

1.1 moves to amend H.F. No.; S.F. No.

1.2, as follows:

1.3 Delete everything after the enacting clause and insert:

1.4 "ARTICLE 1

1.5 MEMBERSHIP ISSUES

1.6 Section 1. Minnesota Statutes 2002, section 353.01,

1.7 subdivision 2b, is amended to read:

1.8 Subd. 2b. **EXCLUDED EMPLOYEES.** The following public

1.9 employees are not eligible to participate as members of the

1.10 association with retirement coverage by the public employees

1.11 retirement plan, the local government correctional employees

1.12 retirement plan under chapter 353E, or the public employees

1.13 police and fire retirement plan:

1.14 (1) public officers, other than county sheriffs, who are

1.15 elected to a governing body, or persons who are appointed to

1.16 fill a vacancy in an elective office of a governing body, whose

1.17 term of office ~~first~~ commences on or after July 1, 2002, for the

1.18 service to be rendered in that elective position. Elected

1.19 governing body officials who were active members of the

1.20 association's coordinated or basic retirement plans as of June

1.21 30, 2002, continue participation throughout incumbency in office

1.22 until termination of public service occurs as defined in

1.23 subdivision 11a;

1.24 (2) election officers or election judges;

1.25 (3) patient and inmate personnel who perform services for a

1.26 governmental subdivision;

1.27 (4) except as otherwise specified in subdivision 12a,

1.28 employees who are hired for a temporary position as defined

1.29 under subdivision 12a, and employees who resign from a

1.30 nontemporary position and accept a temporary position within 30

1.31 days in the same governmental subdivision.; ~~An employer must not~~

1.32 ~~apply the definition of temporary position so as to exclude~~

1.33 ~~employees who are hired to fill positions that are permanent or~~

1.34 ~~that are for an unspecified period but who are serving a~~

1.35 ~~probationary period at the start of the employment. If the~~

1.36 ~~period of employment extends beyond six consecutive months and~~

~~2.1 the employee earns more than \$425 from one governmental~~
~~2.2 subdivision in any calendar month, the department head shall~~
~~2.3 report the employee for membership and require employee~~
~~2.4 deductions be made on behalf of the employee under section~~
~~2.5 353.27, subdivision 4.~~

~~2.6 The membership eligibility of an employee who resigns or is~~
~~2.7 dismissed from a temporary position and within 30 days accepts~~
~~2.8 another temporary position in the same governmental subdivision~~
~~2.9 is determined on the total length of employment rather than on~~
~~2.10 each separate position. Membership eligibility of an employee~~
~~2.11 who holds concurrent temporary and nontemporary positions in one~~
~~2.12 governmental subdivision is determined by the length of~~
~~2.13 employment and salary of each separate position;~~

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

2.16 (6) employees who by virtue of their employment in one
2.17 governmental subdivision are required by law to be a member of
2.18 and to contribute to any of the plans or funds administered by
2.19 the Minnesota state retirement system, the teachers retirement
2.20 association, the Duluth teachers retirement fund association,
2.21 the Minneapolis teachers retirement fund association, the St.
2.22 Paul teachers retirement fund association, the Minneapolis
2.23 employees retirement fund, or any police or firefighters relief
2.24 association governed by section 69.77 that has not consolidated
2.25 with the public employees retirement association, or any local
2.26 police or firefighters consolidation account ~~but~~ who have not
2.27 elected the type of benefit coverage provided by the public
2.28 employees police and fire fund under sections 353A.01 to
2.29 353A.10, or any persons covered by section 353.665, subdivision
2.30 4, 5, or 6, who have not elected public employees police and
2.31 fire plan benefit coverage. This clause must not be construed
2.32 to prevent a person from being a member of and contributing to
2.33 the public employees retirement association and also belonging
2.34 to and contributing to another public pension plan or fund for
2.35 other service occurring during the same period of time. A
2.36 person who meets the definition of "public employee" in

3.1 subdivision 2 by virtue of other service occurring during the
3.2 same period of time becomes a member of the association unless
3.3 contributions are made to another public retirement fund on the
3.4 salary based on the other service or to the teachers retirement
3.5 association by a teacher as defined in section 354.05,
3.6 subdivision 2;

3.7 (7) persons who are members of a religious order and are
3.8 excluded from coverage under the federal Old Age, Survivors,
3.9 Disability, and Health Insurance Program for the performance of
3.10 service as specified in United States Code, title 42, section
3.11 410(a)(8)(A), as amended through January 1, 1987, if no
3.12 irrevocable election of coverage has been made under section
3.13 3121(r) of the Internal Revenue Code of 1954, as amended;

3.14 (8) employees of a governmental subdivision who have not
3.15 reached the age of 23 and are enrolled on a full-time basis to
3.16 attend or are attending classes on a full-time basis at an
3.17 accredited school, college, or university in an undergraduate,
3.18 graduate, or professional-technical program, or a public or
3.19 charter high school;

3.20 (9) resident physicians, medical interns, and pharmacist
3.21 residents and pharmacist interns who are serving in a degree or
3.22 residency program in public hospitals;

3.23 (10) students who are serving in an internship or residency
3.24 program sponsored by an accredited educational institution;

3.25 (11) persons who hold a part-time adult supplementary
3.26 technical college license who render part-time teaching service
3.27 in a technical college;

3.28 (12) except for employees of Hennepin county, foreign
3.29 citizens working for a governmental subdivision with a work
3.30 permit of less than three years, or an H-1b visa valid for less
3.31 than three years of employment. Upon notice to the association
3.32 that the work permit or visa extends beyond the three-year
3.33 period, the foreign citizens ~~are to~~ must be reported for
3.34 membership from the date of the extension;

3.35 (13) public hospital employees who elected not to
3.36 participate as members of the association before 1972 and who

4.1 did not elect to participate from July 1, 1988, to October 1,
4.2 1988;

4.3 (14) except as provided in section 353.86, volunteer
4.4 ambulance service personnel, as defined in subdivision 35, but
4.5 persons who serve as volunteer ambulance service personnel may
4.6 still qualify as public employees under subdivision 2 and may be
4.7 members of the public employees retirement association and
4.8 participants in the public employees retirement fund or the
4.9 public employees police and fire fund, whichever applies, on the
4.10 basis of compensation received from public employment service
4.11 other than service as volunteer ambulance service personnel;

4.12 (15) except as provided in section 353.87, volunteer
4.13 firefighters, as defined in subdivision 36, engaging in
4.14 activities undertaken as part of volunteer firefighter duties;
4.15 provided that a person who is a volunteer firefighter may still
4.16 qualify as a public employee under subdivision 2 and may be a
4.17 member of the public employees retirement association and a
4.18 participant in the public employees retirement fund or the
4.19 public employees police and fire fund, whichever applies, on the
4.20 basis of compensation received from public employment activities
4.21 other than those as a volunteer firefighter;

4.22 (16) pipefitters and associated trades personnel employed
4.23 by independent school district No. 625, St. Paul, with coverage
4.24 under a collective bargaining agreement by the pipefitters local
4.25 455 pension plan who were either first employed after May 1,
4.26 1997, or, if first employed before May 2, 1997, elected to be
4.27 excluded under Laws 1997, chapter 241, article 2, section 12;

4.28 (17) electrical workers, plumbers, carpenters, and
4.29 associated trades personnel employed by independent school
4.30 district No. 625, St. Paul, or the city of St. Paul, who have
4.31 retirement coverage under a collective bargaining agreement by
4.32 the electrical workers local 110 pension plan, the united
4.33 association plumbers local 34 pension plan, or the carpenters
4.34 local 87 pension plan who were either first employed after May
4.35 1, 2000, or, if first employed before May 2, 2000, elected to be
4.36 excluded under Laws 2000, chapter 461, article 7, section 5;

5.1 (18) bricklayers, allied craftworkers, cement masons,
5.2 glaziers, glassworkers, painters, allied tradesworkers, and
5.3 plasterers employed by the city of St. Paul or independent
5.4 school district No. 625, St. Paul, with coverage under a
5.5 collective bargaining agreement by the bricklayers and allied
5.6 craftworkers local 1 pension plan, the cement masons local 633
5.7 pension plan, the glaziers and glassworkers local L-1324 pension
5.8 plan, the painters and allied trades local 61 pension plan, or
5.9 the Twin Cities plasterers local 265 pension plan who were
5.10 either first employed after May 1, 2001, or if first employed
5.11 before May 2, 2001, elected to be excluded under Laws 2001,
5.12 First Special Session chapter 10, article 10, section 6;
5.13 (19) plumbers employed by the metropolitan airports
5.14 commission, with coverage under a collective bargaining
5.15 agreement by the plumbers local 34 pension plan, who either were
5.16 first employed after May 1, 2001, or if first employed before
5.17 May 2, 2001, elected to be excluded under Laws 2001, First
5.18 Special Session chapter 10, article 10, section 6;
5.19 (20) employees who are hired after June 30, 2002, to fill
5.20 seasonal positions under subdivision 12b which are limited in
5.21 duration by the employer to 185 consecutive calendar days or
5.22 less in each year of employment with the governmental
5.23 subdivision;
5.24 (21) persons who are provided supported employment or
5.25 work-study positions by a governmental subdivision and who
5.26 participate in an employment or industries program maintained
5.27 for the benefit of these persons where the governmental
5.28 subdivision limits the position's duration to three years or
5.29 less, including persons participating in a federal or state
5.30 subsidized on-the-job training, work experience, senior citizen,
5.31 youth, or unemployment relief program where the training or work
5.32 experience is not provided as a part of, or for, future
5.33 permanent public employment;
5.34 (22) independent contractors and the employees of
5.35 independent contractors; and
5.36 (23) reemployed annuitants of the association during the

6.1 course of that reemployment.

6.2 Sec. 2. Minnesota Statutes 2002, section 353.01,

6.3 subdivision 12a, is amended to read:

6.4 Subd. 12a. **TEMPORARY POSITION.** ~~(1)~~ (a) "Temporary

6.5 position" means an employment position predetermined by the

6.6 employer at the time of hiring to be a period of six months or

6.7 less. Temporary position also means an employment position

6.8 occupied by a person hired by the employer as a temporary

6.9 replacement who is employed for a predetermined period of six

6.10 months or less.

6.11 ~~(2)~~ (b) "Temporary position" does not mean an employment

6.12 position for a specified or unspecified term in which a person

6.13 serves a probationary period as a requirement for subsequent

6.14 employment on a permanent or unlimited basis.

6.15 (c) If employment in a temporary position extends beyond

6.16 six consecutive months, the head of the department shall report

6.17 the employee for membership if salary in any month exceeds the

6.18 salary threshold specified in subdivision 2a. The membership

6.19 eligibility of an employee who resigns or is dismissed from a

6.20 temporary position and accepts another temporary position in the

6.21 same governmental subdivision within 30 days is determined on

6.22 the total length of employment rather than on each separate

6.23 position.

6.24 Sec. 3. Minnesota Statutes 2002, section 353.01,

6.25 subdivision 12b, is amended to read:

6.26 Subd. 12b. **SEASONAL POSITION.** "Seasonal position" means

6.27 a position where the nature of the work or its duration are

6.28 related to a specific season or seasons of the year, regardless

6.29 of whether or not the employing agency anticipates that the same

6.30 employee will return to the position each season in which it

6.31 becomes available. The entire period of employment in a

6.32 ~~business~~ year must be used to determine whether or not a

6.33 position may be excluded as seasonal when there is less than a

6.34 30-day break between one seasonal position and a subsequent

6.35 seasonal position for employment with the same governmental

6.36 employer. Seasonal positions include, but are not limited to,

7.1 coaching athletic activities or employment to plow snow or to
7.2 maintain roads or parks, or to operate skating rinks, ski
7.3 lodges, golf courses, or swimming pools.

7.4 Sec. 4. Minnesota Statutes 2002, section 354.05,
7.5 subdivision 2, is amended to read:

7.6 Subd. 2. **TEACHER.** (a) "Teacher" means:

7.7 (1) a person who renders service as a teacher, supervisor,
7.8 principal, superintendent, librarian, nurse, counselor, social
7.9 worker, therapist, or psychologist in a public school of the
7.10 state located outside of the corporate limits of a city of the
7.11 first class, or in any charter school, irrespective of the
7.12 location of the school, or in any charitable, penal, or
7.13 correctional institutions of a governmental subdivision, or who
7.14 is engaged in educational administration in connection with the
7.15 state public school system, but excluding the University of
7.16 Minnesota, whether the position be a public office or an
7.17 employment, not including the members or officers of any general
7.18 governing or managing board or body;

7.19 (2) an employee of the teachers retirement association;

7.20 (3) a person who renders teaching service on a part-time
7.21 basis and who also renders other services for a single employing
7.22 unit. A person whose teaching service comprises at least 50
7.23 percent of the combined employment salary is a member of the
7.24 association for all services with the single employing unit. If
7.25 the person's teaching service comprises less than 50 percent of
7.26 the combined employment salary, the executive director must
7.27 determine whether all or none of the combined service is covered
7.28 by the association; or

7.29 (4) a person who is not covered by the plans established
7.30 under chapter 352D, 354A, or 354B and who is employed by the
7.31 board of trustees of the Minnesota state colleges and
7.32 universities system in an unclassified position as:

7.33 (i) a president, vice-president, or dean;

7.34 (ii) a manager or a professional in an academic or an
7.35 academic support program other than specified in item (i);

7.36 (iii) an administrative or a service support faculty

8.1 position; or

8.2 (iv) a teacher or a research assistant.

8.3 (b) "Teacher" does not mean:

8.4 (1) a person who works for a school or institution as an
8.5 independent contractor as defined by the Internal Revenue
8.6 Service;

8.7 ~~(2) a person employed in subsidized on the job training,~~
8.8 ~~work experience or public service employment as an enrollee~~
8.9 ~~under the federal Comprehensive Employment and Training Act from~~
8.10 ~~and after March 30, 1978, unless the person has, as of the later~~
8.11 ~~of March 30, 1978, or the date of employment, sufficient service~~
8.12 ~~credit in the retirement association to meet the minimum vesting~~
8.13 ~~requirements for a deferred retirement annuity, or the employer~~
8.14 ~~agrees in writing on forms prescribed by the executive director~~
8.15 ~~to make the required employer contributions, including any~~
8.16 ~~employer additional contributions, on account of that person~~
8.17 ~~from revenue sources other than funds provided under the federal~~
8.18 ~~Comprehensive Training and Employment Act, or the person agrees~~
8.19 ~~in writing on forms prescribed by the executive director to make~~
8.20 ~~the required employer contribution in addition to the required~~
8.21 ~~employee contribution;~~

8.22 ~~(3) a person holding a part time adult supplementary~~
8.23 ~~technical college license~~ who renders part-time teaching service
8.24 or a customized trainer as defined by the Minnesota state
8.25 colleges and universities system ~~in a technical college~~ if (i)
8.26 the service is incidental to the regular nonteaching occupation
8.27 of the person; and (ii) the ~~applicable technical college~~
8.28 employer stipulates annually in advance that the part-time
8.29 teaching service or customized training service will not exceed
8.30 300 hours in a fiscal year and retains the stipulation in its
8.31 records; and (iii) the part-time teaching service or customized
8.32 training service actually does not exceed 300 hours in a fiscal
8.33 year; or

8.34 ~~(4)~~ (3) a person exempt from licensure under section
8.35 122A.30.

8.36 Sec. 5. Minnesota Statutes 2002, section 354B.20,

9.1 subdivision 4, is amended to read:

9.2 Subd. 4. **COVERED EMPLOYMENT.** (a) "Covered employment"

9.3 means employment by a person eligible for coverage by this
9.4 retirement program under section 354B.21 in a faculty position
9.5 or in an eligible unclassified administrative position.

9.6 (b) "Covered employment" does not mean employment specified
9.7 in paragraph (a) by a faculty member employed in ~~a state~~
9.8 ~~university or a community college~~ the Minnesota state colleges
9.9 and universities system if the person's initial appointment is
9.10 specified as constituting less than 25 percent of a full
9.11 academic year, exclusive of summer session, for the applicable
9.12 institution.

9.13 Sec. 6. Minnesota Statutes 2002, section 354B.20,
9.14 subdivision 6, is amended to read:

9.15 Subd. 6. **ELIGIBLE UNCLASSIFIED ADMINISTRATIVE POSITION.**

9.16 "Eligible unclassified administrative position" means the
9.17 following:

9.18 (1) the chancellor of the board;

9.19 (2) a president of a state college or university; ~~or~~

9.20 (3) an ~~excluded~~ administrator employed in a state
9.21 university or college, by the board, or by the higher education
9.22 services office; or

9.23 (4) other managers and professionals in academic and
9.24 academic support programs in the unclassified service employed
9.25 in a state university or college, by the board, or by the higher
9.26 education services office.

9.27 Sec. 7. Minnesota Statutes 2002, section 354C.11,
9.28 subdivision 2, is amended to read:

9.29 Subd. 2. **ELIGIBILITY.** (a) An individual must participate

9.30 in the supplemental retirement plan if the individual is
9.31 employed by the board of trustees in the unclassified service of
9.32 the state and has completed at least two years with a full-time
9.33 contract of applicable unclassified employment with the board or
9.34 an applicable predecessor board in any of the positions
9.35 specified in paragraph (b).

9.36 (b) Eligible positions or employment classifications are:

10.1 (1) an unclassified administrative position as defined in
10.2 section 354B.20, subdivision 6;

10.3 (2) an employment classification included in one of the
10.4 following collective bargaining units under section 179A.10,
10.5 subdivision 2:

10.6 (i) the state university instructional unit;

10.7 (ii) the state college instructional unit; and

10.8 (iii) the state university administrative unit; or

10.9 (3) an unclassified employee of the board:

10.10 (i) included in the general professional unit or

10.11 supervisory employees unit under section 179A.10, subdivision 2;

10.12 or

10.13 (ii) excluded from those units due to the employee's

10.14 confidential status under section 179A.10, subdivision 1, clause

10.15 (8).

10.16 Sec. 8. **REPEALER.**

10.17 Minnesota Statutes 2002, section 352D.02, subdivision 5, is

10.18 repealed.

10.19 Sec. 9. **EFFECTIVE DATE.**

10.20 (a) Sections 1 to 5 and 8 are effective on July 1, 2004.

10.21 (b) Section 6 is effective on July 1, 2004, and applies

10.22 retroactively to the date of hire of the applicable person in

10.23 the affected position.

10.24 (c) Section 7 is effective retroactively to July 1, 2001.

10.25 ARTICLE 2

10.26 COVERED SALARY DEFINITION

10.27 Section 1. Minnesota Statutes 2002, section 352.01,

10.28 subdivision 13, is amended to read:

10.29 Subd. 13. **SALARY.** (a) "Salary" means wages, or other

10.30 periodic compensation, paid to an employee before deductions for

10.31 deferred compensation, supplemental retirement plans, or other

10.32 voluntary salary reduction programs.

10.33 (b) "Salary" does not include:

10.34 (1) lump sum sick leave payments;

10.35 (2) severance payments;

10.36 (3) lump sum annual leave payments and overtime payments

11.1 made at the time of separation from state service~~;~~i

11.2 (4) payments in lieu of any employer-paid group insurance

11.3 coverage, including the difference between single and family

11.4 rates that may be paid to an employee with single coverage~~, and;~~i

11.5 (5) payments made as an employer-paid fringe benefit~~;~~i

11.6 (6) workers' compensation payments~~;~~i

11.7 (7) employer contributions to a deferred compensation or

11.8 tax sheltered annuity program~~;~~i and

11.9 (8) amounts contributed under a benevolent vacation and

11.10 sick leave donation program ~~are not salary.~~

11.11 (c) Amounts provided to an employee by the employer through

11.12 a grievance proceeding or a legal settlement are salary only if

11.13 the settlement is reviewed by the executive director and the

11.14 amounts are determined by the executive director to be

11.15 consistent with paragraph (a) and prior determinations.

11.16 Sec. 2. Minnesota Statutes 2002, section 352B.01,

11.17 subdivision 11, is amended to read:

11.18 Subd. 11. **AVERAGE MONTHLY SALARY.** (a) "Average monthly

11.19 salary" means the average of the highest monthly salaries for

11.20 five years of service as a member upon which contributions were

11.21 deducted from pay under section 352B.02, or upon which

11.22 appropriate contributions or payments were made to the fund to

11.23 receive allowable service and salary credit as specified under

11.24 applicable law. Average monthly salary must be based upon all

11.25 allowable service if this service is less than five years. ~~It~~

11.26 (b) "Average monthly salary" means the salary of the member

11.27 as defined in section 352.01, subdivision 13. "Average monthly

11.28 salary" does not include any lump-sum annual leave payments and

11.29 overtime payments made at the time of separation from state

11.30 service, any amounts of severance pay, or any reduced salary

11.31 paid during the period the person is entitled to workers'

11.32 compensation benefit payments for temporary disability.

11.33 (c) A member on leave of absence receiving temporary

11.34 workers' compensation payments and a reduced salary or no salary

11.35 from the employer who is entitled to allowable service credit

11.36 for the period of absence may make payment to the fund for the

12.1 difference between salary received, if any, and the salary the
12.2 member would normally receive if not on leave of absence during
12.3 the period. The member shall pay an amount equal to the member
12.4 and employer contribution rate under section 352B.02,
12.5 subdivisions 1b and 1c, on the differential salary amount for
12.6 the period of the leave of absence. The employing department,
12.7 at its option, may pay the employer amount on behalf of the
12.8 member. Payment made under this subdivision must include
12.9 interest at the rate of 8.5 percent per year, and must be
12.10 completed within one year of the return from the leave of
12.11 absence.

12.12 Sec. 3. Minnesota Statutes 2002, section 353.01,
12.13 subdivision 10, is amended to read:

12.14 Subd. 10. **SALARY.** (a) "Salary" means:

12.15 (1) periodic compensation of a public employee, before
12.16 deductions for deferred compensation, supplemental retirement
12.17 plans, or other voluntary salary reduction programs, and also
12.18 means "wages" and includes net income from fees; and

12.19 (2) for a public employee who has prior service covered by
12.20 a local police or firefighters relief association that has
12.21 consolidated with the public employees retirement association or
12.22 to which section 353.665 applies and who has elected coverage
12.23 either under the public employees police and fire fund benefit
12.24 plan under section 353A.08 following the consolidation or under
12.25 section 353.665, subdivision 4, "salary" means the rate of
12.26 salary upon which member contributions to the special fund of
12.27 the relief association were made prior to the effective date of
12.28 the consolidation as specified by law and by bylaw provisions
12.29 governing the relief association on the date of the initiation
12.30 of the consolidation procedure and the actual periodic
12.31 compensation of the public employee after the effective date of
12.32 consolidation.

12.33 (b) Salary does not mean:

12.34 (1) fees paid to district court reporters, unused annual
12.35 vacation or sick leave payments, in lump-sum or periodic
12.36 payments, severance payments, reimbursement of expenses,

13.1 lump-sum settlements not attached to a specific earnings period,
13.2 or workers' compensation payments;

13.3 (2) employer-paid amounts used by an employee toward the
13.4 cost of insurance coverage, employer-paid fringe benefits,
13.5 flexible spending accounts, cafeteria plans, health care expense
13.6 accounts, day care expenses, or any payments in lieu of any
13.7 employer-paid group insurance coverage, including the difference
13.8 between single and family rates that may be paid to a member
13.9 with single coverage and certain amounts determined by the
13.10 executive director to be ineligible;

13.11 (3) the amount equal to that which the employing
13.12 governmental subdivision would otherwise pay toward single or
13.13 family insurance coverage for a covered employee when, through a
13.14 contract or agreement with some but not all employees, the
13.15 employer:

13.16 (i) discontinues, or for new hires does not provide,
13.17 payment toward the cost of the employee's selected insurance
13.18 coverages under a group plan offered by the employer;

13.19 (ii) makes the employee solely responsible for all
13.20 contributions toward the cost of the employee's selected
13.21 insurance coverages under a group plan offered by the employer,
13.22 including any amount the employer makes toward other employees'
13.23 selected insurance coverages under a group plan offered by the
13.24 employer; and

13.25 (iii) provides increased salary rates for employees who do
13.26 not have any employer-paid group insurance coverages; ~~and~~

13.27 (4) except as provided in section 353.86 or 353.87,
13.28 compensation of any kind paid to volunteer ambulance service
13.29 personnel or volunteer firefighters, as defined in subdivision
13.30 35 or 36; and

13.31 (5) compensation that exceeds the limitation provided in
13.32 section 356.611.

13.33 Sec. 4. Minnesota Statutes 2002, section 356.611,
13.34 subdivision 2, is amended to read:

13.35 Subd. 2. **FEDERAL COMPENSATION LIMITS.** (a) For members
13.36 ~~first contributing to~~ of a covered pension plan enumerated in

14.1 section 356.30, subdivision 3, ~~on or after July 1, 1995,~~
14.2 compensation in excess of the limitation ~~set forth~~ specified in
14.3 section 401(a)(17) of the Internal Revenue Code, as amended, for
14.4 changes in the cost of living under section 401(a)(17)(B) of the
14.5 Internal Revenue Code, may not be included for contribution and
14.6 benefit computation purposes.

14.7 (b) Notwithstanding paragraph (a), for members specified in
14.8 paragraph (a) who first contributed to a covered plan before
14.9 July 1, 1995, the annual compensation limit ~~set forth~~ specified
14.10 in Internal Revenue Code 401(a)(17) on June 30, 1993, applies to
14.11 ~~members first contributing before July 1, 1995~~ if that provides
14.12 a greater allowable annual compensation.

14.13 Sec. 5. Minnesota Statutes 2002, section 356.611, is
14.14 amended by adding a subdivision to read:

14.15 Subd. 3. **MAXIMUM BENEFIT LIMITATIONS.** A member's annual
14.16 benefit shall, if necessary, be reduced to the extent required
14.17 by section 415(b) of the Internal Revenue Code, as adjusted by
14.18 the United States Secretary of the Treasury under section 415(d)
14.19 of the Internal Revenue Code. For purposes of section 415 of
14.20 the Internal Revenue Code, the limitation year of a pension plan
14.21 covered by this section shall be the fiscal year or calendar
14.22 year of that plan, whichever is applicable. The accrued benefit
14.23 limitation described in section 415(e) of the Internal Revenue
14.24 Code shall cease to be effective for limitation years beginning
14.25 after December 31, 1999.

14.26 Sec. 6. **EFFECTIVE DATE.**

14.27 Sections 1 to 5 are effective on July 1, 2004.

14.28 ARTICLE 3

14.29 ALLOWABLE SERVICE CREDIT

14.30 Section 1. Minnesota Statutes 2002, section 354.091, is
14.31 amended to read:

14.32 354.091 **SERVICE CREDIT.**

14.33 (a) In computing service credit, no teacher shall receive
14.34 credit for more than one year of teaching service for any fiscal
14.35 year. Commencing July 1, 1961:

14.36 (1) if a teacher teaches less than five hours in a day,

15.1 service credit must be given for the fractional part of the day
15.2 as the term of service performed bears to five hours;

15.3 (2) if a teacher teaches five or more hours in a day,
15.4 service credit must be given for only one day;

15.5 (3) if a teacher teaches at least 170 full days in any
15.6 fiscal year, service credit must be given for a full year of
15.7 teaching service; and

15.8 (4) if a teacher teaches for only a fractional part of the
15.9 year, service credit must be given for such fractional part of
15.10 the year as the period of service performed bears to 170 days.

15.11 (b) A teacher shall receive a full year of service credit
15.12 based on the number of days in the employer's full school year
15.13 if it is less than 170 days. Teaching service performed before
15.14 July 1, 1961, must be computed under the law in effect at the
15.15 time it was performed.

15.16 (c) A teacher does not lose or gain retirement service
15.17 credit as a result of the employer converting to a flexible or
15.18 alternate work schedule. If the employer converts to a flexible
15.19 or alternate work schedule, the forms for reporting and the
15.20 procedures for determining service credit must be determined by
15.21 the executive director with the approval of the board of
15.22 trustees.

15.23 (d) For all services rendered on or after July 1, 2003,
15.24 service credit for all members employed by the Minnesota state
15.25 colleges and universities system must be determined:

15.26 (1) for full-time employees, by the definition of full time
15.27 employment contained in the collective bargaining agreement for
15.28 those units listed in section 179A.10, subdivision 2, or
15.29 contained in the applicable personnel or salary plan for those
15.30 positions designated in section 179A.10, subdivision 1;

15.31 (2) for part-time employees, by the appropriate proration
15.32 of full-time equivalency based on the provisions contained in
15.33 the collective bargaining agreement for those units listed in
15.34 section 179A.10, subdivision 2, or contained in the applicable
15.35 personnel or salary plan for those positions designated in
15.36 section 179A.10, subdivision 1, and the applicable procedures of

16.1 the Minnesota state colleges and universities system; and
16.2 (3) in no case may a member receive more than one year of
16.3 service credit for any fiscal year.

16.4 Sec. 2. Minnesota Statutes 2002, section 354.096,
16.5 subdivision 1, is amended to read:

16.6 Subdivision 1. **CERTIFICATION.** Upon granting a family
16.7 leave to a member, an employing unit must certify the leave to
16.8 the association on a form specified by the executive director
16.9 ~~before the end of the fiscal year during which the leave was~~
16.10 ~~granted.~~

16.11 Sec. 3. Minnesota Statutes 2002, section 354.53, is
16.12 amended to read:

16.13 354.53 **CREDIT FOR MILITARY BREAK IN SERVICE ~~LEAVE OF~~**
16.14 **ABSENCE TO PROVIDE UNIFORMED SERVICE.**

16.15 Subdivision 1. **ELIGIBILITY; EMPLOYEE AND EMPLOYER**

16.16 **CONTRIBUTIONS.** (a) ~~Any employee given a leave of absence to~~
16.17 ~~enter military service~~ teacher who is absent from employment by
16.18 reason of service in the uniformed services, as defined in
16.19 United States Code, title 38, section 4303(13), and who returns
16.20 to the employer providing teaching service upon discharge from
16.21 ~~military service as provided in the uniformed service within the~~
16.22 time frames required in United States Code, title 38, section
16.23 ~~192-262~~ 4312(e), may obtain service credit for the period of
16.24 ~~military the uniformed service but shall not receive credit for~~
16.25 ~~any voluntary extension of military service at the instance of~~
16.26 ~~the member beyond the initial period of enlistment, induction or~~
16.27 ~~call to active duty as further specified in this section,~~
16.28 provided that the teacher did not separate from uniformed
16.29 service with a dishonorable or bad conduct discharge or under
16.30 other than honorable conditions.

16.31 (b) ~~The member shall~~ may obtain credit by paying into the
16.32 fund an equivalent employee contribution based upon the
16.33 contribution rate or rates in effect at the time that
16.34 the ~~military~~ uniformed service was performed multiplied by the
16.35 full and fractional years, being purchased and applied to the
16.36 ~~annual salary rate of the member for the year beginning with the~~

17.1 ~~date of return from military service and the number of years of~~
17.2 ~~military service together with interest thereon at an annual~~
17.3 ~~rate of 8.5 percent compounded annually from the time the~~
17.4 ~~military service was rendered to the first date of payment. The~~
17.5 annual salary rate is the average annual salary during the
17.6 purchase period that the teacher would have received if the
17.7 teacher had continued to provide teaching service to the
17.8 employer rather than provide uniformed service, or if the
17.9 determination of that rate is not reasonably certain, the annual
17.10 salary rate is the teacher's average salary rate during the
17.11 12-month period immediately preceding the period, or, if the
17.12 preceding period is less than 12 months, the annualized rate
17.13 derived from the teacher's average salary rate during the period
17.14 of teacher employment immediately preceding the period of
17.15 uniformed service.

17.16 (c) The equivalent employer contribution and, if
17.17 applicable, the equivalent additional contribution provided in
17.18 section 354.42 must be paid by the employing unit ~~at~~ as provided
17.19 in section 354.52, subdivision 4, using the employer and
17.20 employer additional contribution rate or rates in effect at the
17.21 time that the ~~military~~ uniformed service was performed, applied
17.22 to the same annual salary rate of or rates used to compute the
17.23 ~~member for the year beginning with the date of return from~~
17.24 ~~military service, in the manner provided in section 354.52,~~
17.25 ~~subdivision 4~~ equivalent employee contribution.

17.26 Subd. 2. **CALCULATION OF CREDIT.** (a) For purposes of
17.27 computing a money purchase annuity under section 354.44,
17.28 subdivision 2 money purchase annuity, all payments into the fund
17.29 ~~pursuant to~~ under this section ~~shall~~ must be considered
17.30 accumulations after July 1, 1957 ~~for the purpose of computing~~
17.31 ~~any annuity in accordance with section 354.44, subdivision 2.~~

17.32 (b) For purposes of computing a formula annuity under
17.33 section 354.44, subdivision 6, if the employee equivalent
17.34 ~~contributions and interest thereon~~ provided in this section are
17.35 not paid in full, the member's formula service credit ~~shall~~ must
17.36 be ~~calculated~~ prorated by multiplying the full and fractional

18.1 number of years of ~~military~~ uniformed service eligible for
18.2 purchase by the ratio obtained by dividing the total ~~amount paid~~
18.3 ~~and~~ employee contribution received by the ~~maximum amount payable~~
18.4 ~~provided herein~~ total employee contribution otherwise required
18.5 under this section.

18.6 Subd. 3. **PAYMENTS ELIGIBLE PAYMENT PERIOD.** Payments
18.7 ~~pursuant to this~~ (a) To receive service credit under this
18.8 section, the contributions specified in this section shall must
18.9 ~~be made within~~ transmitted to the teachers retirement
18.10 association during the period which begins with the date the
18.11 individual returns to teaching service and which has a duration
18.12 of three times the length of the uniformed service period, but
18.13 not to exceed five years ~~from the date of discharge.~~

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

18.18 Subd. 4. **LIMITS ON SERVICE CREDIT.** The amount of service
18.19 credit obtainable under this section may not exceed five years,
18.20 unless a longer purchase period is required under United States
18.21 Code, title 38, section 4312.

18.22 Subd. 5. **INTEREST REQUIREMENTS.** The employer shall pay
18.23 interest on all equivalent employee and employer contribution
18.24 amounts payable under this section. Interest must be computed
18.25 at a rate of 8.5 percent compounded annually from the end of
18.26 each fiscal year of the leave or break in service to the end of
18.27 the month in which payment is received.

18.28 Sec. 4. Minnesota Statutes 2002, section 354A.093, is
18.29 amended to read:

18.30 354A.093 **MILITARY BREAK IN SERVICE CREDIT TO PROVIDE**
18.31 **UNIFORMED SERVICE.**

18.32 Subdivision 1. ELIGIBILITY. Any teacher in the
18.33 coordinated program of either the Minneapolis teachers
18.34 retirement fund association or the St. Paul teachers retirement
18.35 fund association or any teacher in the new law coordinated
18.36 program of the Duluth teachers retirement fund association who

19.1 is ~~granted a leave~~ absent from employment by reason of absence
19.2 ~~to enter military~~ service in the uniformed services as defined
19.3 in United States Code, title 38, section 4303(13) and who
19.4 returns to the employer providing active teaching service upon
19.5 discharge from ~~military~~ uniformed service ~~as provided in~~ within
19.6 the time frames required under United States Code, title 38,
19.7 ~~section 192.262 4312(e), shall be entitled to~~ may receive
19.8 allowable service credit in the applicable association for all
19.9 or a portion of the period of ~~military~~ uniformed service ~~but,~~
19.10 provided that the teacher did not ~~for any voluntary extension of~~
19.11 ~~military~~ separate from uniformed service ~~beyond the initial~~
19.12 ~~period of enlistment, induction~~ with a dishonorable or ~~call to~~
19.13 ~~active duty which occurred at the instance of the teacher~~ bad
19.14 conduct discharge or under other than honorable conditions.

19.15 Subd. 2. CONTRIBUTIONS. If the teacher ~~granted the~~
19.16 ~~military service leave of absence~~ makes the equivalent employee
19.17 contribution for a period of ~~military service leave of absence~~
19.18 ~~pursuant to~~ service provided to the uniformed services under
19.19 this section, the employing unit shall make an equivalent
19.20 employer contribution on behalf of the teacher to the applicable
19.21 association for the period ~~of the military service leave of~~
19.22 ~~absence~~ being purchased in the manner described in section
19.23 354A.12, subdivision 2a. The equivalent employee and employer
19.24 contributions ~~shall~~ must be in an amount equal to the employee
19.25 and employer contribution rates in effect for other active
19.26 members of the association covered by the same program applied
19.27 to a salary figure equal to the teacher's average annual salary
19.28 ~~rate at the date of return from military service~~ that the
19.29 teacher would have received if the leave or break in service had
19.30 not occurred, or if the determination of that average salary
19.31 rate is not reasonably certain, on the basis of the teacher's
19.32 average salary rate during the 12-month period immediately
19.33 preceding the period, or, if the preceding period is less than
19.34 12 months, the annualized rate derived from the teacher's
19.35 average salary rate during the period of teacher employment
19.36 immediately preceding the period of uniformed service, with the

20.1 result multiplied by the number of full and fractional years
20.2 constituting the period of service provided to the military
20.3 uniformed service ~~leave of absence~~ which the teacher ~~seeks~~ is
20.4 authorized to purchase under this section. ~~Payment shall~~
20.5 ~~include interest on the amount payable pursuant to this section~~
20.6 ~~at the rate of six percent compounded annually from the year the~~
20.7 ~~military service was rendered to the date of payment.~~

20.8 Subd. 3. PRORATING. If the payments made by a
20.9 teacher ~~pursuant to~~ under this section are less than ~~an~~ the full
20.10 ~~amount equal to the applicable contribution rate applied to a~~
20.11 ~~salary figure equal to the teacher's annual salary rate at the~~
20.12 ~~date of return from military service, multiplied by the number~~
20.13 ~~of years constituting the period of the military service leave~~
20.14 ~~of absence~~ determined under subdivision 2, the service credit
20.15 ~~shall~~ must be prorated. The prorated service credit ~~shall~~ must
20.16 be determined by the ratio between the amount of the
20.17 actual equivalent employee payment which was made and the full
20.18 ~~contribution amount payable pursuant to~~ equivalent employee
20.19 payment required under this section. ~~In order to be entitled to~~
20.20 ~~receive service credit under this section, payment shall be made~~
20.21 ~~within five years from the date of discharge from military~~
20.22 ~~service.~~

20.23 Subd. 4. ELIGIBLE PAYMENT PERIOD. (a) To receive service
20.24 credit under this section, the contributions specified in this
20.25 section must be transmitted to the applicable first class city
20.26 teachers retirement fund association during the period which
20.27 begins with the date the individual returns to teaching service
20.28 and which has a duration of three times the length of the
20.29 uniformed service period, but not to exceed five years.

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

20.34 Subd. 5. LIMITS ON SERVICE CREDIT. The amount of service
20.35 credit obtainable under this section may not exceed five years,
20.36 unless a longer purchase period is required under United States

21.1 Code, title 38, section 4312.

21.2 Subd. 6. **INTEREST REQUIREMENTS.** The employer shall pay

21.3 interest on all equivalent employee and employer contribution

21.4 amounts payable under this section. Interest must be computed

21.5 at a rate of 8.5 percent compounded annually from the end of

21.6 each fiscal year of the leave or break in service to the end of

21.7 the month in which payment is received.

21.8 Sec. 5. **EFFECTIVE DATE.**

21.9 Sections 1 to 4 are effective on July 1, 2004.

21.10 ARTICLE 4

21.11 QUALIFIED PART-TIME TEACHER PROVISIONS

21.12 Section 1. Minnesota Statutes 2002, section 354.66,

21.13 subdivision 2, is amended to read:

21.14 Subd. 2. **QUALIFIED PART-TIME TEACHER PROGRAM**

21.15 **PARTICIPATION REQUIREMENTS.** (a) A teacher in a Minnesota public

21.16 elementary school, a Minnesota secondary school, or the

21.17 Minnesota state colleges and universities system who has three

21.18 years or more of allowable service in the association or three

21.19 years or more of full-time teaching service in Minnesota public

21.20 elementary schools, Minnesota secondary schools, or the

21.21 Minnesota state colleges and universities system, by agreement

21.22 with the board of the employing district or with the authorized

21.23 representative of the board, may be assigned to teaching service

21.24 in a part-time teaching position under subdivision 3. The

21.25 agreement must be executed before October 1 of the school year

21.26 for which the teacher requests to make retirement contributions

21.27 under subdivision 4. A copy of the executed agreement must be

21.28 filed with the executive director of the association. If the

21.29 copy of the executed agreement is filed with the association

21.30 after October 1 of the school year for which the teacher

21.31 requests to make retirement contributions under subdivision 4,

21.32 the employing unit shall pay the fine specified in section

21.33 354.52, subdivision 6, for each calendar day that elapsed since

21.34 the October 1 due date. The association may not accept an

21.35 executed agreement that is received by the association more than

21.36 15 months late. The association may not waive the fine required

22.1 by this section.

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

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

22.7 (2) fines specified in paragraph (a) apply if the employing
22.8 unit does not file the executed agreement with the executive
22.9 director of the association by March 1.

22.10 Sec. 2. **EFFECTIVE DATE.**

22.11 Section 1 is effective on July 1, 2004.

22.12 ARTICLE 5

22.13 RETIREMENT PLAN CONTRIBUTIONS AND TRANSFERS

22.14 Section 1. Minnesota Statutes 2002, section 354.42,
22.15 subdivision 7, is amended to read:

22.16 Subd. 7. **ERRONEOUS SALARY DEDUCTIONS OR DIRECT PAYMENTS.**

22.17 (a) ~~Any~~ deductions taken from the salary of an employee for the
22.18 retirement fund in error ~~shall~~ must be refunded to the employee
22.19 upon the discovery of the error and after the verification of
22.20 the error by the employing unit making the deduction, ~~and~~. The
22.21 corresponding employer contribution and additional employer
22.22 contribution amounts attributable to the erroneous salary
22.23 deduction must be refunded to the employing unit.

22.24 (b) If salary deductions and employer contributions were
22.25 erroneously transmitted to the retirement fund and should have
22.26 been transmitted to another Minnesota public pension plan, the
22.27 ~~retirement association~~ executive director must transfer these
22.28 salary deductions and employer contributions to the appropriate
22.29 public pension fund without interest. For purposes of this
22.30 paragraph, a Minnesota public pension plan means a plan
22.31 specified in section 356.30, subdivision 3, or the plan governed
22.32 by chapter 354B.

22.33 (c) A potential transfer under paragraph (b) that would
22.34 cause the plan to fail to be a qualified plan under section
22.35 401(a) of the Internal Revenue Code, as amended, must not be
22.36 made by the executive director. Within 30 days after being

23.1 notified by the teachers retirement association of an unmade
23.2 potential transfer under this paragraph, the employer of the
23.3 affected person must transmit an amount representing the
23.4 applicable salary deductions and employer contributions, without
23.5 interest, to the retirement fund of the appropriate Minnesota
23.6 public pension plan fund. The retirement association must
23.7 provide a credit for the amount of the erroneous salary
23.8 deductions and employer contributions against future
23.9 contributions from the employer.

23.10 (d) If a salary warrant or check from which a deduction for
23.11 the retirement fund was taken has been canceled or the amount of
23.12 the warrant or if a check has been returned to the funds of the
23.13 employing unit making the payment, a refund of the amount
23.14 deducted, or any portion of it that is required to adjust the
23.15 salary deductions, ~~shall~~ must be made to the employing unit.

23.16 ~~(d)~~ (e) ~~Any~~ erroneous direct payments of member-paid
23.17 contributions or erroneous salary deductions that were not
23.18 refunded ~~in~~ during the regular payroll cycle processing ~~of an~~
23.19 ~~employing unit's annual summary report shall~~ must be refunded to
23.20 the member ~~with~~ , plus interest computed using the rate and
23.21 method specified in section 354.49, subdivision 2.

23.22 (f) Any refund under this subdivision that would cause the
23.23 plan to fail to be a qualified plan under section 401(a) of the
23.24 Internal Revenue Code, as amended, may not be refunded and
23.25 instead must be credited against future contributions payable by
23.26 the employer. The employer is responsible for refunding to the
23.27 applicable employee any amount that was erroneously deducted
23.28 from the salary of the employee, with interest as specified in
23.29 paragraph (e).

23.30 Sec. 2. Minnesota Statutes 2002, section 354.51,
23.31 subdivision 5, is amended to read:

23.32 Subd. 5. **PAYMENT OF SHORTAGES.** (a) Except as provided in
23.33 paragraph (b), in the event that full required member
23.34 contributions are not deducted from the salary of a teacher,
23.35 payment ~~shall~~ must be made as follows:

23.36 ~~(a)~~ (1) Payment of shortages in member deductions on salary

24.1 earned after June 30, 1957, and ~~prior to~~ before July 1, 1981,
24.2 may be made any time ~~prior to~~ before retirement. Payment ~~shall~~
24.3 must include interest at an annual rate of 8.5 percent
24.4 compounded annually from the end of the fiscal year in which the
24.5 shortage occurred to the end of the month in which payment is
24.6 made and the interest ~~shall~~ must be credited to the fund. If
24.7 payment of a shortage in deductions is not made, the formula
24.8 service credit of the member ~~shall~~ must be prorated ~~pursuant to~~
24.9 under section 354.05, subdivision 25, clause (3).

24.10 ~~(b)~~ (2) Payment of shortages in member deductions on salary
24.11 earned after June 30, 1981, ~~shall be~~ are the sole obligation of
24.12 the employing unit and ~~shall be~~ are payable by the employing
24.13 unit upon notification by the executive director of the shortage
24.14 with interest at an annual rate of 8.5 percent compounded
24.15 annually from the end of the fiscal year in which the shortage
24.16 occurred to the end of the month in which payment is made and
24.17 the interest ~~shall~~ must be credited to the fund. Effective July
24.18 1, 1986, the employing unit shall also pay the employer
24.19 contributions as specified in section 354.42, subdivisions 3 and
24.20 5 for ~~such~~ the shortages. If the shortage payment is not paid
24.21 by the employing unit within 60 days of notification, the
24.22 executive director shall certify the amount of the shortage
24.23 payment to the applicable county auditor, who shall spread a
24.24 levy in the amount of the shortage payment over the taxable
24.25 property of the taxing district of the employing unit if the
24.26 employing unit is supported by property taxes, or to the
24.27 commissioner of finance, who shall deduct the amount from any
24.28 state aid or appropriation amount applicable to the employing
24.29 unit if the employing unit is not supported by property taxes.

24.30 ~~(c)~~ (3) Payment may not be made for shortages in member
24.31 deductions on salary earned ~~prior to~~ before July 1, 1957, for
24.32 shortages in member deductions on salary paid or payable under
24.33 paragraph (b), or for shortages in member deductions for persons
24.34 employed by the Minnesota state colleges and universities system
24.35 in a faculty position or in an eligible unclassified
24.36 administrative position and whose employment was less than 25

25.1 percent of a full academic year, exclusive of the summer
25.2 session, for the applicable institution that exceeds the most
25.3 recent 36 months.

25.4 (b) For a person who is employed by the Minnesota state
25.5 colleges and universities system in a faculty position or in an
25.6 eligible unclassified administrative position and whose
25.7 employment was less than 25 percent of a full academic year,
25.8 exclusive of the summer session, for the applicable institution,
25.9 upon the person's election under section 354B.21 of retirement
25.10 coverage under this chapter, the shortage in member deductions
25.11 on the salary for employment by the Minnesota state colleges and
25.12 universities system institution of less than 25 percent of a
25.13 full academic year, exclusive of the summer session, for the
25.14 applicable institution for the most recent 36 months and the
25.15 associated employer contributions must be paid by the Minnesota
25.16 state colleges and universities system institution, plus annual
25.17 compound interest at the rate of 8.5 percent from the end of the
25.18 fiscal year in which the shortage occurred to the end of the
25.19 month in which the teachers retirement association coverage
25.20 election is made. If the shortage payment is not made by the
25.21 institution within 60 days of notification, the executive
25.22 director shall certify the amount of the shortage payment to the
25.23 commissioner of finance, who shall deduct the amount from any
25.24 state appropriation to the system. An individual electing
25.25 coverage under this paragraph shall repay the amount of the
25.26 shortage in member deductions, plus interest, through deduction
25.27 from salary or compensation payments within the first year of
25.28 employment after the election under section 354B.21, subject to
25.29 the limitations in section 16D.16. The Minnesota state colleges
25.30 and universities system may use any means available to recover
25.31 amounts which were not recovered through deductions from salary
25.32 or compensation payments. No payment of the shortage in member
25.33 deductions under this paragraph may be made for a period longer
25.34 than the most recent 36 months.

25.35 Sec. 3. Minnesota Statutes 2002, section 354B.23,
25.36 subdivision 1, is amended to read:

26.1 Subdivision 1. **MEMBER CONTRIBUTION RATE.** ~~(a) Except as~~
26.2 ~~provided in paragraph (b),~~ The member contribution rate for
26.3 participants in the individual retirement account plan is 4.5
26.4 percent of salary.

26.5 ~~(b) For participants in the individual retirement account~~
26.6 ~~plan who were otherwise eligible to elect retirement coverage in~~
26.7 ~~the state unclassified employees retirement program, the member~~
26.8 ~~contribution rate is the rate specified in section 352D.04,~~
26.9 ~~subdivision 2, paragraph (a).~~

26.10 Sec. 4. Minnesota Statutes 2002, section 354B.32, is
26.11 amended to read:

26.12 354B.32 **TRANSFER OF FUNDS TO IRAP.**

26.13 A participant in the individual retirement account plan
26.14 established in this chapter who has less than ten years of
26.15 allowable service under the teachers retirement association or
26.16 the a teachers retirement fund association, whichever applies,
26.17 may elect to transfer an amount equal to the participant's
26.18 accumulated member contributions to the teachers retirement
26.19 association or the applicable teachers retirement fund
26.20 association, plus compound interest at the rate of six percent
26.21 per annum, to the individual retirement account plan. The
26.22 transfers are irrevocable ~~fund-to-fund~~ fund-to-fund transfers,
26.23 and, in no event, may the participant receive direct payment of
26.24 the money transferred ~~prior to retirement~~ before the termination
26.25 of employment. If a participant elects the contribution
26.26 transfer, all of the participant's allowable and formula service
26.27 credit in the teachers retirement association or the teachers
26.28 retirement fund association associated with the transferred
26.29 amount is forfeited.

26.30 The executive director of the teachers retirement
26.31 association and the chief administrative officers of the
26.32 teachers retirement fund associations, in cooperation with the
26.33 chancellor of the Minnesota state colleges and universities
26.34 system, shall notify participants who are eligible to transfer
26.35 of their right to transfer and the amount that they are eligible
26.36 to transfer, and shall, upon request, provide forms to implement

27.1 the transfer. The chancellor of the Minnesota state colleges
27.2 and universities system shall assist the teachers retirement
27.3 association and the teachers retirement fund associations in
27.4 developing transfer forms and in implementing the transfers.

27.5 Authority to elect a transfer under this section expires on
27.6 July 1, 2004.

27.7 Sec. 5. **EFFECTIVE DATE; RETROACTIVE APPLICATION.**

27.8 (a) Section 2 is effective on July 1, 2004.

27.9 (b) Section 2 applies to shortages in member deductions
27.10 that occurred before the effective date of the section.

27.11 (c) Sections 1, 3, and 4 are effective on July 1, 2004.

27.12 ARTICLE 6

27.13 REPORTING AND INFORMATION PROVISION

27.14 Section 1. Minnesota Statutes 2002, section 354.07,
27.15 subdivision 9, is amended to read:

27.16 Subd. 9. **INFORMATION DISTRIBUTION.** All school districts,
27.17 the Minnesota state colleges and universities, community
27.18 ~~colleges~~ and other employers of members of the association are
27.19 obligated to distribute to their employees ballots for the
27.20 election of members to the board of trustees, pamphlets,
27.21 brochures, documents or any other material containing
27.22 association information which are prepared by the executive
27.23 director or the board and are delivered to the employers for
27.24 distribution.

27.25 Sec. 2. Minnesota Statutes 2002, section 354.52,
27.26 subdivision 4a, is amended to read:

27.27 Subd. 4a. **MEMBER DATA REPORTING REQUIREMENTS.** (a) ~~An~~
27.28 ~~employing unit must initially provide the member data specified~~
27.29 ~~in paragraph (b) or any of that data not previously provided to~~
27.30 ~~the association for payroll warrants dated after June 30, 1995,~~
27.31 ~~in a format prescribed by the executive director.~~ An employing
27.32 unit must provide the member data specified in paragraph (b) in
27.33 a format prescribed by the executive director. Data changes and
27.34 the dates of those changes under this subdivision must be
27.35 reported to the association in a format prescribed by the
27.36 executive director on an ongoing basis within 14 calendar days

28.1 after the date of the end of the payroll cycle in which they
28.2 occur. These data changes must be reported with the payroll
28.3 cycle data under subdivision 4b.

28.4 (b) Data on the member includes:

28.5 (1) legal name, address, date of birth, association member
28.6 number, employer-assigned employee number, and social security
28.7 number;

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

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

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

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

28.19 (6) leaves of absence;

28.20 (7) county district number assigned by the association for
28.21 the employing unit;

28.22 (8) data center identification number, if applicable; ~~and~~

28.23 (9) gender;

28.24 (10) position code; and

28.25 (11) other information as may be required by the executive
28.26 director.

28.27 Sec. 3. Minnesota Statutes 2002, section 354.52, is
28.28 amended by adding a subdivision to read:

28.29 Subd. 4c. **MNSCU SERVICE CREDIT REPORTING.** For all
28.30 part-time service rendered on or after July 1, 200, the service
28.31 credit reporting requirement in subdivision 4b for all part-time
28.32 employees of the Minnesota state colleges and universities
28.33 system must be met by the Minnesota state colleges and
28.34 universities system reporting to the association on or before
28.35 July 31 of each year the final calculation of each part-time
28.36 member's service credit for the immediately preceding fiscal

29.1 year based on the employee's assignments for the fiscal year.

29.2 Sec. 4. Minnesota Statutes 2002, section 354.52,

29.3 subdivision 6, is amended to read:

29.4 Subd. 6. **NONCOMPLIANCE CONSEQUENCES.** An employing unit

29.5 that does not comply with the reporting requirements under ~~this~~

29.6 ~~section shall~~ subdivision 2a, 4a, or 4b must pay a fine of \$5

29.7 per calendar day until the association receives the required

29.8 data.

29.9 Sec. 5. **EFFECTIVE DATE.**

29.10 Sections 1 to 4 are effective on July 1, 2004.

29.11 ARTICLE 7

29.12 RETIREMENT ANNUITY PROVISIONS

29.13 Section 1. Minnesota Statutes 2002, section 353.37, is

29.14 amended by adding a subdivision to read:

29.15 Subd. 1b. **RETIREMENT AGE.** For purposes of this section,

29.16 "retirement age" means retirement age as defined in United

29.17 States Code, title 42, section 416(1).

29.18 Sec. 2. Minnesota Statutes 2002, section 353.37,

29.19 subdivision 3, is amended to read:

29.20 Subd. 3. **REDUCTION OF ANNUITY.** The association shall

29.21 reduce the amount of the annuity ~~as follows:~~

29.22 ~~(a) for~~ of a person who has not reached ~~normal~~ the

29.23 retirement age, by one-half of the amount in excess of the

29.24 applicable reemployment income maximum under subdivision 1~~7~~.

29.25 ~~(b) for a person who has reached normal retirement age, but~~

29.26 ~~has not reached age 70, one third of the amount in excess of the~~

29.27 ~~applicable reemployment income maximum under subdivision 1;~~

29.28 ~~(c) for a person who has reached age 70, or for salary~~

29.29 ~~earned through service in an elected office, there is no~~

29.30 ~~reduction upon reemployment, regardless of income.~~

29.31 There is no reduction upon reemployment, regardless of income,

29.32 for a person who has reached the retirement age.

29.33 Sec. 3. Minnesota Statutes 2002, section 354.44,

29.34 subdivision 4, is amended to read:

29.35 Subd. 4. **RETIREMENT ANNUITY ACCRUAL DATE.** (a) An annuity

29.36 payment begins to accrue, providing that the age and service

30.1 requirements under subdivision 1 are satisfied, after the
30.2 termination of teaching service, or after the application for
30.3 retirement has been filed with the board, whichever is later, as
30.4 follows:

30.5 (1) on the 16th day of the month of termination or filing
30.6 if the termination or filing occurs on or before the 15th day of
30.7 the month;

30.8 (2) on the first day of the month following the month of
30.9 termination or filing if the termination or filing occurs on or
30.10 after the 16th day of the month;

30.11 (3) on July 1 for all school principals and other
30.12 administrators who receive a full annual contract salary during
30.13 the fiscal year for performance of a full year's contract
30.14 duties; or

30.15 (4) a later date to be either the first or the 16th day of
30.16 a month occurring within the six-month period immediately
30.17 following the termination of teaching service as specified under
30.18 paragraph (b) by the member.

30.19 (b) If an application for retirement is filed with the
30.20 board during the six-month period that occurs immediately
30.21 following the termination of teaching service, the annuity may
30.22 begin to accrue as if the application for retirement had been
30.23 filed with the board on the date teaching service terminated or
30.24 a later date under paragraph (a), clause (4). ~~An annuity must~~
30.25 ~~not begin to accrue more than one month before the date of final~~
30.26 ~~salary receipt.~~

30.27 Sec. 4. **EFFECTIVE DATE.**

30.28 Sections 1, 2, and 3 are effective on July 1, 2004.

30.29 ARTICLE 8

30.30 DISABILITY BENEFIT PROVISIONS

30.31 Section 1. Minnesota Statutes 2002, section 352.113, is
30.32 amended by adding a subdivision to read:

30.33 Subd. 7a. **TEMPORARY REEMPLOYMENT BENEFIT REDUCTION**

30.34 **WAIVER.** A reduction in benefits under subdivision 7, or a
30.35 termination of benefits due to the disabled employee resuming a
30.36 gainful occupation from which earnings are equal to or more than

31.1 the employee's salary at the date of disability or the salary
31.2 currently paid for similar positions does not apply until six
31.3 months after the individual returns to a gainful occupation.

31.4 Sec. 2. Minnesota Statutes 2002, section 352.95,
31.5 subdivision 1, is amended to read:

31.6 Subdivision 1. **JOB-RELATED DISABILITY.** A covered
31.7 correctional employee who becomes disabled and who is expected
31.8 to be physically or mentally unfit to perform the duties of the
31.9 position for at least one year as a direct result of an injury,
31.10 sickness, or other disability that incurred in or ~~arising~~ arose
31.11 out of any act of duty that makes the employee physically or
31.12 mentally unable to perform the duties, is entitled to a
31.13 disability benefit. The disability benefit may be based on
31.14 covered correctional service only. The benefit amount ~~must~~
31.15 ~~equal~~ is 50 percent of the average salary defined in section
31.16 352.93, plus an additional percent equal to that specified in
31.17 section 356.315, subdivision 5, for each year of covered
31.18 correctional service in excess of 20 years, ten months, prorated
31.19 for completed months.

31.20 Sec. 3. Minnesota Statutes 2002, section 352.95,
31.21 subdivision 2, is amended to read:

31.22 Subd. 2. **NON-JOB-RELATED DISABILITY.** ~~Any~~ A covered
31.23 correctional employee who, after rendering at least one year of
31.24 covered correctional service, becomes disabled and who is
31.25 expected to be physically or mentally unfit to perform the
31.26 duties of the position for at least one year because of sickness
31.27 or injury ~~occurring~~ that occurred while not engaged in covered
31.28 employment, is entitled to a disability benefit based on covered
31.29 correctional service only. The disability benefit must be
31.30 computed as provided in section 352.93, subdivisions 1 and 2,
31.31 and must be computed as though the employee had at least 15
31.32 years of covered correctional service.

31.33 Sec. 4. Minnesota Statutes 2002, section 352.95,
31.34 subdivision 4, is amended to read:

31.35 Subd. 4. **MEDICAL OR PSYCHOLOGICAL EVIDENCE.** (a) An
31.36 applicant shall provide medical or psychological evidence to

32.1 support an application for disability benefits. The director
32.2 shall have the employee examined by at least one additional
32.3 licensed physician or psychologist who is designated by the
32.4 medical adviser. The physicians, or psychologists with respect
32.5 to a mental impairment, shall make written reports to the
32.6 director concerning the question of the employee's disability,
32.7 including ~~medical~~ their expert opinions as to whether the
32.8 employee is disabled within the meaning of this section. The
32.9 director shall also obtain written certification from the
32.10 employer stating whether or not the employee is on sick leave of
32.11 absence because of a disability that will prevent further
32.12 service to the employer, and as a consequence, the employee is
32.13 not entitled to compensation from the employer.

32.14 (b) If, on considering the physicians' or psychologists'
32.15 reports and any other evidence supplied by the employee or
32.16 others, the medical adviser finds the employee disabled within
32.17 the meaning of this section, the advisor shall make appropriate
32.18 recommendation to the director, in writing, together with the
32.19 date from which the employee has been disabled. The director
32.20 shall then determine the propriety of authorizing payment of a
32.21 disability benefit as provided in this section.

32.22 (c) Unless the payment of a disability benefit has
32.23 terminated because the employee is no longer disabled, or
32.24 because the employee has reached either age 65 or the five-year
32.25 anniversary of the effective date of the disability benefit,
32.26 whichever is later, the disability benefit ~~shall~~ must cease with
32.27 the last payment received by the disabled employee or which had
32.28 accrued during the employee's lifetime. While disability
32.29 benefits are paid, the director has the right, at reasonable
32.30 times, to require the disabled employee to submit proof of the
32.31 continuance of the disability claimed. If any examination
32.32 indicates to the medical adviser that the employee is no longer
32.33 disabled, the disability payment must be discontinued upon the
32.34 reinstatement to state service or within 60 days of the finding,
32.35 whichever is sooner.

32.36 Sec. 5. Minnesota Statutes 2002, section 352B.10,

33.1 subdivision 1, is amended to read:

33.2 Subdivision 1. **INJURIES; PAYMENT AMOUNTS.** ~~Any~~ A member
33.3 who becomes disabled and who is expected to be physically or
33.4 mentally unfit to perform duties for at least one year as a
33.5 direct result of an injury, sickness, or other disability that
33.6 incurred in or ~~arising~~ arose out of any act of duty, ~~shall~~ is
33.7 entitled to receive disability benefits while disabled. The
33.8 benefits must be paid in monthly installments. The benefit is
33.9 an amount equal to the member's average monthly salary
33.10 multiplied by 60 percent, plus an additional percent equal to
33.11 that specified in section 356.315, subdivision 6, for each year
33.12 and pro rata for completed months of service in excess of 20
33.13 years, if any.

33.14 Sec. 6. Minnesota Statutes 2002, section 352B.10,
33.15 subdivision 2, is amended to read:

33.16 Subd. 2. **DISABLED WHILE NOT ON DUTY.** If a member
33.17 ~~terminates employment after~~ with at least one year of service
33.18 ~~because of sickness or injury occurring while not on duty and~~
33.19 ~~not engaged in state work entitling the member to membership,~~
33.20 ~~and the member~~ becomes disabled and is expected to be physically
33.21 or mentally unfit to perform the duties of the position for at
33.22 least one year because of sickness or injury ~~occurring~~ that
33.23 occurred while not engaged in covered employment, the ~~member~~
33.24 individual is entitled to disability benefits. The benefit must
33.25 ~~be in the same amount and computed in the same way~~ as if the
33.26 ~~member~~ individual were 55 years old at the date of disability
33.27 and the annuity ~~were paid~~ was payable under section 352B.08. If
33.28 a disability under this ~~clause~~ subdivision occurs after one year
33.29 of service but before 15 years of service, the disability
33.30 benefit must be computed as though the ~~member~~ individual had 15
33.31 years of service.

33.32 Sec. 7. Minnesota Statutes 2002, section 352B.10,
33.33 subdivision 3, is amended to read:

33.34 Subd. 3. **ANNUAL AND SICK LEAVE; WORK AT LOWER PAY.** No
33.35 member ~~shall~~ is entitled to receive ~~any~~ a disability benefit
33.36 payment when the member has unused annual leave or sick leave,

34.1 or under any other circumstances, when, during the period of
34.2 disability, there has been no impairment of salary. ~~Should~~ If
34.3 ~~the member or former member resume~~ disabilitant resumes gainful
34.4 ~~work~~ employment, the disability benefit must be continued in an
34.5 amount which, when added to current earnings, does not exceed
34.6 the salary rate received ~~of~~ by the person at the date of
34.7 disability ~~as~~, which must be adjusted over time by the ~~same~~
34.8 percentage increase in United States average wages used by the
34.9 social security administration in calculating average indexed
34.10 monthly earnings for the old age, survivors, and disability
34.11 insurance programs for the same period.

34.12 Sec. 8. Minnesota Statutes 2002, section 352B.10,
34.13 subdivision 4, is amended to read:

34.14 Subd. 4. **PROOF OF DISABILITY.** No disability ~~benefit~~
34.15 ~~payment shall~~ benefits may be made except upon paid unless
34.16 adequate proof is furnished to the executive director of the
34.17 existence of the disability. ~~While disability benefits are~~
34.18 ~~being paid~~ Following the commencement of benefit payments,
34.19 the executive director has the right, at reasonable times, to
34.20 require the ~~disabled former member~~ disabilitant to submit proof
34.21 of the continuance of the disability claimed.

34.22 Sec. 9. Minnesota Statutes 2002, section 352B.10,
34.23 subdivision 5, is amended to read:

34.24 Subd. 5. **OPTIONAL ANNUITY.** A ~~disabled member~~
34.25 disabilitant may, in lieu of survivorship coverage under section
34.26 352B.11, subdivision 2, choose the normal disability benefit or
34.27 an optional annuity as provided in section 352B.08, subdivision
34.28 3. The choice of an optional annuity must be made in writing,
34.29 on a form prescribed by the executive director, and must be made
34.30 before the commencement of the payment of the disability
34.31 benefit, or within 90 days of attaining before reaching age 65
34.32 or before reaching the five-year anniversary of the effective
34.33 date of the disability benefit, whichever is later. ~~It~~ The
34.34 optional annuity is effective on the date on which the
34.35 disability benefit begins to accrue, or the month following the
34.36 attainment of age 65 or following the five-year anniversary of

35.1 the effective date of the disability benefit, whichever is later.

35.2 Sec. 10. Minnesota Statutes 2002, section 352B.105, is

35.3 amended to read:

35.4 352B.105 **TERMINATION OF DISABILITY BENEFITS.**

35.5 Disability benefits payable under section 352B.10 ~~shall~~

35.6 must terminate ~~at~~ on the transfer date, which is the end of the

35.7 month in which the ~~beneficiary~~ disabilitant becomes 65 years old

35.8 or the five-year anniversary of the effective date of the

35.9 disability benefit, whichever is later. If the ~~beneficiary~~

35.10 disabilitant is still disabled ~~when~~ on the ~~beneficiary becomes~~

35.11 ~~65 years old~~ transfer date, the ~~beneficiary shall~~ disabilitant

35.12 must be deemed to be a retired member and, if the ~~beneficiary~~

35.13 disabilitant had chosen an optional annuity under section

35.14 352B.10, subdivision 5, ~~shall~~ must receive an annuity ~~in~~

35.15 ~~accordance with~~ under the terms of the optional annuity

35.16 previously chosen. If the ~~beneficiary~~ disabilitant had not

35.17 chosen an optional annuity under section 352B.10, subdivision 5,

35.18 the ~~beneficiary~~ disabilitant may then choose to receive either a

35.19 normal retirement annuity computed under section 352B.08,

35.20 subdivision 2, or an optional annuity as provided in section

35.21 352B.08, subdivision 3. An optional annuity must be chosen

35.22 within 90 days of attaining ~~age 65 or reaching~~ the ~~five year~~

35.23 ~~anniversary of the effective date of the disability benefit,~~

35.24 ~~whichever is later~~ transfer date. If an optional annuity is

35.25 chosen, the optional annuity ~~shall begin to accrue~~ accrues on

35.26 the first of the month next following ~~attainment of age 65 or~~

35.27 ~~the five year anniversary of the effective~~ transfer date ~~of the~~

35.28 ~~disability benefit, whichever is later.~~

35.29 Sec. 11. Minnesota Statutes 2002, section 352D.065,

35.30 subdivision 2, is amended to read:

35.31 Subd. 2. **DISABILITY BENEFIT AMOUNT.** A participant who

35.32 becomes totally and permanently disabled has the option, even if

35.33 on leave of absence without pay, to receive:

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

35.35 (2) the value of ~~one-half~~ of a portion of the total shares

35.36 and an annuity based on the ~~value of one-half~~ remainder of the

36.1 total shares; or

36.2 (3) an annuity based on the value of the participant's

36.3 total shares.

36.4 Sec. 12. Minnesota Statutes 2002, section 353.33,

36.5 subdivision 4, is amended to read:

36.6 Subd. 4. **PROCEDURE TO DETERMINE ELIGIBILITY.** (a) The

36.7 applicant shall provide an expert report signed by a licensed

36.8 physician, psychologist, or chiropractor and the applicant must

36.9 authorize the release of medical and health care evidence,

36.10 including all medical records and relevant information from any

36.11 source, to support the application for total and permanent

36.12 disability benefits.

36.13 (b) The expert report signed by a licensed chiropractor

36.14 augments the report of another expert and may not be the sole

36.15 basis for the granting of a disability benefit.

36.16 (c) The medical adviser shall verify the medical evidence

36.17 and, if necessary for disability determination, suggest the

36.18 referral of the applicant to specialized medical consultants.

36.19 (d) The association shall also obtain from the employer,

36.20 certification of the member's past public service, dates of paid

36.21 sick leave and vacation beyond the last working day and whether

36.22 or not sick leave or annual leave has been allowed.

36.23 (e) If, upon consideration of the medical evidence received

36.24 and the recommendations of the medical adviser, it is determined

36.25 by the executive director that the applicant is totally and

36.26 permanently disabled within the meaning of the law, the

36.27 association shall grant the person a disability benefit. ~~The~~

36.28 ~~fact that~~

36.29 (f) An employee who is placed on leave of absence without

36.30 compensation because of disability ~~does~~ is not ~~bar the person~~

36.31 barred from receiving a disability benefit.

36.32 Sec. 13. Minnesota Statutes 2002, section 353.33,

36.33 subdivision 6, is amended to read:

36.34 Subd. 6. **CONTINUING ELIGIBILITY FOR BENEFITS.** The

36.35 association shall determine eligibility for continuation of

36.36 disability benefits and require periodic examinations and

37.1 evaluations of disabled members as frequently as deemed
37.2 necessary. The association shall require the disabled member to
37.3 provide an expert report signed by a licensed physician,
37.4 psychologist, or chiropractor and the disabled member shall
37.5 authorize the release of medical and health care evidence,
37.6 including all medical and health care records and information
37.7 from any source, relating to an application for continuation of
37.8 disability benefits. The expert report signed by a licensed
37.9 chiropractor augments the report of another expert and may not
37.10 be the sole basis for continuing a disability benefit.

37.11 Disability benefits are contingent upon a disabled person's
37.12 participation in a vocational rehabilitation ~~program~~ evaluation
37.13 if the executive director determines that the disabled person
37.14 may be able to return to a gainful occupation. If a member is
37.15 found to be no longer totally and permanently disabled, payments
37.16 must cease the first of the month following the expiration of a
37.17 30-day period after the member receives a certified letter
37.18 notifying the member that payments will cease.

37.19 Sec. 14. Minnesota Statutes 2002, section 353.33,
37.20 subdivision 6b, is amended to read:

37.21 Subd. 6b. **DUTIES OF THE MEDICAL ADVISER.** At the request
37.22 of the executive director, the medical adviser shall designate
37.23 licensed physicians, psychologists, or chiropractors to examine
37.24 applicants for disability benefits and review the ~~medical~~ expert
37.25 reports based upon these examinations to determine whether an
37.26 applicant is totally and permanently disabled as defined in
37.27 section 353.01, subdivision 19, disabled as defined in section
37.28 353.656, or eligible for continuation of disability benefits
37.29 under subdivision 6. The medical examiner shall also review, at
37.30 the request of the executive director, all medical and health
37.31 care statements on behalf of an applicant for disability
37.32 benefits, and shall report in writing to the executive
37.33 director the conclusions and recommendations of the examiner on
37.34 those matters referred for advice.

37.35 Sec. 15. Minnesota Statutes 2002, section 353.33,
37.36 subdivision 7, is amended to read:

38.1 Subd. 7. **PARTIAL REEMPLOYMENT.** If, following a work or
38.2 non-work-related injury or illness, a disabled person ~~resumes a~~
38.3 ~~gainful occupation from which~~ who remains totally and
38.4 permanently disabled as defined in section 353.01, subdivision
38.5 19, has income from employment that is not substantial gainful
38.6 activity and the rate of earnings from that employment are less
38.7 than the salary rate at the date of disability or the
38.8 salary rate currently paid for ~~similar~~ positions similar to the
38.9 employment position held by the disabled person immediately
38.10 before becoming disabled, whichever is greater, the ~~board~~
38.11 executive director shall continue the disability benefit in an
38.12 amount that, when added to the earnings and any workers'
38.13 compensation benefit, does not exceed the salary rate at the
38.14 date of disability or the salary currently paid for ~~similar~~
38.15 positions similar to the employment position held by the
38.16 disabled person immediately before becoming disabled, whichever
38.17 is higher, ~~provided~~. The disability benefit ~~does~~ under this
38.18 subdivision may not exceed the disability benefit originally
38.19 allowed, plus any postretirement adjustments payable after
38.20 December 31, 1988, in accordance with section 11A.18,

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

38.24 Sec. 16. Minnesota Statutes 2002, section 354.48,

38.25 subdivision 2, is amended to read:

38.26 Subd. 2. **APPLICATIONS; ACCRUAL.** (a) A person described
38.27 in subdivision 1, or another person authorized to act on behalf
38.28 of the person, may make written application on a form prescribed
38.29 by the executive director for a total and permanent disability
38.30 benefit only within the 18-month period following the
38.31 termination of teaching service. ~~This~~

38.32 (b) The benefit accrues from the day following the
38.33 commencement of the disability or the day following the last day
38.34 for which salary is paid, whichever is later, but does not begin
38.35 to accrue more than six months before the date on which the
38.36 written application is filed with the executive director. If

39.1 salary is being received for either annual or sick leave during
39.2 the disability period, ~~payments accrue~~ the disability benefit
39.3 accrues from the day following the last day for which this
39.4 salary is paid.

39.5 Sec. 17. Minnesota Statutes 2002, section 354.48,
39.6 subdivision 4, is amended to read:

39.7 Subd. 4. **DETERMINATION BY THE EXECUTIVE DIRECTOR.** The
39.8 executive director shall have the member examined by at least
39.9 two licensed physicians or licensed psychologists selected by
39.10 the medical adviser. These physicians, or psychologists with
39.11 respect to a mental impairment, shall make written reports to
39.12 the executive director concerning the member's disability,
39.13 including ~~medical~~ expert opinions as to whether or not the
39.14 member is permanently and totally disabled within the meaning of
39.15 section 354.05, subdivision 14. The executive director shall
39.16 also obtain written certification from the last employer stating
39.17 whether or not the member was separated from service because of
39.18 a disability which would reasonably prevent further service to
39.19 the employer and as a consequence the member is not entitled to
39.20 compensation from the employer. If, upon the consideration of
39.21 the reports of the physicians or psychologists and any other
39.22 evidence presented by the member or by others interested
39.23 therein, the executive director finds that the member is totally
39.24 and permanently disabled, the executive director shall grant the
39.25 member a disability benefit. ~~The fact that~~ An employee who is
39.26 placed on leave of absence without compensation because of
39.27 disability ~~shall is not bar the member~~ barred from receiving a
39.28 disability benefit.

39.29 Sec. 18. Minnesota Statutes 2002, section 354.48,
39.30 subdivision 6, is amended to read:

39.31 Subd. 6. **REGULAR PHYSICAL EXAMINATIONS.** At least once
39.32 each year during the first five years following the allowance of
39.33 a disability benefit to any member, and at least once in every
39.34 three-year period thereafter, the executive director shall
39.35 require the disability beneficiary to undergo a medical
39.36 examination by a physician or physicians, or by one or more

40.1 psychologists with respect to a mental impairment, engaged by
40.2 the executive director. If ~~any~~ an examination indicates that
40.3 the member is no longer permanently and totally disabled or that
40.4 the member is engaged or is able to engage in a substantial
40.5 gainful occupation, payments of the disability benefit by the
40.6 association ~~shall~~ must be discontinued. The payments ~~shall~~
40.7 ~~discontinue~~ must be discontinued as soon as the member is
40.8 reinstated to the payroll following sick leave, but payment may
40.9 not be made for more than 60 days after the physicians or
40.10 psychologists engaged by the executive director find that the
40.11 person is no longer permanently and totally disabled.

40.12 Sec. 19. Minnesota Statutes 2002, section 354.48,
40.13 subdivision 6a, is amended to read:

40.14 Subd. 6a. **MEDICAL ADVISER; DUTIES.** The state
40.15 commissioner of health or a licensed physician on the staff of
40.16 the department of health who is designated by the commissioner
40.17 shall be the medical adviser of the executive director. The
40.18 medical adviser shall designate licensed physicians, or licensed
40.19 psychologists with respect to a mental impairment, who shall
40.20 examine applicants for disability benefits. The medical adviser
40.21 shall pass upon all ~~medical~~ expert reports based on any
40.22 examinations performed in order to determine whether a teacher
40.23 is totally and permanently disabled as defined in section
40.24 354.05, subdivision 14. The medical adviser shall also
40.25 investigate all health and medical statements and certificates
40.26 by or on behalf of a teacher in connection with a disability
40.27 benefit, and shall report in writing to the director setting
40.28 forth any conclusions and recommendations on all matters
40.29 referred to the medical adviser.

40.30 Sec. 20. Minnesota Statutes 2002, section 354A.36,
40.31 subdivision 4, is amended to read:

40.32 Subd. 4. **DETERMINATION OF DISABILITY.** The board of the
40.33 teachers retirement fund association shall make the final
40.34 determination of the existence of a permanent and total
40.35 disability. The board shall have the coordinated member
40.36 examined by at least two licensed physicians or licensed

41.1 psychologists who ~~shall be~~ are selected by the board. After
41.2 making any required examinations, each physician, or
41.3 psychologist with respect to a mental impairment, shall make a
41.4 written report to the board concerning the coordinated member,
41.5 which shall include a statement of the physician's or
41.6 psychologist's ~~medical~~ expert opinion as to whether or not the
41.7 member is permanently and totally disabled within the meaning of
41.8 section 354A.011, subdivision 14. The board shall also obtain a
41.9 written statement from the ~~school-district~~ employer as to
41.10 whether or not the coordinated member was terminated or
41.11 separated from active employment due to a disability which is
41.12 deemed by the ~~district~~ employer to reasonably prevent further
41.13 service by the member to the ~~district~~ employer and which caused
41.14 the coordinated member not to be entitled to further
41.15 compensation from the ~~district~~ employer for services rendered by
41.16 the member. If, after consideration of the reports of the
41.17 physicians, or psychologists with respect to a mental
41.18 impairment, and any evidence presented by the member or by any
41.19 other interested parties, the board determines that the
41.20 coordinated member is totally and permanently disabled within
41.21 the meaning of section 354A.011, subdivision 14, it shall grant
41.22 the coordinated member a disability benefit. ~~The fact that A~~
41.23 ~~member has been~~ who is placed on a leave of absence without
41.24 compensation as a result of the disability ~~shall~~ is not ~~operate~~
41.25 ~~to bar~~ barred ~~a coordinated member~~ from receiving a disability
41.26 benefit under this section.

41.27 Sec. 21. Minnesota Statutes 2002, section 354A.36,
41.28 subdivision 6, is amended to read:

41.29 Subd. 6. **REQUIREMENT FOR REGULAR PHYSICAL EXAMINATIONS.**

41.30 At least once each year during the first five years following
41.31 the granting of a disability benefit to a coordinated member by
41.32 the board and at least once in every three year period
41.33 thereafter, the board shall require the disability benefit
41.34 recipient to undergo a ~~medical~~ expert examination as a condition
41.35 for continued entitlement of the benefit recipient to receive a
41.36 disability benefit. The ~~medical~~ expert examination ~~shall~~ must

42.1 be made at the place of residence of the disability benefit
42.2 recipient or at any other place mutually agreeable to the
42.3 disability benefit recipient and the board. The ~~medical expert~~
42.4 examination ~~shall~~ must be made by a physician or physicians or
42.5 by one or more psychologists engaged by the board. The
42.6 physician or physicians, or the psychologist or psychologists
42.7 with respect to a mental impairment, conducting the ~~medical~~
42.8 expert examination shall make a written report to the board
42.9 concerning the disability benefit recipient and the recipient's
42.10 disability, including a statement of the physician's or
42.11 psychologist's ~~medical expert~~ opinion as to whether or not the
42.12 member remains permanently and totally disabled within the
42.13 meaning of section 354A.011, subdivision 14. If the board
42.14 determines from consideration of the ~~physician's~~ written ~~medical~~
42.15 expert examination report of the physician or of the
42.16 psychologist with respect to a mental impairment that the
42.17 disability benefit recipient is no longer permanently and
42.18 totally disabled or if the board determines that the benefit
42.19 recipient is engaged or is able to engage in a gainful
42.20 occupation, unless the disability benefit recipient is partially
42.21 employed ~~pursuant to~~ under subdivision 7, then further
42.22 disability benefit payments from the fund ~~shall~~ must be
42.23 discontinued. The discontinuation of disability benefits ~~shall~~
42.24 must occur immediately if the disability recipient is reinstated
42.25 to the district payroll following sick leave and within 60 days
42.26 of the determination by the board following the ~~medical expert~~
42.27 examination and report of the physician or physicians or
42.28 psychologist or psychologists engaged by the board that the
42.29 disability benefit recipient is no longer permanently and
42.30 totally disabled within the meaning of section 354A.011,
42.31 subdivision 14.

42.32 Sec. 22. **REPEALER.**

42.33 (a) Minnesota Statutes 2002, sections 353.33, subdivision
42.34 5b; and 490.11, are repealed on July 1, 2004.

42.35 (b) Section 1 is repealed on July 1, 2006.

42.36 Sec. 23. **EFFECTIVE DATE.**

43.1 Sections 1 to 22 are effective on July 1, 2004.

43.2 ARTICLE 9

43.3 FEDERAL INTERNAL REVENUE

43.4 CODE COMPLIANCE

43.5 Section 1. **356.635 INTERNAL REVENUE CODE COMPLIANCE.**

43.6 Subdivision 1. RETIREMENT BENEFIT COMMENCEMENT. The

43.7 retirement benefit of a member who has terminated employment

43.8 must begin no later than the later of April 1 of the calendar

43.9 year following the calendar year that the member attains the

43.10 federal minimum distribution age under section 401(a)(9) of the

43.11 Internal Revenue Code or April 1 of the calendar year following

43.12 the calendar year in which the member terminated employment.

43.13 Subd. 2. DISTRIBUTIONS. Distributions shall be made as

43.14 required under section 401(a)(9) of the Internal Revenue Code

43.15 and the treasury regulations adopted under that section,

43.16 including, but not limited to, the incidental death benefit

43.17 provisions of section 401(a)(9)(G) of the Internal Revenue Code.

43.18 Subd. 3. DIRECT ROLLOVERS. A distributee may elect, at

43.19 the time and in the manner prescribed by the plan administrator,

43.20 to have all or any portion of an eligible rollover distribution

43.21 paid directly to an eligible retirement plan as specified by the

43.22 distributee.

43.23 Subd. 4. ELIGIBLE ROLLOVER DISTRIBUTION. An "eligible

43.24 rollover distribution" is any distribution of all or any portion

43.25 of the balance to the credit of the distributee.

43.26 Subd. 5. INELIGIBLE AMOUNTS. An eligible rollover

43.27 distribution does not include:

43.28 (1) a distribution that is one of a series of substantially

43.29 equal periodic payments, receivable annually or more frequently,

43.30 that is made for the life or life expectancy of the distributee,

43.31 the joint lives or joint life expectancies of the distributee

43.32 and the distributee's designated beneficiary, or for a specified

43.33 period of ten years or more;

43.34 (2) a distribution that is required under section 401(a)(9)

43.35 of the Internal Revenue Code; or

43.36 (3) any other exception required by law or the Internal

44.1 Revenue Code.

44.2 Subd. 6. ELIGIBLE RETIREMENT PLAN. (a) An "eligible

44.3 retirement plan" is:

44.4 (1) an individual retirement account under section 408(a)

44.5 of the Internal Revenue Code;

44.6 (2) an individual retirement annuity plan under section

44.7 408(b) of the Internal Revenue Code;

44.8 (3) an annuity plan under section 403(a) of the Internal

44.9 Revenue Code;

44.10 (4) a qualified trust plan under section 401(a) of the

44.11 Internal Revenue Code that accepts the distributee's eligible

44.12 rollover distribution;

44.13 (5) an annuity contract under section 403(b) of the

44.14 Internal Revenue Code; or

44.15 (6) an eligible deferred compensation plan under section

44.16 457(b) of the Internal Revenue Code, which is maintained by a

44.17 state or local government and which agrees to separately account

44.18 for the amounts transferred into the plan.

44.19 (b) For distributions of after-tax contributions which are

44.20 not includable in gross income, the after-tax portion may be

44.21 transferred only to an individual retirement account or annuity

44.22 described in section 408(a) or (b) of the Internal Revenue Code,

44.23 or to a qualified defined contribution plan described in either

44.24 section 401(a), or section 403(a), of the Internal Revenue Code,

44.25 that agrees to separately account for the amounts transferred,

44.26 including separately accounting for the portion of the

44.27 distribution which is includable in gross income and the portion

44.28 of the distribution which is not includable.

44.29 Subd. 7. DISTRIBUTE. A "distributee" is:

44.30 (1) an employee or a former employee;

44.31 (2) the surviving spouse of an employee or former employee;

44.32 or

44.33 (3) the former spouse of the employee or former employee

44.34 who is the alternate payee under a qualified domestic relations

44.35 order as defined in section 414(p) of the Internal Revenue Code,

44.36 or who is a recipient of a court-ordered equitable distribution

45.1 of marital property, as provided in section 518.58.

45.2 Subd. 8. **FORFEITURES.** For defined benefit plans, unless
45.3 otherwise permitted by section 401(a)(8) of the Internal Revenue
45.4 Code, forfeitures may not be applied to increase the benefits
45.5 that any employee would otherwise receive under the plan.

45.6 Subd. 9. **MILITARY SERVICE.** Contributions, benefits, and
45.7 service credit with respect to qualified military service must
45.8 be provided according to section 414(u) of the Internal Revenue
45.9 Code.

45.10 Sec. 2. **TRANSITIONAL PROVISION.**

45.11 (a) An eligible rollover distribution under Minnesota
45.12 Statutes, section 356.635, does not include the portion of a
45.13 distribution that is not included in gross income.

45.14 (b) For eligible rollover distributions to a surviving
45.15 spouse, an eligible retirement plan under Minnesota Statutes,
45.16 section 356.635, is limited to an individual retirement account
45.17 under section 408(a) of the Internal Revenue Code or an
45.18 individual retirement annuity plan under section 408(b) of the
45.19 Internal Revenue Code.

45.20 Sec. 3. **EFFECTIVE DATE.**

45.21 (a) Sections 1 and 2 are effective on the day following
45.22 final enactment.

45.23 (b) Section 1 is effective retroactively as follows:

<u>subdivision</u>	<u>effective</u>
<u>1</u>	<u>on and after January 1, 1989</u>
<u>2</u>	<u>for distributions on and after</u>
	<u>December 31, 1989</u>
<u>3</u>	<u>for distributions on and after</u>
	<u>January 1, 1993</u>
<u>6, paragraph (a),</u>	<u>for distributions made after</u>
<u>clauses (5) and (6)</u>	<u>December 31, 2001</u>
<u>6, paragraph (b)</u>	<u>for distributions after</u>
	<u>December 31, 2001</u>
<u>9</u>	<u>on December 12, 1994</u>

45.35 (c) Section 2 is effective only for distributions made
45.36 before January 1, 2002."

45.37 Delete the title and insert:

45.38 "A bill for an act

45.39 relating to retirement; statewide and major local
45.40 public pension plans; making various changes of an
45.41 administrative nature; amending Minnesota Statutes
45.42 2002, sections 352.01, subdivision 13; 352.113, by

46.1 adding a subdivision; 352.95, subdivisions 1, 2, and
46.2 4; 352B.01, subdivision 11; 352B.10, subdivisions 1,
46.3 2, 3, 4, and 5; 352B.105; 352D.065, subdivision 2;
46.4 353.01, subdivisions 2b, 10, 12a, and 12b; 353.33,
46.5 subdivisions 4, 6, 6b, and 7; 353.37, subdivision 3
46.6 and by adding a subdivision; 354.05, subdivision 2;
46.7 354.07, subdivision 9; 354.091; 354.096, subdivision
46.8 1; 354.42, subdivision 7; 354.44, subdivision 4;
46.9 354.48, subdivisions 2, 4, 6, and 6a; 354.51,
46.10 subdivision 5; 354.52, subdivisions 4a and 6 and by
46.11 adding a subdivision; 354.53; 354.66, subdivision 2;
46.12 354A.093; 354A.36, subdivisions 4 and 6; 354B.20,
46.13 subdivisions 4 and 6; 354B.23, subdivision 1; 354B.32;
46.14 354C.11, subdivision 2; and 356.611, subdivision 2 and
46.15 by adding a subdivision; proposing coding for new law
46.16 in Minnesota Statutes, chapter 356; repealing
46.17 Minnesota Statutes 2002, sections 352D.02, subdivision
46.18 5; 353.33, subdivision 5b; and 490.11."