms. Every public pension plan which provides for an annuity form other than a single life retirement annuity as an option which can be elected by an active, disabled, or retiring member shall provide as a part of, or accompanying the annuity application form, a written statement summarizing the optional annuity forms which are available, a general indication of the consequences of selecting one annuity form over another, a calculation of the actuarial reduction in the amount of the retirement annuity which would be required for each optional annuity form, and the procedure to be followed to obtain more information from the public pension fund concerning the optional annuity forms provided by the plan.

SUBD. 3. Requirement of notice to member's spouse.

(a) If a public pension plan 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 executive director of the public pension plan shall send a copy of the written statement required by subdivision 2 to the spouse of the member before the member's election of an optional retirement annuity.

(b) Following the election of a retirement annuity by the member, a copy of the completed retirement annuity application and retirement annuity beneficiary form, if applicable, must be sent by the public pension plan 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, unless the spouse's signature confirming the receipt is on the annuity application form. If the required signed acknowledgment is not received from the spouse within 30 days, the public pension plan must send another copy of the completed retirement annuity application and retirement annuity beneficiary form, if applicable, to the spouse by certified mail with restricted delivery.

HIST: 2002 c 392 art 11 s 35; 2003 c 2 art 1 s 41

356.465 SUPPLEMENTAL NEEDS TRUST AS OPTIONAL ANNUITY FORM RECIPIENT.

SUBDIVISION 1. Inclusion as recipient.

Notwithstanding any provision to the contrary of the laws, articles of incorporation, or bylaws governing a covered retirement plan specified in subdivision 3, a retiring member may designate a qualified supplemental needs trust under subdivision 2 as the remainder recipient on an optional retirement annuity form for a period not to exceed the lifetime of the beneficiary of the supplemental needs trust.

SUBD. 2. Definition of qualified supplemental needs trust. A qualified supplemental needs trust is a trust that:

(1) was established on or after July 1, 1992;

(2) was established solely for the benefit of one person who has a disability under federal Social Security Administration supplemental security income or retirement, survivors, and disability insurance disability determination standards and who was determined as such before the creation of the trust;

(3) is funded, in whole or in part, by the primary recipient of the optional annuity form and, unless the trust is a Zebley trust, is not funded by the beneficiary, the beneficiary's spouse, or a person who is required to pay a sum to or for the trust beneficiary under the terms of litigation or a litigation settlement;

(4) is established to cover reasonable living expenses and other basic needs of the disablitant, in whole or in part, in instances when public assistance does not provide sufficiently for these needs;

(5) is not permitted to make disbursement to replace or reduce public assistance otherwise available;

(6) is irrevocable;

(7) terminates upon the death of the disabled person for whose benefit it was established; and

(8) is determined by the executive director to be a trust that contains excluded assets for purposes of the qualification for public entitlement benefits under the applicable federal and state laws and regulations.

SUBD. 3. Covered retirement plans. The provisions of this section apply to the following retirement plans:

(1) the general state employees retirement plan of the Minnesota State Retirement System established under chapter 352;

(2) the correctional state employees retirement plan of the Minnesota State Retirement System established under chapter 352;

(3) the State Patrol retirement plan established under chapter 352B;

(4) the legislators retirement plan established under chapter 3A;

(5) the judges retirement plan established under chapter 490;

(6) the general employees retirement plan of the Public Employees Retirement Association established under chapter 353;

(7) the public employees police and fire plan of the Public Employees Retirement Association established under chapter 353;

(8) the teachers retirement plan established under chapter 354;

(9) the Duluth Teachers Retirement Fund Association established under chapter 354A;

(10) the St. Paul Teachers Retirement Fund Association established under chapter 354A;

(11) the Minneapolis Teachers Retirement Fund Association established under chapter 354A;

(12) the Minneapolis employees retirement plan established under chapter 422A;

(13) the Minneapolis Firefighters Relief Association established under chapter 423C;

(14) the Minneapolis Police Relief Association established under chapter 423B; and

(15) the local government correctional service retirement plan of the Public Employees Retirement Association established under chapter 353E.
HIST: 2002 c 392 art 11 s 36

REEMPLOYED ANNUITANT EARNINGS DISPOSITION

356.47 DISPOSITION OF AMOUNT IN EXCESS OF REEMPLOYED ANNUITANT EARNINGS LIMITATIONS.

SUBDIVISION 1. Application. This section applies to the balance of annual retirement annuities on the amount of retirement annuity reductions after reemployed annuitant earnings limitations for retirement plans governed by section 352.115, subdivision 10; 353.37; 354.44, subdivision 5; or 354A.31, subdivision 3.

SUBD. 2. Record keeping; reporting. The chief administrative officer of each retirement plan shall keep records for each reemployed annuitant of the amount of the annuity reduction. This amount must be reported to each member at least once each year.

SUBD. 3. Payment. (a) Upon the retired member attaining the age of 65 years or upon the first day of the month next following the month occurring one year after the termination of the reemployment that gave rise to the limitation, whichever is later, and the filing of a written application, the retired member is entitled to the payment, in a lump sum, of the value of the person's amount under subdivision 2, plus interest at the compound annual rate of six percent from the date that the amount was deducted from the retirement annuity to the date of payment.

(b) The written application must be on a form prescribed by the chief administrative officer of the applicable retirement plan.

(c) If the retired member dies before the payment provided for in paragraph (a) is made, the amount is payable, upon written application, to the deceased person's surviving spouse, or if none, to the deceased person's designated beneficiary, or if none, to the deceased person's estate.

(d) In lieu of the direct payment of the person's amount under subdivision 2, on or after the payment date under paragraph (a), if the federal Internal Revenue Code so permits, the retired member may elect to have all or any portion of the payment amount under this section paid in the form of a direct rollover to an eligible retirement plan as defined in section 402(c) of the federal Internal Revenue Code that is specified by the retired member. If the retired member dies with a balance remaining payable under this section, the surviving spouse of the retired member, or if none, the deceased person's designated beneficiary, or if none, the administrator of the deceased person's estate may elect a direct rollover under this paragraph.

HIST: 2002 c 392 art 11 s 37; 1Sp2005 c 8 art 3 s 7

MARRIAGE DISSOLUTION RETIREMENT COVERAGE INFORMATION

356.49 PROVISION OF INFORMATION IN EVENT OF MARRIAGE DISSOLUTION.

SUBDIVISION 1. **Information for a pending marriage**

dissolution. (a) Upon receipt of a written request by a person with access to the data under subdivision 3 who cites this statute, a public or private pension plan administrator 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 the 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.

SUBD. 2. **Information for an existing dissolution**

decree. If a marriage dissolution decree rendered by a court of competent jurisdiction prior to August 1, 1987, provided a procedure for the distribution of future pension plan payments, upon request the applicable pension plan administrator shall provide on a timely basis to the court and the parties to the action, the required information to implement that procedure without requiring a signed authorization from the plan member or former plan member.

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.

HIST: 2002 c 392 art 11 s 38

SERVICE AND SALARY CREDIT UPON WRONGFUL DISCHARGE

356.50 SERVICE AND SALARY CREDIT FROM BACK PAY AWARDS IN THE EVENT OF WRONGFUL DISCHARGE.

(a) A person who is wrongfully discharged from public employment that gave rise to coverage by a public employee pension plan enumerated in

section 356.30, subdivision 3, is entitled to obtain allowable service credit from the applicable public employee pension plan for the applicable period caused by the wrongful discharge.

(b) A person is wrongfully discharged for purposes of this section if:

(1) the person has been determined by a court of competent jurisdiction or by an arbitrator in binding arbitration, whichever applies, to have been wrongfully discharged from public employment;

(2) the person received an award of back pay with respect to that discharge; and

(3) the award does not include any amount for any lost or interrupted public pension plan coverage.

(c) To obtain the public pension plan allowable service credit, the person shall pay the required member contribution amount. The required member contribution amount is the member contribution rate or rates in effect for the pension plan during the period of service covered by the back pay award, applied to the unpaid gross salary amounts of the back pay award including unemployment insurance, workers' compensation or wages from other sources which reduced the back award. No contributions shall be made under this clause for compensation covered by a public pension plan listed in section 356.30, subdivision 3, for employment during the removal period. The person shall pay the required member contribution amount within 60 days of the date of receipt of the back pay award, within 60 days of April 14, 1992, or within 60 days of a billing from the retirement fund, whichever is later.

(d) The public employer who wrongfully discharged the public employee must pay an employer contribution on the back pay award. The employer contribution must be based on the employer contribution rate or rates in effect for the pension plan during the period of service covered by the back pay award, applied to the salary amount on which the member contribution amount was determined under paragraph (c). Interest on both the required member and employer contribution amount must be paid by the employer at the annual compound rate of 8.5 percent per year, expressed monthly, between the date the contribution amount would have been paid to the date of actual payment. The employer payment must be made within 30 days of the payment under paragraph (c).

HIST: 1992 c 443 s 1; 1994 c 488 s 8; 2002 c 392 art 11 s 39; 2004 c 206 s 52

356.551 POST JULY 1, 2004, PRIOR SERVICE CREDIT PURCHASE PAYMENT AMOUNT DETERMINATION PROCEDURE.

SUBDIVISION 1. Application. (a) Unless the prior service credit purchase authorization special law or general statute provision explicitly specifies a different purchase payment amount determination procedure, this section governs the determination of the prior service credit purchase payment amount of any prior service credit purchase.

(b) The purchase payment amount determination procedure must recognize any service credit accrued to the purchaser in a pension plan enumerated in section 356.30, subdivision 3.

(c) Any service credit in a Minnesota defined benefit public employee pension plan available to be reinstated by the purchaser through the repayment of a refund of member or employee contributions previously

received must be repaid in full before any purchase of prior service credit payment is made under this section.

SUBD. 2. Determination. (a) Unless the minimum purchase amount set forth in paragraph (c) applies, the prior service credit purchase amount is an amount equal to the actuarial present value, on the date of payment, as calculated by the chief administrative officer of the pension plan and reviewed by the actuary retained under section 356.214, of the amount of the additional retirement annuity obtained by the acquisition of the additional service credit in this section.

(b) Calculation of this amount must be made using the preretirement interest rate applicable to the public pension plan specified in section 356.215, subdivision 8, and the mortality table adopted for the public pension plan. The calculation must assume continuous future service in the public pension plan until, and retirement at, the age at which the minimum requirements of the fund for normal retirement or retirement with an annuity unreduced for retirement at an early age, including section 356.30, are met with the additional service credit purchased. The calculation must also assume a full time equivalent salary, or actual salary, whichever is greater, and a future salary history that includes annual salary increases at the applicable salary increase rate for the plan specified in section 356.215, subdivision 4d.

(c) The prior service credit purchase amount may not be less than the amount determined by applying the current employee or member contribution rate, the employer contribution rate, and the additional employer contribution rate, if any, to the person's current annual salary and multiplying that result by the number of whole and fraction years of service to be purchased.

(d) Payment must be made in one lump sum within one year of the prior service credit authorization. Payment of the amount calculated under this section must be made by the applicable eligible person.

(e) However, the current employer or the prior employer 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 8.5 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. If the employer agrees to payments under this subdivision, the purchaser must make the employee payments required under this subdivision within 90 days of the prior service credit authorization. If that employee payment is made, the employer payment under this subdivision must be remitted to the chief administrative officer of the public pension plan within 60 days of receipt by the chief administrative officer of the employee payments specified under this subdivision.

SUBD. 3. Documentation. The prospective prior service credit purchaser must provide any relevant documentation required by the chief administrative officer of the applicable public pension plan to determine eligibility for the prior service credit under this section.

SUBD. 4. Payment precondition for credit grant. Service credit for the purchase period must be granted by the public pension plan to the purchaser upon receipt of the full purchase payment amount specified in subdivision 2.

HIST: 1998 c 390 art 4 s 2; 2002 c 392 art 11 s 41; 1Sp2005 c 8 art 10 s 65

COVERED SALARY LIMITATION

356.611 LIMITATION ON PUBLIC EMPLOYEE SALARIES FOR PENSION PURPOSES.

Subdivision 1. Repealed, 2005 c 169 s 2

NOTE: Subdivision 1 was also amended by Laws 2005, First Special Session chapter 8, article 1, section 23, to read as follows:

"SUBDIVISION 1. **State salary limitations.** (a)

Notwithstanding any provision of law, bylaws, articles of incorporation, retirement and disability allowance plan agreements, or retirement plan contracts to the contrary, the covered salary for pension purposes for a plan participant of a covered retirement fund enumerated in section 356.30, subdivision 3, may not exceed 110 percent of the salary established for the governor under section 15A.082 at the time the person received the salary.

(b) This section does not apply to a salary paid:

- (1) to the governor or to a judge;
- (2) to an employee or an elected official who is not subject to the limit as specified under section 43A.17, subdivision 9;
- (3) to an employee of a political subdivision in a position that is excluded from the limit as specified under section 43A.17, subdivision 9;
- (4) to a state employee as defined under section 43A.02, subdivision 21;
- (5) to an employee of Gillette Hospital who is covered by the general state employees retirement plan of the Minnesota State Retirement System;
- (6) to an employee of the Minnesota Crop Improvement Council;
- (7) to an employee of the Minnesota Historical Society;
- (8) to an employee of the Southern Minnesota Municipal Power Association; or
- (9) to the director of the Duluth Port Authority.

(c) The limited covered salary determined under this section must be used in determining employee and employer contributions and in determining retirement annuities and other benefits under the respective covered retirement fund and under this chapter."

SUBD. 2. Federal compensation limits. (a) For members of a covered pension plan enumerated in section 356.30, subdivision 3, compensation in excess of the limitation specified in section 401(a)(17) of the Internal Revenue Code, as amended, for changes in the cost of living under section 401(a)(17)(B) of the Internal Revenue Code, may not be included for contribution and benefit computation purposes.

(b) Notwithstanding paragraph (a), for members specified in paragraph (a) who first contributed to a covered plan before July 1, 1995, the annual compensation limit specified in Internal Revenue Code 401(a)(17) on June 30, 1993, applies if that provides a greater allowable annual compensation.

SUBD. 3. Maximum benefit limitations. A member's annual benefit, if necessary, must be reduced to the extent required by section 415(b) of the Internal Revenue Code, as adjusted by the United States Secretary of the Treasury under section 415(d) of the Internal Revenue Code. For purposes of section 415 of the Internal Revenue Code, the limitation year of a pension plan covered by this section must be the fiscal year or calendar year of that plan, whichever is applicable. The accrued benefit limitation described in section 415(e) of the Internal Revenue Code must cease to be effective for limitation years beginning after December 31, 1999.

SUBD. 4. Compensation. (a) For purposes of this section, compensation means a member's compensation actually paid or made available for any limitation year determined as provided by Treasury Regulation Section 1.415 2(d)(10).

(b) Compensation for any period includes:

(1) any elective deferral as defined in section 402(g)(3) of the Internal Revenue Code;

(2) any elective amounts that are not includable in a member's gross income by reason of sections 125 or 457 of the Internal Revenue Code; and

(3) any elective amounts that are not includable in a member's gross income by reason of section 132(f)(4) of the Internal Revenue Code.

HIST: 1994 c 528 art 4 s 11; 1995 c 262 art 1 s 15; 2002 c 392 art 11 s 43; 2004 c 267 art 2 s 6 8; art 10 s 1

MEMBER CONTRIBUTION EMPLOYER PICK UP

356.62 PAYMENT OF EMPLOYEE CONTRIBUTION.

(a) For purposes of any public pension plan, as defined in section 356.63, paragraph (b), each employer shall pick up the employee contributions required pursuant to law or the pension plan for all salary payable after December 31, 1982. If the United States Treasury Department rules that under section 414(h) of the Internal Revenue Code of 1986, as amended through December 31, 1992, that these picked up contributions are not includable in the employee's adjusted gross income until they are distributed or made available, then these picked up contributions must be treated as employer contributions in determining tax treatment under the Internal Revenue Code of 1986, as amended through December 31, 1992, and the employer shall discontinue withholding federal income taxes on the amount of these contributions. The employer shall pay these picked up contributions from the same source of funds as is used to pay the salary of the employee. The employer shall pick up these employee contributions by a reduction in the cash salary of the employee.

(b) Employee contributions that are picked up must be treated for all purposes of the public pension plan in the same manner and to the same extent as employee contributions that were made prior to the date on which the employee contributions pick up began. The amount of the employee contributions that are picked up must be included in the salary upon which retirement coverage is credited and retirement and survivor's benefits are determined. For purposes of this section, "employee" means any person covered by a public pension plan. For purposes of this section, "employee contributions" include any sums deducted from the employee's salary or wages or otherwise paid in lieu thereof, regardless of whether they are denominated contributions by the public pension plan.

(c) For any calendar year in which withholding has been reduced under this section, the employing unit shall supply each employee and the commissioner of revenue with an information return indicating the amount of the employer's picked up contributions for the calendar year that were not subject to withholding. This return must be provided to the employee not later than January 31 of the succeeding calendar year. The commissioner of revenue shall prescribe the form of the return and the provisions of section 289A.12 must apply to the extent not inconsistent with the provisions of this section.

HIST: 3Sp1982 c 1 art 2 s 7; 1983 c 148 s 6; 1983 c 216 art 1 s 85; 1990 c 480 art 1 s 46; 1993 c 375 art 8 s 14; 2001 c 7 s 66; 2002 c 379 art 1 s 78; 2002 c 392 art 11 s 44; 2003 c 2 art 1 s 42

PENSION ASSET AND INVESTMENT LIMITATIONS

356.63 LIMITATION ON USE OF PUBLIC PENSION PLAN ASSETS.

(a) Money held by or credited to a public pension plan as assets, including employer and employee contributions, state aid, appropriations from the state or a governmental subdivision, and accrued earnings on investments, constitutes a dedicated fund. The dedicated fund may be used exclusively to pay retirement annuities, service pensions, disability benefits, survivor benefits, refunds of contributions, or other benefits provided under the benefit plan document or documents governing the public pension plan, and to pay reasonable administrative expenses approved by the governing board of the public pension plan or by another appropriate authority. No assets of a public pension plan may be loaned or transferred to the state or a governmental subdivision or be used to amortize an unfunded actuarial accrued liability in another public pension plan or fund, whether or not the plan providing the assets consolidates or has consolidated with the plan receiving the assets. Nothing in this section prohibits a public pension plan or the State Board of Investment from investing the assets of a plan as authorized by law, including the investment of the assets of public pension plans by the State Board of Investment in a commingled investment fund.

(b) A public pension plan for purposes of this section means a pension plan or fund specified in section 356.20, subdivision 2, or 356.30, subdivision 3, or a retirement or pension plan or fund, including a supplemental retirement plan or fund, established, maintained, or

supported by a governmental subdivision or public body whose revenues are derived from taxation, fees, assessments, or other public sources.

HIST: 2002 c 392 art 11 s 45

356.635 INTERNAL REVENUE CODE COMPLIANCE.

SUBDIVISION 1. Retirement benefit commencement. The retirement benefit of a member who has terminated employment must begin no later than the later of April 1 of the calendar year following the calendar year that the member attains the federal minimum distribution age under section 401(a)(9) of the Internal Revenue Code or April 1 of the calendar year following the calendar year in which the member terminated employment.

SUBD. 2. Distributions. Distributions shall be made as required under section 401(a)(9) of the Internal Revenue Code and the treasury regulations adopted under that section, including, but not limited to, the incidental death benefit provisions of section 401(a)(9)(G) of the Internal Revenue Code.

SUBD. 3. Direct rollovers. A distributee may elect, at the time and in the manner prescribed by the plan administrator, to have all or any portion of an eligible rollover distribution paid directly to an eligible retirement plan as specified by the distributee.

SUBD. 4. Eligible rollover distribution. An "eligible rollover distribution" is any distribution of all or any portion of the balance to the credit of the distributee.

SUBD. 5. Ineligible amounts. An eligible rollover distribution does not include:

(1) a distribution that is one of a series of substantially equal periodic payments, receivable annually or more frequently, that is made for the life or life expectancy of the distributee, the joint lives or joint life expectancies of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more;

(2) a distribution that is required under section 401(a)(9) of the Internal Revenue Code; or

(3) any other exception required by law or the Internal Revenue Code.

SUBD. 6. Eligible retirement plan. (a) An "eligible retirement plan" is:

(1) an individual retirement account under section 408(a) of the Internal Revenue Code;

(2) an individual retirement annuity plan under section 408(b) of the Internal Revenue Code;

(3) an annuity plan under section 403(a) of the Internal Revenue Code;

(4) a qualified trust plan under section 401(a) of the Internal Revenue Code that accepts the distributee's eligible rollover distribution;

(5) an annuity contract under section 403(b) of the Internal Revenue Code; or

(6) an eligible deferred compensation plan under section 457(b) of the Internal Revenue Code, which is maintained by a state or local government and which agrees to separately account for the amounts transferred into the plan.

(b) For distributions of after tax contributions which are not includable in gross income, the after tax portion may be transferred only to an individual retirement account or annuity described in section 408(a) or (b) of the Internal Revenue Code, or to a qualified defined contribution plan described in either section 401(a) or 403(a) of the Internal Revenue Code, that agrees to separately account for the amounts transferred, including separately accounting for the portion of the distribution which is includable in gross income and the portion of the distribution which is not includable.

SUBD. 7. **Distributee.** A "distributee" is:

- (1) an employee or a former employee;
- (2) the surviving spouse of an employee or former employee; or
- (3) the former spouse of the employee or former employee who is the alternate payee under a qualified domestic relations order as defined in section 414(p) of the Internal Revenue Code, or who is a recipient of a court ordered equitable distribution of marital property, as provided in section 518.58.

SUBD. 8. **Forfeitures.** For defined benefit plans, unless otherwise permitted by section 401(a)(8) of the Internal Revenue Code, forfeitures may not be applied to increase the benefits that any employee would otherwise receive under the plan.

SUBD. 9. **Military service.** Contributions, benefits, and service credit with respect to qualified military service must be provided according to section 414(u) of the Internal Revenue Code.

HIST: 2004 c 267 art 10 s 2

356.64 REAL ESTATE INVESTMENTS.

(a) Notwithstanding any law to the contrary, any public pension plan whose assets are not invested by the State Board of Investment may invest its funds in Minnesota situs nonfarm real estate ownership interests or loans secured by mortgages or deeds of trust if the investment is consistent with section 356A.04.

(b) Except to the extent authorized in the case of the Minneapolis Employees Retirement Fund under section 422A.05, subdivision 2c, paragraph (a), an investment otherwise authorized by this section must also comply with the requirements and limitations of section 11A.24, subdivision 6.

HIST: 2002 c 392 art 11 s 46

ABANDONED PENSION FUND AMOUNTS

356.65 DISPOSITION OF ABANDONED PUBLIC PENSION FUND AMOUNTS.

SUBDIVISION 1. **Definitions.** For purposes of this section, unless the context clearly indicates otherwise, each of the following terms has the meaning given to it:

(a) "Public pension fund" means any public pension plan as defined in section 356.63, paragraph (b), and any Minnesota volunteer firefighters

relief association which is established under chapter 424A and governed under sections 69.771 to 69.776.

(b) "Unclaimed public pension fund amounts" means any amounts representing accumulated member contributions, any outstanding unpaid annuity, service pension or other retirement benefit payments, including those made on warrants issued by the commissioner of finance, which have been issued and delivered for more than six months prior to the date of the end of the fiscal year applicable to the public pension fund, and any applicable interest to the credit of:

(1) an inactive or former member of a public pension fund who is not entitled to a defined retirement annuity and who has not applied for a refund of those amounts within five years after the last member contribution was made; or

(2) a deceased inactive or former member of a public pension fund if no survivor is entitled to a survivor benefit and no survivor, designated beneficiary or legal representative of the estate has applied for a refund of those amounts within five years after the date of death of the inactive or former member.

SUBD. 2. Disposition of abandoned amounts. Any unclaimed public pension fund amounts existing in any public pension fund are presumed to be abandoned, but are not subject to the provisions of sections 345.31 to 345.60. Unless the benefit plan of the public pension fund specifically provides for a different disposition of unclaimed or abandoned funds or amounts, any unclaimed public pension fund amounts cancel and must be credited to the public pension fund. If the unclaimed public pension fund amount exceeds \$25 and the inactive or former member again becomes a member of the applicable public pension plan or applies for a retirement annuity under section 3A.12, 352.72, 352B.30, 352C.051, 353.71, 354.60, 356.30, or 422A.16, subdivision 8, whichever applies, the canceled amount must be restored to the credit of the person.

HIST: 1981 c 224 s 178; 1983 c 286 s 17; 1992 c 513 art 4 s 41; 2001 c 7 s 67; 2002 c 392 art 11 s 47,48

356.82 SAVINGS CLAUSE.

The intent of the legislature in sections 352.01, subdivision 25; 353.01, subdivision 37; 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.

HIST: 1989 c 319 art 13 s 95; 1992 c 464 art 1 s 43

HEALTH INSURANCE WITHHOLDING

356.87 HEALTH INSURANCE WITHHOLDING.

(a) Upon authorization of a person entitled to receive a retirement annuity, disability benefit or survivor benefit, the executive director of a public pension fund enumerated in section 356.20, subdivision 2, shall withhold health insurance premium amounts from the retirement annuity, disability benefit or survivor benefit, and shall pay the premium amounts to the public employees insurance program.

(b) The public employees insurance program shall reimburse a public pension fund for the administrative expense of withholding the premium amounts and shall assume liability for the failure of a public pension fund to properly withhold the premium amounts.

HIST: 1990 c 589 art 2 s 2; 1991 c 340 s 32; 1991 c 341 s 47; 1994 c 465 art 3 s 55; 1995 c 248 art 10 s 17; 2002 c 392 art 11 s 49

356.90 COMBINED PAYMENT.

(a) The Public Employees Retirement Association and the Minnesota State Retirement System are permitted to combine payments to retirees. The total payment must be equal to the amount that is payable if payments were kept separate. The retiree must agree, in writing, to have the payment combined.

(b) Each plan must calculate the benefit amounts under the laws governing the plan and the required reserves and future mortality losses or gains must be paid or accrued to the plan from which the service was earned. Each plan must account for their portion of the payment separately, and there may be no additional liabilities realized by either fund.

(c) The fund making payment would be responsible for issuing one payment, making address changes, tax withholding changes, and other administrative functions needed to process the payment.

HIST: 2000 c 461 art 3 s 45

CHAPTER 356A

PUBLIC PENSION FIDUCIARY RESPONSIBILITY

- 356A.01 Definitions.
- 356A.02 Fiduciary status and activities.
- 356A.03 Prohibition of certain persons from fiduciary status.
- 356A.04 General standard of fiduciary conduct.
- 356A.05 Duties applicable to all activities.
- 356A.06 Investments; additional duties.
- 356A.07 Benefit summary; annual reports; additional duties.
- 356A.08 Plan administration; additional duties.
- 356A.09 Fiduciary breach; remedies.
- 356A.10 Cofiduciary responsibility and liability.
- 356A.11 Fiduciary indemnification.
- 356A.12 Jurisdiction; service of process; and statute of limitations.
- 356A.13 Continuing fiduciary education.

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 section 356.30, subdivision 3, or a plan established under chapter 353D, 354B, 354C, or 354D.

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.

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.

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.

HIST: 1989 c 319 art 7 s 1; 2000 c 461 art 12 s 16

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;

(4) any member of the Investment Advisory Council; and

(5) any member of the advisory committee established under section 354B.25.

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 and reinvestment 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;

(7) the expenditure of plan assets; and

(8) the selection of financial institutions and investment products.

HIST: 1989 c 319 art 7 s 2; 2000 c 461 art 12 s 17

356A.03 PROHIBITION OF CERTAIN PERSONS FROM FIDUCIARY STATUS.

SUBDIVISION 1. **Individual prohibition.** For the prohibition period 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 Advisers Act of 1940, as amended through June 2, 1989, and filed with the State Board of Investment or the pension plan.

HIST: 1989 c 319 art 7 s 3

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.

HIST: 1989 c 319 art 7 s 4

356A.05 DUTIES APPLICABLE TO ALL ACTIVITIES.

(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.

HIST: 1989 c 319 art 7 s 5

356A.06 INVESTMENTS; ADDITIONAL DUTIES.

[Sec. 356A.06 modified in 2006 Session. See Current Law.]

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 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.

HIST: 1989 c 319 art 7 s 7

356A.08 PLAN ADMINISTRATION; ADDITIONAL DUTIES.

SUBDIVISION 1. **Public meetings.** A meeting of the governing board of a covered pension plan or of a committee of the governing board of the covered pension plan is governed by chapter 13D.

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.

HIST: 1989 c 319 art 7 s 8; 1Sp2001 c 10 art 4 s 2

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.

HIST: 1989 c 319 art 7 s 9

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.

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.

HIST: 1989 c 319 art 7 s 10

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.

HIST: 1989 c 319 art 7 s 11

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.

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.

HIST: 1989 c 319 art 7 s 12

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.

HIST: 1989 c 319 art 7 s 13

CHAPTER 122A TEACHERS AND OTHER EDUCATORS

- 122A.46 Extended leaves of absence.
- 122A.49 Sabbatical leave for teachers.

122A.46 EXTENDED LEAVES OF ABSENCE.

SUBDIVISION 1. **Teachers defined.** As used in this section, the term "teachers" shall have the meaning given it in section 122A.15, subdivision 1. The term "teachers" also includes any teacher in the classifications included in the professional state residential instructional unit, under section 179A.10, subdivision 2, clause (16).

SUBD. 1A. **Appointing authority.** For purposes of teachers included in the professional state residential instructional unit, the term "school board" includes the appointing authority as defined in section 43A.02, subdivision 5.

SUBD. 2. **Leave of absence.** The board of any district may grant an extended leave of absence without salary to any full- or part-time elementary or secondary teacher who has been employed by the district for at least five years and has at least ten years of allowable service, as defined in section 354.05, subdivision 13, or the bylaws of the appropriate retirement association or ten years of full-time teaching service in Minnesota public elementary and secondary schools. The duration of an extended leave of absence under this section must be determined by mutual agreement of the board and the teacher at the time the leave is granted and shall be at least three but no more than five years. An extended leave of absence under this section shall be taken by mutual consent of the board and the teacher. If the school board denies a teacher's request, it must provide reasonable justification for the denial.

SUBD. 3. **Reinstatement.** Except as provided in subdivisions 7 and 8, a teacher on an extended leave of absence pursuant to this section shall have the right to be reinstated to a position for which the teacher is licensed at the beginning of any school year which immediately follows a year of the extended leave of absence, unless the teacher fails to give the required notice of intention to return or is discharged or placed on unrequested leave of absence or the contract is terminated pursuant to section 122A.40 or 122A.41 while the teacher is on the extended leave. The board is not obligated to reinstate any teacher who is on an extended leave of absence pursuant to this section, unless the teacher advised the board of the intention to return before February 1 in the school year preceding the school year in which the teacher wishes to return or by February 1 in the calendar year in which the leave is scheduled to terminate.

SUBD. 4. **Seniority and continuing contract rights.** Any teacher who is reinstated to a teaching position after an extended leave of absence pursuant to this section shall retain seniority and continuing contract rights in the employing district as though the teacher had been teaching in

the district during the period of the extended leave. This subdivision shall not be construed to require a board to reinstate a teacher to any particular position or to include the years spent on the extended leave of absence in the determination of a teacher's salary upon return to teaching in this district.

SUBD. 5. Salary. The years spent by a teacher on an extended leave of absence pursuant to this section shall not be included in the determination of salary upon return to teaching in the district. The credits earned by a teacher on an extended leave of absence pursuant to this section shall not be included in the determination of salary upon return to teaching in the district for a period equal to the time of the extended leave of absence.

SUBD. 6. School board authority. Nothing within the provisions of this section shall be construed to limit the authority of a school board to grant any teacher a leave of absence which is not subject to the provisions of this section and sections 354.094 and 354A.091.

SUBD. 7. Employment in another district. A school board shall not be obligated to reinstate a teacher who takes a full-time or part-time position as a teacher in another Minnesota school district while on an extended leave of absence pursuant to this section. This subdivision shall not apply to a teacher who is employed as a substitute teacher.

SUBD. 8. Superintendent. A school board shall not be obligated to reinstate a superintendent on an extended leave of absence pursuant to this section to a position in the district.

SUBD. 9. Benefits. A teacher on an extended leave of absence shall receive all of the health, accident, medical, surgical and hospitalization insurance or benefits, for both the teacher and the teacher's dependents, for which the teacher would otherwise be eligible if not on an extended leave. A teacher shall receive the coverage if such coverage is available from the school district's insurer, if the teacher requests the coverage, and if the teacher either (a) reimburses the district for the full amount of the premium necessary to maintain the coverage within one month preceding the district's payment of the premium, or (b) if the district is wholly or partially self-insured, pays the district, according to a schedule agreed upon by the teacher and the school board, an amount determined by the school board to be the amount that would be charged for the coverage chosen by the teacher if the school board purchased all health, accident, medical, surgical and hospitalization coverage for its teachers from an insurer. A school district may enter into an agreement with the exclusive bargaining representative of the teachers in the district where the district agrees, for an individual teacher, to pay all or a portion of the premium for such coverage. Any such agreement must include a sunset of eligibility to qualify for the payment.

HIST: 1977 c 447 art 9 s 1; 1978 c 764 s 79-82; 1979 c 334 art 8 s 1-6; 1980 c 609 art 6 s 27; 1981 c 358 art 8 s 1,2; 1983 c 314 art 10 s 1-3; 1Sp1985 c 12 art 6 s 12; art 7 s 23; 1986 c 444; 1987 c 258 s 12; 1989 c 246 s 2; 1990 c 562 art 8 s 31; 1991 c 130 s 27; 1996 c 412 art 13 s 23; 1998 c 397 art 8 s 80-84,101; art 11 s 3; 1999 c 222 art 9 s 2; 2000 c 461 art 11 s 1,2; 1Sp2003 c 12 art 3 s 1

122A.49 SABBATICAL LEAVE FOR TEACHERS.

SUBDIVISION 1. **Qualifications.** A teacher who holds a license, according to this chapter, and a contract for employment by a school district or other organization providing public education may be granted a sabbatical leave by the board employing the teacher under rules promulgated by the board.

SUBD. 2. **Return to position.** A teacher who applies for and accepts sabbatical leave shall agree that, upon the conclusion of said sabbatical leave, the teacher shall return to the teacher's position for a period determined by the board before the leave is granted, or repay the district the portion of salary received while on sabbatical leave.

SUBD. 3. **Retain rights in employing district.** A teacher who has been granted a sabbatical leave must retain all rights in the employing district as though teaching in that district.

SUBD. 4. **Sabbatical leave defined.** The term "sabbatical leave," as used in this section, means compensated leaves of absence granted for purposes of professional improvement or service.

HIST: Ex1959 c 71 art 6 s 18; 1976 c 222 s 208; 1986 c 444; 1992 c 499 art 12 s 19; 1995 c 212 art 4 s 64; 1998 c 397 art 8 s 55,101

CHAPTER 192 MINNESOTA NATIONAL GUARD

- 192.22 Dishonorable discharges.
- 192.26 State and municipal officers and employees not to lose pay while on military duty.
- 192.261 Leave of absence.
- 192.262 Officers and employees to preserve pension and retirement rights.

192.22 DISHONORABLE DISCHARGES.

A dishonorable discharge from service in the National Guard shall operate as a complete expulsion from the guard, a forfeiture of all exemptions and privileges acquired through membership therein and disqualification for any military office under the state. The names of all persons dishonorably discharged shall be published in orders by the adjutant general.

HIST: (2422) 1921 c 506 s 28; 1943 c 108 s 14; 1963 c 658 s 11

192.26 STATE AND MUNICIPAL OFFICERS AND EMPLOYEES NOT TO LOSE PAY WHILE ON MILITARY DUTY.

SUBDIVISION 1. Authorized leave. Subject to the conditions hereinafter prescribed, any officer or employee of the state or of any political subdivision, municipal corporation, or other public agency of the state who shall be a member of the National Guard, or any other component of the militia of the state now or hereafter organized or constituted under state or federal law, or who shall be a member of the officers' reserve corps, the enlisted reserve corps, the Naval Reserve, the Marine Corps reserve, or any other reserve component of the military or naval forces of the United States now or hereafter organized or constituted under federal law, shall be entitled to leave of absence from the public office or employment without loss of pay, seniority status, efficiency rating, vacation, sick leave, or other benefits for all the time when engaged with such organization or component in training or active service ordered or authorized by proper authority pursuant to law, whether for state or federal purposes, but not exceeding a total of 15 days in any calendar year. Such leave shall be allowed only in case the required military or naval service is satisfactorily performed, which shall be presumed unless the contrary is established. Such leave shall not be allowed unless the officer or employee (1) returns to the public position immediately on being relieved from such military or naval service and not later than the expiration of the time herein limited for such leave, or (2) is prevented from so returning by physical or mental disability or other cause not due to the officer's or employee's own fault, or (3) is required by proper authority to continue in such military or naval service beyond the time herein limited for such leave.

HIST: (2425) 1921 c 506 s 31; 1939 c 175 s 8; 1941 c 120 s 1; 1977 c 11 s 4; 1986 c 444

192.261 LEAVE OF ABSENCE.

SUBDIVISION 1. Leave of absence without pay. Subject to the conditions hereinafter prescribed, any officer or employee of the state or of any political subdivision, municipal corporation, or other public agency of the state who engages in active service in time of war or other emergency declared by proper authority in any of the military or naval forces of the state or of the United States for which leave is not otherwise allowed by law shall be entitled to leave of absence from the officer's or employee's public office or employment without pay during such service, with right of reinstatement as hereinafter provided. Such leave of absence without pay, whether heretofore or hereafter, shall not extend beyond four years plus such additional time in each case as such an officer or employee may be required to serve pursuant to law. This shall not be construed to preclude the allowance of leave with pay for such service to any person entitled thereto under section 43A.183, 192.26, or 471.975. Nothing in this section contained shall affect any of the provisions or application of section 352.27 nor of section 192.26 to 192.264, or any laws amendatory thereof, insofar as such sections pertain to the state employees retirement association or its members.

SUBD. 2. Reinstatement. Except as otherwise hereinafter provided, upon the completion of such service such officer or employee shall be reinstated in the public position, which was held at the time of entry into such service, or a public position of like seniority, status, and pay if such is available at the same salary which the officer or employee would have received if the leave had not been taken, upon the following conditions:

(1) that the position has not been abolished or that the term thereof, if limited, has not expired;

(2) that the officer or employee is not physically or mentally disabled from performing the duties of such position;

(3) that the officer or employee makes written application for reinstatement to the appointing authority within 90 days after termination of such service, or 90 days after discharge from hospitalization or medical treatment which immediately follows the termination of, and results from, such service; provided such application shall be made within one year and 90 days after termination of such service notwithstanding such hospitalization or medical treatment;

(4) that the officer or employee submits an honorable discharge or other form of release by proper authority indicating that the officer's or employee's military or naval service was satisfactory. Upon such reinstatement the officer or employee shall have the same rights with respect to accrued and future seniority status, efficiency rating, vacation, sick leave, and other benefits as if that officer or employee had been actually employed during the time of such leave. The officer or employee reinstated under this section is entitled to vacation and sick leave with pay as provided in any applicable civil service rules, collective bargaining agreement, or compensation plan, and accumulates vacation and sick leave from the time the person enters active military service until the date of reinstatement without regard to any otherwise applicable limits on civil service rules limiting the number of days which may be accumulated. No

officer or employee so reinstated shall be removed or discharged within one year thereafter except for cause, after notice and hearing; but this shall not operate to extend a term of service limited by law.

SUBD. 3. Shall file certificate. Any public officer elected or appointed for a definite term who, before the expiration of such term, returns from military or naval service under leave of absence without pay under chapters 190 to 193, in lieu of making written application for reinstatement as hereinbefore provided, shall file in the same office where the public officer's oath is filed within 45 days after termination of such military or naval service a verified certificate that the public officer has complied with the conditions for reinstatement hereinbefore prescribed, and that public officer shall thereupon be deemed to have resumed that office, with all the rights and privileges granted by chapters 190 to 193; provided, that any false statement in such certificate shall be ground for removal.

SUBD. 5. Active duty for training, inactive duty training; reemployment rights. (a) Any public officer or employee who is a member of the military forces who is ordered to an initial period of active duty for training of not less than three consecutive months shall, upon application for reemployment within 31 days after that member's (1) release from that active duty for training after satisfactory service, or (2) discharge from hospitalization incident to that active duty for training, or one year after a scheduled release from that training, whichever is earlier, be entitled to all reemployment rights and benefits provided by this section. Any person restored to a position in accordance with the provisions of this clause shall not be discharged from the position without cause within six months after that restoration.

(b) Any public officer or employee not covered by section 192.26, or by clause (a) shall, upon request, be granted a leave of absence from public employment for the period required to perform active duty for training or inactive duty training in the military forces. Upon release from a period of active duty for training or inactive duty training, or upon discharge from hospitalization incident to that training, the officer or employee shall be permitted to return to the previously held position with the same seniority, status, rate of pay, and vacation as if the officer or employee had not been absent for those purposes. The officer or employee shall report for work at the beginning of the next regularly scheduled working period after expiration of the last calendar day necessary to travel from the place of training to the place of employment following release from active duty, or within a reasonable time thereafter if delayed return is due to factors beyond the employee's control. Failure to report for work at the next regularly scheduled working period shall make the employee subject to the conduct rules of the employer pertaining to explanations and discipline with respect to absence from scheduled work. If that employee is hospitalized incident to active duty for training or inactive duty training, that employee shall be required to report for work (1) at the beginning of the next regularly scheduled work period after expiration of the time necessary to travel from the place of discharge from hospitalization to the place of employment, (2) within a reasonable time thereafter if delayed return is due to factors beyond the employee's control, or (3) within one year after the release from active duty for

training or inactive duty training, whichever is earlier. If an employee covered by this clause is not qualified to perform the position's duties by reason of disability sustained during active duty for training or inactive duty training, but is qualified to perform the duties of any other position in the employ of the employer or a successor in interest, that employee shall be restored by that employer or a successor in interest to another position, the duties of which that employee is qualified to perform and which will provide like seniority, status, and pay, or the nearest approximation thereof consistent with the circumstances in the particular case. For the purpose of this paragraph, the terms "active duty for training" and "inactive duty for training" shall have the meanings subscribed to them by the United States Code Annotated, title 38, part III, chapter 43, sections 2021 to 2026.

(c) Any employee not covered by clause (a) shall be considered as having been on leave of absence during the period required to report for the purpose of being inducted into, entering or determining by a preinduction or other examination the employee's physical fitness to enter the military forces. If rejected, upon completion of the preinduction or other examination, or upon discharge from hospitalization incident to that rejection or examination, the employee shall be permitted to return to the employee's position in accordance with the provisions of clause (b).

SUBD. 6. State emergencies; reemployment rights of nonpublic employees. A person who engages in active service in the military forces in time of emergency declared by the proper authority of the state who is not an officer or employee of the state or of any political subdivision, municipal corporation, or other public agency of the state is entitled to leave and reinstatement in the same manner and to the same extent as granted to officers and employees of the state or of any political subdivision, municipal corporation, or other public agency of the state by subdivisions 1 to 4. The provisions of this subdivision shall not entitle a person given leave and reinstatement rights by this subdivision to any pay during such service as provided by section 192.26. The provisions of this subdivision do not apply to situations in which the person's reemployment rights are protected by United States Code Annotated, appendix 50, section 459(g) of the Selective Service Act of 1967.

HIST: 1941 c 120 s 2; 1945 c 489 s 1; 1963 c 658 s 12-14; 1971 c 202 s 4,5; 1978 c 478 s 5; 1986 c 444; 1995 c 186 s 47; 2005 c 35 s 2; 2005 c 156 art 4 s 3

* NOTE: The amendment to subdivision 1 by Laws 2005, chapter *35, section 2, is effective May 6, 2005, and applies to state *employees serving in active military service on or after May 29, *2003. Laws 2005, chapter 35, section 2, the effective date.

* NOTE: The amendment to subdivision 2 by Laws 2005, chapter *156, article 4, section 3, is effective June 4, 2005, and *applies to any public officer or public employee serving in *active military service on or after September 11, 2001. Laws *2005, chapter 156, article 4, section 3, the effective date.

192.262 OFFICERS AND EMPLOYEES TO PRESERVE PENSION AND RETIREMENT RIGHTS.

Any public officer or employee receiving leave of absence under sections 192.26 to 192.264 and having rights in any state, municipal, or other public pension, retirement, or relief system shall retain all such rights

accrued up to the time of taking such leave, and shall have all rights subsequently accruing under such system as if actually employed during the time of such leave; provided, that so far as any increase in the amount of money benefits accruing with respect to the time of such leave is dependent upon the payment of any contributions or assessments, the right to such increase shall be conditioned upon the payment of such contributions or assessments within such reasonable time after the termination of such leave and upon such terms as the authorities in charge of such system may prescribe.

HIST: 1941 c 120 s 3; 1986 c 444

192.263 VACANCIES TO BE FILLED TEMPORARILY.

In any case where a public officer or employee is absent with leave under the provisions of sections 192.26 to 192.264 and where it is necessary in the public interest to provide for the performance of the duties of the position during the absence, the authority having power to fill a vacancy in the position may appoint a substitute, to be known as acting incumbent, who shall qualify as required for the regular incumbent, shall receive the same compensation as fixed by law, or as may be fixed by proper authority, and shall have all the powers and perform all the duties of the position until the return of the regular incumbent or, if the position is for a fixed term, the period of the unexpired term, whichever occurs earlier. This section does not preclude the making of any other provision for the discharge of the duties of the position which may be otherwise authorized by law.

HIST: 1941 c 120 s 4; 1986 c 444; 1991 c 80 s 1

192.262 OFFICERS AND EMPLOYEES TO PRESERVE PENSION AND RETIREMENT RIGHTS.

Any public officer or employee receiving leave of absence under sections 192.26 to 192.264 and having rights in any state, municipal, or other public pension, retirement, or relief system shall retain all such rights accrued up to the time of taking such leave, and shall have all rights subsequently accruing under such system as if actually employed during the time of such leave; provided, that so far as any increase in the amount of money benefits accruing with respect to the time of such leave is dependent upon the payment of any contributions or assessments, the right to such increase shall be conditioned upon the payment of such contributions or assessments within such reasonable time after the termination of such leave and upon such terms as the authorities in charge of such system may prescribe.

HIST: 1941 c 120 s 3; 1986 c 444

CHAPTER 518 MARRIAGE DISSOLUTION

518.58	Division of Marital Property
518.581	Surviving Spouse benefit.
518.582	Procedure for valuing pension benefits or rights

518.58 DIVISION OF MARITAL PROPERTY.

SUBDIVISION 1. **General.** Upon a dissolution of a marriage, an annulment, or in a proceeding for disposition of property following a dissolution of marriage by a court which lacked personal jurisdiction over the absent spouse or lacked jurisdiction to dispose of the property and which has since acquired jurisdiction, the court shall make a just and equitable division of the marital property of the parties without regard to marital misconduct, after making findings regarding the division of the property. The court shall base its findings on all relevant factors including the length of the marriage, any prior marriage of a party, the age, health, station, occupation, amount and sources of income, vocational skills, employability, estate, liabilities, needs, opportunity for future acquisition of capital assets, and income of each party. The court shall also consider the contribution of each in the acquisition, preservation, depreciation or appreciation in the amount or value of the marital property, as well as the contribution of a spouse as a homemaker. It shall be conclusively presumed that each spouse made a substantial contribution to the acquisition of income and property while they were living together as husband and wife. The court may also award to either spouse the household goods and furniture of the parties, whether or not acquired during the marriage. The court shall value marital assets for purposes of division between the parties as of the day of the initially scheduled prehearing settlement conference, unless a different date is agreed upon by the parties, or unless the court makes specific findings that another date of valuation is fair and equitable. If there is a substantial change in value of an asset between the date of valuation and the final distribution, the court may adjust the valuation of that asset as necessary to effect an equitable distribution.

SUBD. 1A. **Transfer, encumbrance, concealment, or disposition of marital assets.** During the pendency of a marriage dissolution, separation, or annulment proceeding, or in contemplation of commencing a marriage dissolution, separation, or annulment proceeding, each party owes a fiduciary duty to the other for any profit or loss derived by the party, without the consent of the other, from a transaction or from any use by the party of the marital assets. If the court finds that a party to a marriage, without consent of the other party, has in contemplation of commencing, or during the pendency of, the current dissolution, separation, or annulment proceeding, transferred, encumbered, concealed, or disposed of marital assets except in the usual course of business or for the necessities of life, the court shall compensate the other party by placing both parties in the same position that they would have been in had the transfer, encumbrance, concealment, or disposal not occurred.

The burden of proof under this subdivision is on the party claiming that the other party transferred, encumbered, concealed, or disposed of marital assets in contemplation of commencing or during the pendency of the current dissolution, separation, or annulment proceeding, without consent of the claiming party, and that the transfer, encumbrance, concealment, or disposal was not in the usual course of business or for the necessities of life. In compensating a party under this section, the court, in dividing the marital property, may impute the entire value of an asset and a fair return on the asset to the party who transferred, encumbered, concealed, or disposed of it. Use of a power of attorney, or the absence of a restraining order against the transfer, encumbrance, concealment, or disposal of marital property is not available as a defense under this subdivision.

SUBD. 2. Award of nonmarital property. If the court finds that either spouse's resources or property, including the spouse's portion of the marital property as defined in section 518.54, subdivision 5, are so inadequate as to work an unfair hardship, considering all relevant circumstances, the court may, in addition to the marital property, apportion up to one half of the property otherwise excluded under section 518.54, subdivision 5, clauses (a) to (d), to prevent the unfair hardship. If the court apportions property other than marital property, it shall make findings in support of the apportionment. The findings shall be based on all relevant factors including the length of the marriage, any prior marriage of a party, the age, health, station, occupation, amount and sources of income, vocational skills, employability, estate, liabilities, needs, and opportunity for future acquisition of capital assets and income of each party.

SUBD. 3. Sale or distribution while proceeding pending. (a) If the court finds that it is necessary to preserve the marital assets of the parties, the court may order the sale of the homestead of the parties or the sale of other marital assets, as the individual circumstances may require, during the pendency of a proceeding for a dissolution of marriage or an annulment. If the court orders a sale, it may further provide for the disposition of the funds received from the sale during the pendency of the proceeding. If liquid or readily liquidated marital property other than property representing vested pension benefits or rights is available, the court, so far as possible, shall divide the property representing vested pension benefits or rights by the disposition of an equivalent amount of the liquid or readily liquidated property.

(b) The court may order a partial distribution of marital assets during the pendency of a proceeding for a dissolution of marriage or an annulment for good cause shown or upon the request of both parties, provided that the court shall fully protect the interests of the other party.

SUBD. 4. Pension plans. (a) The division of marital property that represents pension plan benefits or rights in the form of future pension plan payments:

(1) is payable only to the extent of the amount of the pension plan benefit payable under the terms of the plan;

(2) is not payable for a period that exceeds the time that pension plan benefits are payable to the pension plan benefit recipient;

(3) is not payable in a lump sum amount from pension plan assets attributable in any fashion to a spouse with the status of an active member, deferred retiree, or benefit recipient of a pension plan;

(4) if the former spouse to whom the payments are to be made dies prior to the end of the specified payment period with the right to any remaining payments accruing to an estate or to more than one survivor, is payable only to a trustee on behalf of the estate or the group of survivors for subsequent apportionment by the trustee; and

(5) in the case of public pension plan benefits or rights, may not commence until the public plan member submits a valid application for a public pension plan benefit and the benefit becomes payable.

(b) The individual retirement account plans established under chapter 354B may provide in its plan document, if published and made generally available, for an alternative marital property division or distribution of individual retirement account plan assets. If an alternative division or distribution procedure is provided, it applies in place of paragraph (a), clause (5).

HIST: 1951 c 551 s 5; 1974 c 107 s 22; 1978 c 772 s 53; 1979 c 259 s 27; 1979 c 289 s 8; 1981 c 349 s 7; 1982 c 464 s 2; 1986 c 444; 1987 c 157 s 17; 1988 c 590 s 2; 1988 c 668 s 20; 1989 c 248 s 8; 1991 c 266 s 4,5; 1992 c 548 s 6; 1993 c 239 art 4 s 1

518.581 SURVIVING SPOUSE BENEFIT.

SUBDIVISION 1. Award of benefit. If a current or former employee's marriage is dissolved, the court may order the employee, the employee's pension plan, or both, to pay amounts as part of the division of pension rights that the court may make under section 518.58, or as an award of maintenance in the form of a percentage of periodic or other payments or in the form of a fixed dollar amount. The court may, as part of the order, award a former spouse all or part of a survivor benefit unless the plan does not allow by law the payment of a surviving spouse benefit to a former spouse.

SUBD. 2. Payment of funds by retirement plan. (a) If the court has ordered that a spouse has an interest in a pension plan, the court may order the pension plan to withhold payment of a refund upon termination of employment or lump sum distribution to the extent of the spouse's interest in the plan, or to provide survivor benefits ordered by the court.

(b) The court may not order the pension plan to:

(1) pay more than the equivalent of one surviving spouse benefit, regardless of the number of spouses or former spouses who may be sharing in a portion of the total benefit;

(2) pay surviving spouse benefits under circumstances where the plan member does not have a right to elect surviving spouse benefits;

(3) pay surviving spouse benefits to a former spouse if the former spouse would not be eligible for benefits under the terms of the plan; or

(4) order survivor benefits which, when combined with the annuity or benefit payable to the pension plan member, exceed the actuarial equivalent value of the normal retirement annuity form, determined under the plan documents of the pension plan then in effect and the actuarial assumptions then in effect for calculating optional annuity forms by the

pension plan or for calculating the funding requirements of the pension plan if no optional annuity forms are provided by the pension plan.

(c) If more than one spouse or former spouse is entitled to a surviving spouse benefit, the pension plan shall pay each spouse a portion of the benefit based on the ratio of the number of years the spouse was married to the plan member to the total number of years the plan member was married to spouses who are entitled to the benefit.

SUBD. 3. Notice to former spouse. A pension plan shall notify a former spouse of an application by the employee for a refund of pension benefits if the former spouse has filed with the pension plan:

(1) a copy of the court order, including a withholding order, determining the former spouse's rights;

(2) the name and last known address of the employee; and

(3) the name and address of the former spouse.

A pension plan shall comply with an order, including a withholding order, issued by a court having jurisdiction over dissolution of marriage that is served on the pension plan, if the order states the name, last known address of the payees, and name and address of the former spouse, or if the names and addresses are provided to the pension plan with service of the order.

SUBD. 4. Definitions. For purposes of this section, the following terms have the meanings given in this subdivision.

(a) "Current or former employee" or "employee" means an individual who has an interest in a pension plan.

(b) "Surviving spouse benefit" means (1) a benefit a surviving spouse may be eligible for under the laws and bylaws of the pension plan if the employee dies before retirement, or

(2) a benefit selected for or available to a surviving spouse under the laws and bylaws of the pension plan upon the death of the employee after retirement.

HIST: 1987 c 157 s 18; 1988 c 668 s 21; 1994 c 386 s 1

518.582 PROCEDURE FOR VALUING PENSION BENEFITS OR RIGHTS.

SUBDIVISION 1. Appointment of actuary. Each court of this state that has jurisdiction to decide marriage dissolution matters may appoint a qualified person experienced in the valuation of pension benefits and rights to function as an expert witness in valuing pension benefits or rights.

SUBD. 2. Standards. A court appointed actuary shall determine the present value of pension benefits or rights that are marital property of the parties to the action based on the applicable plan documents of the pension plan and the applicable actuarial assumptions specified for use in calculating optional annuity forms by the pension plan or for funding the pension plan, if reasonable, or as specified by the court. The court appointed actuary shall report to the court and to the parties the present value of the pension benefits or rights that are marital property.

SUBD. 3. Compensation. The court appointed actuary may be compensated at a rate established by the court. The compensation of the

court appointed actuary shall be allocated between the parties as the court directs.

SUBD. 4. **Stipulation.** In lieu of valuing pension benefits or rights through use of the court appointed actuary, the parties may stipulate the present value of pension benefits or rights that are marital property.

HIST: 1987 c 157 s 19; 1988 c 619 s 1

CHAPTER 524 UNIFORM PROBATE CODE

524.804 Revocation by dissolution of marriage; no revocation by other changes of circumstances.

524.2 804 REVOCATION BY DISSOLUTION OF MARRIAGE; NO REVOCATION BY OTHER CHANGES OF CIRCUMSTANCES.

SUBDIVISION 1. Revocation upon dissolution. Except as provided by the express terms of a governing instrument, other than a trust instrument under section 501B.90, executed prior to the dissolution or annulment of an individual's marriage, a court order, a contract relating to the division of the marital property made between individuals before or after their marriage, dissolution, or annulment, or a plan document governing a qualified or nonqualified retirement plan, the dissolution or annulment of a marriage revokes any revocable:

(1) disposition, beneficiary designation, or appointment of property made by an individual to the individual's former spouse in a governing instrument;

(2) provision in a governing instrument conferring a general or nongeneral power of appointment on an individual's former spouse; and

(3) nomination in a governing instrument, nominating an individual's former spouse to serve in any fiduciary or representative capacity, including a personal representative, executor, trustee, conservator, agent, or guardian.

SUBD. 2. Effect of revocation. Provisions of a governing instrument are given effect as if the former spouse died immediately before the dissolution or annulment.

SUBD. 3. Revival if dissolution nullified. Provisions revoked solely by this section are revived by the individual's remarriage to the former spouse or by a nullification of the dissolution or annulment.

SUBD. 4. No revocation for other change of circumstances. No change of circumstances other than as described in this section and in section 524.2 803 effects a revocation.

SUBD. 5. Protection of payors and other third parties.

(a) A payor or other third party is not liable for having made a payment or transferred an item of property or any other benefit to a beneficiary designated in a governing instrument affected by a dissolution, annulment, or remarriage, or for having taken any other action in good faith reliance on the validity of the governing instrument, before the payor or other third party received written notice of the dissolution, annulment, or remarriage. A payor or other third party is liable for a payment made or other action taken after the payor or other third party received written notice of a claimed forfeiture or revocation under this section.

(b) Written notice of the dissolution, annulment, or remarriage under paragraph (a) must be delivered to the payor's or other third party's main office or home. Upon receipt of written notice of the dissolution,

Annulment, or remarriage, a payor or other third party may pay any amount owed or transfer or deposit any item of property held by it to or with the court having jurisdiction of the probate proceedings relating to the decedent's estate or, if no proceedings have been commenced, to or with the court having jurisdiction of probate proceedings relating to decedents' estates located in the county of the decedent's residence. The court shall hold the funds or item of property and, upon its determination under this section, shall order disbursement or transfer in accordance With the determination. Payments, transfers, or deposits made to or with the court discharge the payor or other third party from all claims for the value of amounts paid to or items of property transferred to or deposited with the court.

HIST: 1995 c 130 s 13; 2002 c 347 s 2

