



H.F. 3938

(Murphy, M., by request)

S.F. XXXX

(_____)

Executive Summary of Commission Staff Materials

Affected Pension Plan(s): Volunteer Firefighter Relief Associations
Relevant Provisions of Law: Portions of Minnesota Statutes, Chapters 6, 69, 356, and 424A
General Nature of Proposal: Recommendations of the Volunteer Fire Working Group sponsored by the State Auditor
Date of Summary: March 27, 2008

Specific Proposed Changes

The bill:

- (a) requires public accountants to report volunteer firefighter relief association misconduct;
- (b) authorizes security brokers to hold pension plan assets directly;
- (c) allows subgrouping of mutual fund investments for applying statutory limits on "other" investments;
- (d) requires security brokers to provide written acknowledgment of security insurance coverage;
- (e) adds a specific statutory definition of "ancillary benefits";
- (f) allows volunteer firefighter relief associations and their municipalities a local option in defining "surviving spouse";
- (g) eliminates an obsolete deferred service pension interest provision;
- (h) eliminates a mandated method for deferred service pension interest calculations;
- (i) clarifies the current ancillary benefit limitations; and
- (j) eliminates the authorization for the payment of funeral benefits from volunteer firefighter relief association special funds.

Policy Issues Raised by the Proposed Legislation

- 1. Appropriateness of adding pension plan activities to the public accountant misconduct reporting requirement.
- 2. Appropriateness of permitting investment broker-dealers to directly hold public pension plan assets.
- 3. Accuracy and appropriateness of the proposed refining of the "other investment" limitation determination process.
- 4. Appropriateness of redefining "surviving spouse" for volunteer fire benefit coverage purposes and the appropriateness of local options in the definition.
- 5. Appropriateness of allowing diverse methods for calculating deferred service pension interest.
- 6. Appropriateness of the proposed clarification of the ancillary benefit limitation.
- 7. Appropriateness of retaining the current short service enhanced death benefit provision.
- 8. Appropriateness of repealing current local volunteer firefighter relief association laws not conforming with ancillary benefit limitations.
- 9. Appropriateness of removing funeral benefits as an authorized volunteer firefighter relief association special fund disbursement.

Potential Amendments

- H3938-1A (technical amendment) rennumbers various clauses within a paragraph in Section 3 of the bill to make the provision read more clearly.
- H3938-2A (technical amendment) corrects a grammatical error in Section 3 of the bill.
- H3938-3A eliminates the change allowing broker-dealers to hold pension plan assets directly.
- H3938-4A enhances the requirement for "excess SIPC insurance" if the broker-dealer holding of assets is to be retained.
- H3938-5A requires additional disclosures about the limitations in any "excess SIPC insurance."
- H3938-6A eliminates local option in surviving spouse definition, with status set at active service termination.
- H3938-7A eliminates local option in surviving spouse definition, with status set at date of death.
- H3938-8A retains single deferred service pension interest calculation method.
- H3938-9A adds liability calculation procedure to account for short service enhanced survivor benefit coverage.
- H3938-10A repeals nonconforming local ancillary benefit laws, with local approval.



TO: Members of the Legislative Commission on Pensions and Retirement

FROM: Lawrence A. Martin, Executive Director *JAM*

RE: H.F. 3938 (Murphy, M., by request); S.F. xxxx: State Auditor's Volunteer Fire Working Group Recommendations

DATE: March 12, 2008

Summary of H.F. 3938 (Murphy, M., by request); S.F. xxxx

H.F. 3938 (Murphy, M., by request); S.F. xxxx amends Minnesota Statutes, Sections 6.67, 69.011, Subdivision 1, 356A.06, 424A.001, 424A.02, and 424A.05, relating to the Office of the State Auditor, the public pension plan fiduciary responsibility law, and the volunteer firefighter relief association substantive law, by making the following changes:

1. Public Accountant Misconduct Reporting Requirement. The requirement that public accountants report local government misconduct to the State Auditor is expanded to the various local Minnesota public pension plans, including volunteer firefighter relief associations (Section 1);
2. Security Brokers Authorized to Hold Pension Plan Assets. Insured security brokers and their agents are included as authorized holders of statewide or local Minnesota public pension plan assets (Section 3);
3. Allows Mutual Fund Investments to be Allocated into Portions for Applying Statutory Limits on "Other Investments". The "other investments" portion of the authorized investment list for all but the smallest Minnesota public pension plans is modified to allow mutual fund investments that include portions of "other investments" to be allowed into respective portions to apply the 20 percent statutory limit (Section 4);
4. Security Broker Written Acknowledgment of Security Insurance Coverage. As part of the current broker investment authority acknowledgment, security brokers and their agents are required to acknowledge that sufficient insurance has been obtained to cover the amount of Minnesota public pension plan assets held (Section 5);
5. Addition of a Specific Definition of Ancillary Benefits. A definition of "ancillary benefits" as any benefit other than a service pension is added to the substantive volunteer firefighter relief association benefit law (Section 6);
6. Local Option Redefinition of Surviving Spouse. Volunteer firefighter relief associations are provided an option to define "surviving spouse" as the legally married spouse either at the time of active service termination or at the date of death (Section 7);
7. Removal of Obsolete Deferred Service Pension Interest Provision. A State Auditor's Office calculated actual total rate of return deferred service pension interest method demonstration project, scheduled to expire on December 31, 2008, is eliminated (Section 8, Paragraph (c));
8. Elimination of Single Mandatory Deferred Service Pension Interest Calculation Method. The single method for calculating interest for deferred service pensions is eliminated in favor of the calculation method specified by the relief association and approved by the municipality (Section 8, Paragraph (d));
9. Clarification of Ancillary Benefit Limitation. For ancillary benefits paid to or on behalf of active members, the ancillary benefit is the earned service pension amount at the time of the qualifying event, calculated without any partial vesting reduction. For ancillary benefits related to deferred members, the relief association has flexibility with respect to the benefit amount payable (Section 9); and
10. Special Fund Funeral Benefit Authorization Eliminated. The authority for the payment of funeral benefits from a volunteer firefighter relief association special fund is eliminated, with a cross-reference in Minnesota Statutes, Section 69.011, Subdivision 1, is corrected (Sections 2 and 10).

Relevant Background Information

Background information on relevant topics is attached, as follows:

- Attachment A: Public Pension Plan Fiduciary Responsibility Law. Background information is presented on the 1989 codification of public employee fiduciary responsibility provisions and subsequent amendments.
- Attachment B: Securities Investor Protection Corporation (SIPC) Brokerage Default/Fraud Insurance. Background information is presented on the Securities Investor Protection Corporation (SIPC) and insurance against broker-dealer financial default or fraud.
- Attachment C: Deferred Volunteer Firefighter Relief Association Service Pensions. Background information is presented on the statutory provisions governing the payment of deferred volunteer firefighter service pensions and the interest payable on those deferred service pensions.
- Attachment D: Regulation of Volunteer Firefighter Relief Association Ancillary Benefits. Background information is presented on the statutory limitations on the payment by volunteer firefighter relief associations of benefits other than service pensions.
- Attachment E: Volunteer Firefighter Relief Association Special Fund Disbursements. Background information is presented on authorized disbursements from the special fund of a volunteer firefighter relief association.

Technical Amendments

Amendment H3938-1A numbers the clauses into which the last portion of paragraph (a) has been divided. The numbering of the five clauses will make the sentence easier to read.

Amendment H3938-2A corrects a grammatical error in the bill, where new language is proposed to be added into the middle of a two-part clause, with the new language separation rendering the second portion of the clause unintelligible. The amendment repeats the language from the first portion of the clause that makes the second portion understandable.

Discussion and Analysis

H.F. 3938 (Murphy, M., by request); S.F. xxxx represents the proposals approved by the volunteer fire working group assembled by the Office of the State Auditor, including a requirement that public accountants report to the State Auditor any local Minnesota pension plan misconduct, an authorization for security broker-dealers to hold Minnesota public pension plan assets, permits the allocation of mutual fund investments into applicable components for the application of statutory limits on various investments, requires security broker-dealers to provide written acknowledgement of adequate investment insurance coverage, permits a local option in redefining “surviving spouse” for volunteer firefighter relief association death benefits, allows local option in the method for calculating deferred service pension interest, clarifies the existing ancillary benefit limitation, and eliminates funeral benefits paid from volunteer firefighter relief association special funds.

The proposed legislation raises several pension and related public policy issues for potential Commission consideration and discussion, as follows:

1. Appropriateness of Adding Pension Plan Activities to Public Accountant Misconduct Reporting Requirement (Section 1). The policy issue is the appropriateness of expanding to local retirement plans the current requirement that public accountants report to the State Auditor any financial misconduct that they encounter. The misconduct reporting requirement dates to 1957 and currently covers virtually the whole range of governmental entities within the jurisdiction of the State Auditor’s Office, other than the various local retirement plans. With the number of local pension plans, especially volunteer firefighter relief associations, the growing size of their assets, and the number of volunteer firefighter relief association officials, the potential for financial misdeeds is increasing. The State Auditor’s Office believes that if the accountants performing volunteer firefighter relief association audits were to notify it when the financial misdeeds are first found, it could remedy those misdeeds earlier, reducing the risk that the statute of limitations could run in any particular misdeed. The primary argument against the change would likely be that the additional reporting requirement would increase the burden on public accountants auditing volunteer firefighter relief associations and other local public pension plans and could increase the cost of those audits. Since the accountants

auditing local pension plans likely also audit municipalities, it is unlikely that any real additional burden from the proposed legislation is actually placed on the public accountants serving local government.

2. Appropriateness of Permitting Brokers-Dealers to Hold Public Pension Plan Assets (Section 2). The policy issue is the appropriateness of increasing the persons or entities who are authorized to hold public pension plan assets to include broker-dealers. Minnesota Statutes, Section 356A.06, Subdivision 1, permits public pension plan assets to be held only by the treasurer of the pension plan, the State Board of Investment, the depository agent of the plan, or the depository agent of the State Board of Investment. Apparently, many volunteer firefighter relief associations routinely have some or all of their assets held by brokerage firms and have followed that practice for some period of years and the Office of the State Auditor has not curbed that practice. By not utilizing national or state banks, credit unions, or thrift institutions as the depository agent as required by Minnesota Statutes, Section 356A.06, Subdivision 8a, the various public pension plans are foregoing the benefit of depository insurance from the Federal Deposit Insurance Corporation and comparable entities and from additional collateralization in the event of deposited assets in excess of the applicable insurance. The Securities Investor Protection Corporation (SIPC) appears to readily cover up to a maximum of \$500,000 in the event of theft or loss of a security and up to a maximum of \$100,000 in the event of theft or loss of cash, but pension plan assets can easily exceed those maximum amounts. SIPC coverage is less readily operable in the event of fraudulent trading or trading in excess of authorization, where the investor or pension plan must challenge the trade virtually immediately in order to be covered. Excess SIPC insurance is available only from a constrained market, currently limited to three vendors (one in Vermont, one in England, and one in Bermuda) and excess SIPC insurance may have problematic individual account or aggregate brokerage limits, notice requirements, and coverage exceptions that will require vigilance on the part of relief association officials, who are part-time firefighters and even more part-time pension officials. If the Commission has questions about the policy rationale for this inclusion of broker-dealers as authorized pension plan asset holders, it should consider taking testimony from the Office of the State Auditor or from volunteer firefighter relief association representatives.

If the Commission is hesitant to recommend this expansion, **Amendment H3938-3A** drops the expansion from the proposed legislation.

Since the insurance provided by the SIPC is limited and would not cover the assets of all but the smallest volunteer firefighter relief associations, a more specific requirement for excess SIPC insurance may be more appropriate, as provided in **Amendment H3938-4A**.

If the Commission desires to bolster the broker certification of sufficient investment fraud or default insurance, **Amendment H3938-5A** adds a requirement that the broker-dealer provide information on the various limitations on the insurance, provide information on any notice provisions in the insurance, and provide information on any coverage exceptions in the insurance.

3. The Accuracy and Appropriateness of "Other Investment" Limitation Determination Refinements (Section 4). The policy issue is the accuracy and the appropriateness of modifying the various "other investment" limitations of Minnesota Statutes, Section 356A.06, Subdivision 7, to allow for mutual fund investments to be allocated into their respective security types for the application of the statutory limits. The change is apparently necessitated by one or more relief associations that invest in mutual fund products that include more than one security category and that invest in "other investments" in amounts that very closely approach the statutory maximums on other investments. The Commission may wish to request additional testimony from the Office of the State Auditor about the number of relief associations that have this problem, the types of mutual funds where these limitation application problems arise, the ease for the State Auditor's Office to allocate these mutual fund investments into security types, and the extent to which self-help alternative remedies other than a statutory change exist.
4. Appropriateness of Redefining "Surviving Spouse" for Volunteer Fire Benefit Coverage Purposes and the Appropriateness of Allowing Local Definition Options (Section 7). The policy issue is the appropriateness of the proposed redefinition of the term "surviving spouse" for volunteer firefighter relief associations and the appropriateness of including in the definition of "surviving spouse" local options as to the timing when that status is obtained. The current definition of the term "surviving spouse" has been unchanged since 1978, other than a change in its placement from Minnesota Statutes 1980, Section 424A.05, Subdivision 5, to a newly created definition section, Minnesota Statutes, Section 424A.001, in 1983 (Laws 1983, Chapter 219, Section 4). The 1978 definition (Laws 1978,

Chapter 201, Section 15) was a simplification and revision of the definition in place since before 1957, reducing the minimum length of marriage to the firefighter before retirement from three years to one year and eliminating the disqualification of desertion. Most volunteer firefighter relief associations, as lump sum plans, pay a benefit to a surviving spouse only if the firefighter or former firefighter dies before receiving a relief association benefit. Exceptions would be volunteer firefighter relief associations that provide solely for monthly benefits or provide monthly benefits with lump sum benefits as an alternative. The proposed change would eliminate the dependency requirement of the current definition, would eliminate the minimum period of marriage requirement of the current definition, and would add the option of determining the status either as of the time of ending active firefighting service or the time of death if the volunteer firefighter relief association bylaws do not specify the time of service termination. The Commission may wish to take testimony on the topic, especially the policy reason why there should be a local option in defining the term. There are no other local options in any volunteer firefighter relief association law definition.

If the Commission wishes to eliminate the local option in the surviving spouse definition and to keep that status based on the date of separation from active firefighting, **Amendment H3938-6A** implements a single definition based on the status when active service ends.

If the Commission wishes to eliminate the local option, but base the status determination on the date of death, whether in active service or while deferred, **Amendment H3938-7A** makes that change.

5. Appropriateness of Replacing a Single Method for Calculating Deferred Service Pension Interest with Local Options on Methods (Section 8, Paragraph (d)). The policy issue is the appropriateness of moving away from the current law standardization of the method by which local volunteer firefighter relief associations calculate the interest to be credited to deferred service pensions during the period of deferral and permitting any method of deferred service pension interest calculations provided for in the bylaws of the volunteer firefighter relief association. The standardization of a volunteer firefighter deferred service pension interest calculation method was introduced in 2005 (First Special Session Laws 2005, Chapter 8, Article 9, Section 12), when additional interest rate setting options were added to the volunteer firefighter relief association provision, replicated the interest crediting provision of the various statewide retirement plans, and was intended to assist the volunteer firefighter community and Office of the State Auditor enforcement by gaining some uniformity in the practice. From discussions of the State Auditor's Volunteer Firefighter Working Group, it is clear that volunteer firefighter relief associations have different notions about whether deferred service pension interest should be credited in the initial year of deferral or not and whether it should be credited monthly or only for full years of deferral. Eliminating standardization will recognize and validate that diversity of view. Allowing local variations in interest crediting will risk the introduction of computation errors, since volunteer firefighter relief associations are not necessarily well equipped to handle variable interest crediting procedures, and will complicate the work of the State Auditor's Office in attempting to monitor divergent interest crediting procedures.

If the Commission wishes to retain a standardized deferred service credit interest crediting procedure, **Amendment H3938-8A** would drop the local option on interest crediting methods.

6. Appropriateness of Ancillary Benefit Clarification (Section 9). The policy issue is the appropriateness of the proposed ancillary benefit clarification. The limits on ancillary benefits (i.e. benefits other than the volunteer firefighter relief association service pension) were introduced in 1979 with the general revision of the volunteer firefighter relief association laws in order to protect the funding of relief associations solely providing lump sum service pensions, since the simplified liability and funding cost determination procedures in statute for lump sum volunteer firefighter relief associations only encompasses the service pension and does not include ancillary benefits. The elements of regulation of ancillary benefits since the 1979 revision of volunteer firefighter relief association laws are:
 - (a) relief associations may pay ancillary benefits, but are not required to pay ancillary benefits;
 - (b) lump sum plans may only pay a single benefit on account of any relief association member;
 - (c) all relief associations are limited in the payment of ancillary benefits to the total accrued value of a relief association member's service pension without vesting schedule-related reductions; and
 - (d) all relief associations may provide an enhanced survivor/death benefit for short service relief association members, which a benefit based on five years of service for members with less than five years of service.

The proposal is an attempt to make the statutory provision easier to understand. The Commission may wish to take testimony from the broader volunteer firefighter relief associations on whether or not that increased understandability has been achieved while retaining the four regulatory elements implemented during and after 1979.

7. Continued Appropriateness of Retaining the Enhanced Short Service Death Benefit (Section 9). The policy issue is whether or not volunteer firefighter relief associations should continue to be permitted to provide an enhanced death benefit for shorter service relief association members. The practice of an enhanced death benefit for short service relief association members, permitted since 1979, is at odds with another regulatory principle of limiting ancillary benefits to the amount of the service pension earned by a volunteer firefighter, which attempts to maintain the financial health of the relief association by limiting benefit outlays to the benefit amount, the service pension, that drives the ongoing financial requirements and funding of the relief association. Even that accrued service pension amount limit does not fully protect a relief association from a potential financial default if enough short service firefighters in a relatively recently established relief association die or become disabled during the same calendar year because the relief association funding scheme utilizes present value amounts, thus depending on future investment earnings for the payment of the full amount. With the enhanced death benefit, for a recently established relief association and multiple firefighter deaths in a calendar year, the potential financial threat is increased.

If the enhanced benefit practice is to be continued, and if the enhanced death benefit currently is a routine relief association practice, the financial threat could be reduced by increasing the funding requirements of the relief association under Minnesota Statutes, Section 69.772, Subdivision 2, for relief association members during their initial five years were increased, as set forth in **Amendment H3938-9A**.

8. Appropriateness of Repealing Prior Nonconforming Volunteer Firefighter Relief Association Special Laws (Section 9). The policy issue is the appropriateness of a potential amendment, provided by the Commission staff to the Working Group during Fall 2007, considered by the Working Group, but not acted upon by the Working Group, **Amendment H3938-10A**, repealing with local approval the special laws governing ancillary benefits relating to the Anoka Volunteer Firefighter Relief Association, the Edina Volunteer Firefighter Relief Association, the Fairmont Volunteer Firefighter Relief Association, the Falcon Heights Volunteer Firefighter Relief Association, the Golden Valley Volunteer Firefighter Relief Association, the Wayzata Volunteer Firefighter Relief Association, and the White Bear Lake Volunteer Firefighter Relief Association that do not or may not conform with the general law regulation of ancillary benefits. Although there were several hundred pre-1979 special laws related to volunteer firefighter relief associations, only a small number dealt with ancillary benefits. In 1979, when the major volunteer firefighter relief association substantive benefit law recodification and revision occurred, a conscious decision was made to eliminate nonconforming service pension special laws, generally by way of a specific repealer, but to wait to give affected localities and volunteer firefighter relief associations time to consider and resolve ancillary benefit issues in order to avoid legislating unintended benefit reductions. Now, almost 30 years after the 1979 volunteer firefighter relief association legislation, only three volunteer firefighter relief associations have specifically addressed their ancillary benefit issues and revised their special laws. In all probability, these relief associations have lost track of their prior special laws or have assumed that their prior special laws have been overridden by Minnesota Statutes, Chapter 424A, and that the prior special laws are functionally obsolete.
9. Appropriateness of Eliminating the Volunteer Firefighter Relief Association Special Fund Funeral Benefit Authorization (Sections 2 and 10). The policy issue is the appropriateness of amending the volunteer firefighter relief association special fund authorized payment provision to eliminate the authority for volunteer firefighter relief associations to pay funeral benefits from the special fund. Volunteer firefighter relief associations would retain the authority to pay funeral benefits from their general funds, which do not receive tax revenue. Volunteer firefighter relief associations would retain authority to pay survivor benefits or death benefits. The elimination of funeral benefits from special fund authorization would likely reduce the potential for volunteer firefighter relief associations to violate the ancillary benefit limitations and shift the typically more nominal amount of funeral benefits to the volunteer firefighter relief association general fund, financed by fundraising, gifts, and other funding sources. The Commission may wish to take additional testimony to insure that there is general understanding of the proposal in the volunteer firefighter community.

Attachment A

Background on Public Pension Plan Fiduciary Responsibility

Minnesota Statutes, Chapter 356A, the Public Pension Fiduciary Responsibility Law, was added to law in 1989, specifying fiduciary standards for Minnesota public pension plans, fostering consistency across all applicable plans.

Minnesota Statutes, Chapter 356A, includes provisions covering the following areas:

1. Fiduciary Status. Fiduciaries are defined as any member of a covered pension plan governing board, the chief administering officer of the plan, the chief administering officer of the State Board of Investment, members of the State Board of Investment, and members of the Investment Advisory Council. The Public Employees Retirement Association (PERA) Defined Contribution Plan, the Higher Education Individual Retirement Account Plan, the Higher Education Supplemental Retirement Plan, and the Arts Board, Humanities Commission Individual Retirement Account Plan are explicitly included. Members of the Higher Education Individual Retirement Account Plan Advisory Committee are fiduciaries.
2. Fiduciary Activities. Fiduciary activities include, but are not limited to, investing plan assets, determining the amount and duration of benefits, determining membership eligibility, determining funding requirements, maintenance of membership and financial records, and expenditure of plan assets. No defined contribution plan fiduciary is responsible for any loss due to a participant's self-direction of their account. Fiduciary activities include the reinvestment of plan assets, selection of financial institutions, and investment products.
3. Prohibited Persons. Convicted felons, unless they are constitutional officers, are prohibited from engaging in a fiduciary role. The prohibition lasts five years from the date of conviction if the individual is not incarcerated, or the day following unconditional release if incarcerated.
4. Standards of Fiduciary Care. A fiduciary owes a fiduciary duty to the active, deferred, and retired members of the plan who are its beneficiaries; the taxpayers of the state or political subdivision, who help to finance the plan; and the State of Minnesota, which established the plan. A fiduciary must act in good faith and shall exercise that degree of judgment and care, under the circumstances then prevailing, that persons of prudence, discretion, and intelligence would exercise in the management of their own affairs, not for speculation, considering the probable safety of the plan capital as well as the probable investment return to be derived from the assets.
5. Conduct of Fiduciary Duties Generally. Fiduciary activities must be carried out solely to provide authorized benefits to plan participants and beneficiaries, to incur and pay reasonable and necessary administrative expenses, or to manage the plan in accordance with the purposes and intent of the plan document. These activities must be carried out faithfully, without prejudice, and be consistent with law and the plan document.
6. Legal Title/Asset Holding. Assets of the covered plan can be held only by the plan treasurer, the State Board of Investment, the depository agent of the plan, or the State Board of Investment's depository agent. Legal title to plan assets must be vested in the plan, the State Board of Investment, the governmental entity that sponsors the plan, the nominee of the plan, or the depository agent. The holder of legal title functions as a trustee.
7. Diversification of Investments. Plan assets must be diversified to minimize the risk of substantial investment losses.
8. Absence of Fiduciary Profit. No fiduciary may profit, directly or indirectly, as a result of the investment or management of plan assets.
9. Economic Interest Statements. Each member of the governing board of a covered pension plan and the chief administrative officer of the plan must file annually a statement of economic interest. The statement must be filed with the chief executive officer of the plan and be available to the public. The statement must contain some minimum information and any other information that the fiduciary or the governing board deems necessary to disclose potential or actual conflict of interest.

The chief administrative officer of the covered plan, and the executive director of the State Board of Investment with respect to assets managed by the State Board of Investment, must have an investment business recipient disclosure which discloses the recipients of investment business of the plan and investment commissions allocated among commercial banks, investment bankers, brokerage organizations, or other investment managers.

10. Authorized Investments. For small pension plans that lack professional investment advice or management or that do not have assets with a book value in excess of \$1,000,000, use the services of a registered investment advisor for the investment of at least 60 percent of its assets, use the services of the State Board of Investment for the investment of at least 60 percent of its assets, or use a combination of the services of the State Board of Investment and a registered investment advisor for the investment of at least 75 percent of its assets, the plan is limited to the restricted list of authorized investments unless other investments are authorized by law. A plan limited to the restricted list can invest in insured or collateralized certificates of deposit, insured savings accounts, government obligations, high quality corporate obligations, and mutual funds which limit their investments to those covered by the restricted list.

Pension plans not limited to the restricted list can invest in securities generally permitted for the State Board of Investment and other investments authorized by law. Investments in foreign developed markets (countries included in the Europe, Australia, and Far East Index), commingled or mutual fund investments, and real estate investment trusts (REITs) are authorized securities. Asset-backed securities are permitted if those securities are rated in the top four quality categories by a nationally recognized rating agency. Stocks listed on any exchange regulated by the United States or Canadian governments, rather than just those listed on the New York or American stock exchanges, are authorized stock investments and exchange-traded funds are authorized.

11. Broker Disclosure and Acknowledgment. Pension plans must provide its brokers or managers with a complete statement of investment restrictions and requirements annually and the investment broker or manager must acknowledge those restrictions and requirements before doing business with or on behalf of the plan.
12. Minimum Liquidity Requirements. Administrators of pension plans limited to the restricted investment list are required to invest adequate assets in short-term, liquid investments, which can be redeemed without penalty, sufficient to meet the liquidity requirements of the fund.
13. Collateralization. Pension plans must select a depository bank or similar institution and deposits must be covered by insurance or collateral. Loaned securities must be fully collateralized with cash or securities, and any puts, calls, or future contracts can be undertaken only with a fully offsetting amount of cash or securities.
14. Disallows Engagement in Prohibited Transactions. No fiduciary may engage in a prohibited transaction or permit the fund to engage in a prohibited transaction. A prohibited transaction is:
- a. the sale, exchange, or lease of real estate between the pension plan and a fiduciary of the plan;
 - b. the lending of money or other extension of credit between the plan and a fiduciary of the plan;
 - c. providing paid services to the plan by a fiduciary for services other than those performed in the capacity of fiduciary;
 - d. furnishing goods or services by the plan to a fiduciary other than those required to perform the fiduciary role;
 - e. the transfer of plan assets to the fiduciary, other than the payment of retirement benefits or reasonable salary and expenses for performing the fiduciary role; or
 - f. the sale, exchange, loan, or lease of any item of value between the plan and the fiduciary except for fair market value in an arms length transaction.
15. Provision of Benefit Summary. All active plan participants must be provided with a summary of the benefit provisions of the plan. A copy of the plan document must be provided to members upon request. The plans must also provide members with the financial and actuarial reports of the fund, or summaries of those documents.
16. Benefit Denial Appeals Process. Each plan is required to have a procedure for contested cases involving a determination of eligibility, benefits, or other rights under the plan.

17. Open Meeting Law Applicability. Meetings of the governing board or a committee of a governing board of a pension plan are open to the public and are governed by Section 471.705, the open meeting law.
18. Fiduciary Breach and Liability. A fiduciary breach occurs if the fiduciary violates the fiduciary's duties to plan members, taxpayers, and the state, or engages in a prohibited transaction. Available remedies are those in statute or common law.
19. Co-Fiduciary Responsibility and Liability. Fiduciaries have responsibility to over see the fiduciary activities of other plan fiduciaries (co-fiduciary responsibility), and has responsibility to correct or alleviate a fiduciary breach by another. A co-fiduciary is liable for a fiduciary breach committed by another fiduciary when the co-fiduciary has a responsibility to oversee the fiduciary activities of the other or a responsibility to correct or alleviate a breach by that fiduciary. A co-fiduciary may eliminate liability through proper delegation and allocation of responsibilities. Otherwise, the liability is joint and several.
20. Permissible Indemnification of Fiduciaries. Fiduciaries may be indemnified at the discretion of the governing board of the plan or of the State Board of Investment. A decision to indemnify must apply to all fiduciaries of similar rank.
21. Continuing Fiduciary Education. Covered pension plans are required to develop a program for the continuing education of fiduciaries who are not reasonably considered to be experts with respect to their fiduciary duties and activities.

Attachment B

Background on the Securities Investor Protection Corporation (SIPC) Brokerage Default/Fraud Insurance

Securities Investor Protection Corporation Establishment/Governing Law

The Securities Investor Protection Corporation (SIPC) was created in 1970 as a nonprofit, non-governmental, membership corporation, funded by member broker-dealers.

SIPC was created by federal legislation, the Securities Investor Protection Act of 1970 (15 U.S.C. §78aaa et seq., as amended). SIPC, however, is not a government agency and is not a regulatory agency, but is a nonprofit, membership corporation that is funded by its member securities broker-dealers.

SIPC Purpose

The Securities Investor Protection Corporation (SIPC) compensates investors if the firms handling their funds and securities go bankrupt. It is intended to restore funds to investors with assets in the hands of bankrupt and otherwise financially troubled brokerage firms. SIPC was not chartered by the federal Congress to combat fraud.

Although not every investor is protected by SIPC, an estimated 99 percent of investors who were eligible have recovered their investments through SIPC. From 1970 through 2006, SIPC has advanced \$505 million as part of the recovery of \$15.7 billion in assets for an estimated 626,000 investors.

SIPC Governance and Staffing

SIPC is governed by a seven-member board. Five members of the board are appointed by the President of the United States, with three representing the securities business and two representing the general public, and all five are subject to confirmation by the U. S. Senate. One member of the board is appointed by Secretary of the Treasury from the officers and employees of the department and one member of the board is appointed by the Federal Reserve Board from the officers and employees of the Federal Reserve. The SIPC board chair is designated by the President of the United States and the chair and vice chair must be public members of the board.

The membership of the SIPC board in 2006 was:

Armando J. Bucelo, Jr., The Law Offices of Armando J. Bucelo, Jr., Chair
Todd S. Farha, WellCare Health Plans, Inc., Vice Chair
Thomas W. Grant, H. G. Wellington & Co., Inc.
Emil W. Henry, Jr., U. S. Department of the Treasury
Noe Hinojosa, Jr., Estrada Hinojosa & Co., Inc.
Deborah D. McWhenny, Charles Schwab & Co., Inc.
David J. Stockton, Federal Reserve System.

The primary officers of SIPC are Stephen P. Harbeck, President, Josephine Wang, General Counsel & Secretary, and Philip W. Carduck, Vice President for Operations and Finance. SIPC employed a staff of 31 in 2006.

Under the Securities Investor Protection Act of 1970, the Securities and Exchange Commission (SEC) is responsible to oversee SIPC.

Customers Eligible/Ineligible for SIPC Insurance

Most customers with cash and securities missing from customer accounts are eligible for SIPC assistance.

Some customers are excluded for SIPC coverage. SIPC reserve funds may not be used to pay claims of any failed brokerage firm customer who also is:

- a general partner, officer, or director of the failing brokerage firm;
- the beneficial owner of five percent or more of any class of equity security of the failing brokerage firm (other than certain nonconvertible preferred stocks);
- a limited partner with a participation of five percent or more in the net assets or net profits of the failing brokerage firm;
- someone with the power to exercise a controlling influence over the management or policies of the failing brokerage firm; or
- a broker or dealer or bank acting for itself rather than for a customer.

SIPC Covered Brokers-Dealers/Ineligible Brokers-Dealers

SIPC protects customers of broker-dealers as long as the broker-dealer is an SIPC member. In 2006, there were 5,564 SIPC member firms, with 298 firms added during the course of the calendar year and with 603 firms terminated during the calendar year.

Membership in SIPC is automatic upon an effective 1934 Act Section 15(b) registration, with two exceptions, which are:

- (1) Broker-dealers whose business is exclusively:
 - the distribution of shares of mutual funds,
 - the sale of variable annuities,
 - the business of insurance, or
 - furnishing investment advice to investment companies or insurance company separate accounts; and
- (2) Broker-dealers whose principal business, in the determination of SIPC, is outside of the United States or its territories.

If an SIPC member's registration with the SEC is terminated, the broker-dealer's SIPC membership is also automatically terminated. SIPC loses its power to protect customers of former SIPC members 180 days after the broker-dealer ceases to be a member of SIPC. Normally, the SEC will not permit the termination of the registration and SIPC membership of a broker-dealer if the firm owes securities or cash to customers, but an SIPC membership may be terminated if the SEC is unaware that the firm owes securities or cash to its customers.

Many investment firms use misleading names or language which might lead clients to believe that they are SIPC members. To protect from this misleading, SIPC maintains a database of valid members at their website and has a telephone hotline which investors can call to determine the member status of a firm. Firms which are members of the SIPC can include "member SIPC" on their literature, along with the SIPC logo.

SIPC Covered Investments/Ineligible Investments

The cash and securities held on behalf of a customer at a financially troubled brokerage firm are protected by SIPC. SIPC helps individuals whose money, stocks, and other securities are stolen by a broker or put at risk when a brokerage fails for other reasons. SIPC coverage also includes protection against unauthorized trading in customers' securities accounts. This coverage can include unauthorized trading by persons associated with the introducing brokerage firm and may be available even if the clearing brokerage firm is still solvent.

In general, SIPC covers notes, stocks, bonds, mutual fund and other investment company shares, and other registered securities. Money market funds and exchange-traded funds, regardless of the underlying investments, are considered securities for SIPC coverage.

SIPC does not cover worthless stocks and other securities sold to customers.

Not all investments are protected by SIPC. SIPC does not cover instruments such as unregistered investment contracts, unregistered limited partnerships, fixed annuity contracts, currency, and interests in gold, silver, or other commodity futures contracts or commodity options.

Limits on SIPC Coverage

If sufficient funds are not available in the brokerage firm's customer accounts to satisfy claims within these limits, the reserve funds of SIPC are used to supplement the distribution, up to a ceiling of \$500,000 per customer, including a maximum of \$100,000 for cash claims. Additional funds that may be available to satisfy the remainder of customer claims after the cost of liquidating the brokerage firm are taken into account before SIPC advances reserve amounts. Securities that are registered in the investor's name are not subject to the SIPC limit. The general counsel of SIPC is on record as indicating that any certificates registered in the investor's name are automatically returned to the client, even if they exceed the \$500,000 SIPC-coverage limit. Securities that are not registered in the investor's name, but are registered to their broker's name and held on the customer's behalf, are subject to the SIPC limit, which is of particular concern with institutional investors.

If an SIPC member goes bankrupt, SIPC liquidates the brokerage firm's assets and compensates investors up to the SIPC maximums based on the value of the securities held by the broker-dealer as of the time that an SIPC trustee is appointed to supervise the liquidation of an SIPC member.

SIPC does not protect customers against market risk, which is the risk inherent in a fluctuating market. SIPC coverage is only for customers who have securities or cash on deposit with an SIPC member for the purpose of, or as a result of, securities transactions. SIPC does not protect customer funds placed with a broker-dealer just to earn interest.

SIPC Funding

The SIPC reserve fund is funded from assessments imposed on member brokerage firms (a total of \$894,941 during 2006) and from interest from investments (a total of \$65.5 million in 2006). The assessment has varied over time, sometimes a flat charge, sometimes a transaction volume charge, and sometimes a combination of the two, but has been \$150 annual flat charge per member firm since 1996.

Over the 35-year history of the SIPC reserve fund, net disbursements from the fund exceeded recoveries in 24 years, but the fund has increased in assets from approximately \$100 million in 1971 to approximately \$1.4 billion in 2006.

SIPC Loss Recovery Actions/SIPC Claims

When a brokerage is closed due to bankruptcy or other financial difficulties and customer assets are missing, SIPC steps in as quickly as possible and, within certain limits, works to return customers' cash, stock and other securities.

Upon a brokerage failure, SIPC usually asks a federal court to appoint a trustee to liquidate the firm and protect its customers. With smaller brokerage firm failures, SIPC sometimes deals directly with customers.

Customers of a failed brokerage firm get back all securities that already are registered in their name or are in the process of being registered. After this first step, the brokerage firm's remaining customer assets are then divided on a pro rata basis, with funds distributed in proportion to the size of claims.

In a failed brokerage firm with accurate records, the court-appointed trustee and SIPC may arrange to have some or all customer accounts transferred to another brokerage firm. Customers whose accounts are transferred to another brokerage are notified promptly and then have the option of staying at the new firm or moving to another brokerage of their choosing.

When SIPC seeks the liquidation of a troubled brokerage firm, the financial worth of a customer's account is calculated as of the "filing date." Wherever possible, the actual stocks and other securities owned by a customer are returned, with SIPC's reserve funds used, if necessary, to purchase replacement securities in the open market. The SIPC cannot guarantee that the restored securities will have the same value that they did before the brokerage failure, due to market fluctuation.

The SIPC also protects investors from unauthorized trades, although investors must be proactive in proving that a trade was unauthorized. Before covering losses due to brokerage fraud, SIPC requires that individual investors provide written proof that they questioned an inappropriate trade at the time of the trade.

Also, SIPC denies claims routinely on the grounds that the brokerage does not maintain possession of the assets because it is the introducing brokerage firm rather than the clearing brokerage firm. In the securities industry, there are many cases where two separate broker-dealers work together to service a customer account. These firms are known as the introducing firm and the clearing firm. The introducing firm typically employs the individual broker who takes the customer's order and who sees that the order gets executed. The clearing firm will hold the customer's cash and securities and send out statements describing the assets it holds "on deposit" for the customer. If the clearing firm becomes insolvent or otherwise cannot return the customer's property, it is SIPC's responsibility, not the introducing firm's responsibility, to make sure the customer's cash and securities are returned. For years, this was the most common situation where SIPC came forward to protect customers.

Comparability of SIPC to FDIC

SIPC is not the securities world equivalent of the Federal Deposit Insurance Corporation (FDIC). SIPC does not offer to investors the same blanket protection that the FDIC provides to bank depositors, where

the FDIC insures all depositors at that institution against loss up to a certain dollar limit. SIPC is specifically designed to protect investors from unscrupulous brokers. If a customer is sold a security that turns out to be worthless or the value of their security declines, SIPC will not protect them. If a broker steals funds from a client, SIPC will provide reimbursement.

Investment Insurance In Excess Of SIPC Limits

Historically, excess SIPC insurance arrangements were of three types. "Net equity" insurance is excess SIPC insurance that covers each eligible customer account up to the account's total value. "Aggregate limit" insurance is excess SIPC insurance with a limit applicable to each customer account and an aggregate limit on the total amount applicable to all accounts in a brokerage. "Aggregate limit/no individual account limit" insurance is excess SIPC insurance where there is an aggregate limit on the total amount applicable to all accounts in a brokerage, but there is no limit applicable to any individual account amount under the aggregate figure.

There is a potential lack of availability of SIPC insurance for large investment accounts at brokerage houses, clearing houses, and bank security accounts. Domestic insurance companies that previously provided excess SIPC protection reportedly decided in 2003 that they would no longer offer this protection. The few insurers that previously provided this coverage abandoned the line of business in 2003 because the underlying policies force them to assume potentially unlimited liability. Earlier blanket excess SIPC insurance policies placed no limit on the number of accounts covered or on the financial risk attached to each account. From the early 1970s through 2003, several insurance companies, including Travelers, provided unlimited supplemental SIPC insurance and no investor reportedly ever had to file against these policies. Following the investment market meltdown in 2001, these insurers stopped issuing unlimited policies.

Excess SIPC insurance does currently exist in the marketplace, but apparently only from three sources. One vendor is the Customer Asset Protection Company (CAPCO), a recently formed captive insurance company that was organized and is owned by a group of securities firms who each contributed \$5.4 million and fund a reinsurance policy of \$240 million for all firms, which is licensed by the State of Vermont, and has an A+ financial strength rating from Standard & Poor's. CAPCO customers/owners currently are A.G. Edwards & Sons, Inc., Bear Stearns Securities Corporation, Credit Suisse Securities (USA) LLC, Edward D. Jones & Co. L.P., National Financial Services LLC, Goldman Sachs & Co., Goldman Sachs Execution & Clearing, L.P., Lehman Brothers Inc., Neuberger Berman LLC, Morgan Stanley & Co., Inc., Morgan Stanley DW Inc., Raymond James and Associates, Ridge Clearing & Outsourcing Solutions, Inc., Robert W. Baird & Co., Pershing LLC, and First Clearing, LLC. A second vendor is XL Capital Ltd., a group of seven subsidiary insurance companies founded in 1986 by 68 large global corporations in response to a severe shortage of liability insurance in the United States, which is headquartered in Bermuda, and which has a credit rating of A from A.M. Best. The third vendor is Lloyd's of London, the world's leading insurance market and rated A by Standard & Poor's. Lloyd's excess coverage insurance, however, is subject to a total cap for the whole firm that is greater than the holdings of any particular investor, but may not cover all of the assets held by the clearing broker.

Excess SIPC insurance, when it exists, is valuable only to the extent that it dovetails with SIPC coverage, does not contain relatively modest per-account limits, does not contain inadequate aggregate brokerage limits, does not contain unreasonable notice provisions for claims to be honored, and does not contain numerous exceptions. Brokerage firms that advertise that they have excess SIPC insurance appear to largely gloss over the particulars of that excess SIPC insurance coverage when disclosing its existence.

Attachment C

Deferred Volunteer Firefighter Relief Association Service Pensions

Background Information on Deferred Volunteer Firefighter Relief Association Service Pensions

Volunteer firefighter relief associations pay a service pension as the pension plan's primary retirement benefit when a member volunteer firefighter terminates active firefighting service, attains the required age (at least age 50), and has credit for the required minimum years of firefighting service (at least five years of service credit; potentially 20 years of service credit) and relief association membership. For a volunteer firefighter who has completed the length of service credit required for vesting, has at least five years of relief association active membership, but separates from active volunteer firefighter service and volunteer firefighter relief association membership before age 50 (or older if the relief association requires a later retirement age), Minnesota Statutes, Section 424A.02, Subdivision 7, provides for a deferred service pension that is payable when the former firefighter reaches at least the retirement age. The deferred service pension is calculated based on the law in effect when active service terminated. If the service pension amount has increased since the deferred member terminated active service, the deferred service pensioner does not benefit from the service pension amount increase.

Before 2000 (Laws 2000, Chapter 461, Article 15, Section 6), the relief association was permitted to pay interest on a deferred lump sum service pension at the rate actually earned by the relief association, but not to exceed the five percent interest rate actuarial assumption underlying lump sum volunteer firefighter relief association funding. In 2000, in legislation requested by the Minnesota Area Relief Association Coalition (MARAC), an educational organization representing volunteer firefighter relief associations, the lump sum deferred service pension interest provision was modified, to encompass three options. If the relief association bylaws so provide, interest can be provided on a lump sum deferred service pension at the actual rate of interest earned if the deferred pension amount is placed in a separate relief association account established for that purpose, at the actual rate of interest earned if the deferred pension amount is invested in a separate investment vehicle held by the relief association, or at a flat five percent interest rate.

In 2003, displeased with the 2000 deferred service pension changes, the Marshall Volunteer Firefighter Relief Association sought a legislative change to replicate the pre-2002 law change. Ultimately, the Marshall Volunteer Firefighter Relief Association general law request was converted into a demonstration project and a special law provision (First Special Session Laws 2003, Chapter 12, Article 12, Section 3), which included the additional specification of the manner in which the relief association investment earnings are to be calculated. The Marshall Volunteer Firefighter Relief Association, as a demonstration project, was permitted to pay interest on its lump sum deferred service pensions based on the actual investment performance of the relief association special fund, up to five percent annually. The actual investment performance is that reported by the Office of the State Auditor under Minnesota Statutes, Section 356.219.

In 2004 (Laws 2004, Chapter 267, Article 14, Section 2), the volunteer firefighter relief associations deferred service pension interest crediting provision was modified with the addition of a temporary interest crediting procedure. Relief associations were permitted to pay interest on a deferred pension equal to the actual time weighted rate of return of the pension plan as reported by the State Auditor, not to exceed five percent, if the bylaws are amended accordingly. The provision was scheduled for expiration on December 31, 2008.

In 2005 (Laws 2005, First Special Session, Chapter 8, Article 9, Section 12), the deferred volunteer firefighter relief association service pension interest crediting options were modified to allow interest of five percent or less, as set by the board of directors and approved by the municipality. Interest would be payable from the first of the month following separation from service to the first of the month in which the individual becomes eligible to receive the service pension. For defined contribution plan volunteer firefighter relief associations, if provided for in the bylaws, the association may use any of the deferred service pension interest approaches approved in law for defined benefit plans, or it may credit any investment return on the special fund assets in proportion to the share of the assets in the special fund to the credit of the given deferred member.

Attachment D

Regulation of Volunteer Firefighter Relief Association Ancillary Benefits

Background Information on the Regulation of Volunteer Firefighter Relief Association Ancillary Benefits

Minnesota Statutes, Section 424A.02, Subdivision 9, places limits on ancillary retirement benefit coverage. Ancillary benefits are those benefits provided by a volunteer firefighter relief association other than the service pension, such as disability benefits, death benefits, or survivor benefits.

In 1873, with the creation of fire state aid, municipalities were permitted to pay relief to disabled firefighters and to survivors of deceased firefighters from fire state aid if no relief association is located in the municipality. In 1909, firefighter relief associations were specifically permitted to make payments for the relief of sick, injured, and disabled firefighters and to make payments to widows and orphans of deceased firefighters. The term "widow" was not defined until 1937, requiring three years of marriage before the occurrence of death and dependency for eligibility. The provision became Minnesota Statutes 1978, Section 424.31.

The limitations on ancillary benefits are needed to protect the financial solvency of volunteer firefighter relief associations, which is built around determining the accrued liability and financial requirements for the level of the service pension coverage provided by the volunteer firefighter relief association. The limitations are:

- (1) No Post-Retirement Benefit Beyond the Lump Sum Service Pension. Volunteer firefighter relief associations that provide lump sum service pensions are prohibited from paying any additional benefit to a retired firefighter or on behalf of a retired firefighter once payment of the service pension commences; and
- (2) Maximum Ancillary Benefit Available. All volunteer firefighter relief associations are limited in the payment of pre-retirement and post-retirement ancillary benefits to the amount of the accrued service pension of the volunteer firefighter, except that the survivor benefit payable on behalf of a deceased short service firefighter may be based on a five years of service accrued benefit if that produces a larger accrued service pension amount.

This ancillary benefit provision, Section 424A.02, Subdivision 9, when enacted in 1979, was an effort to ensure that the liabilities for all benefits offered by a given plan, both the service pensions and ancillary benefits, were captured in the process used to determine the funding requirements of the plans. The method for computing the plan liabilities captures the liabilities for a member's service pension, as that accrues over time as the member provides firefighting services covered by the relief association. If the member survives to collect a service pension, the funding that has been received by the association relating to this individual should be sufficient to cover the cost (total liability) of the service pension. If death occurs prior to drawing a service annuity, the service annuity is not payable. Depending upon the bylaws of the association, a surviving spouse annuity may be payable as an ancillary benefit, but not to exceed the value of the earned service pension. This would assure that the cost of the ancillary benefit has been funded through the funding received to support the service pension that had been accruing to the now-deceased firefighter.

Attachment E

Volunteer Firefighter Relief Association Special Fund Disbursements

Background Information on Authorized Special Fund Disbursements

Minnesota Statutes, Section 424A.05, governs the special funds of volunteer firefighter relief associations, including the disbursements authorized from volunteer firefighter relief association special funds.

Minnesota Statutes, Section 424A.05, enacted in 1979, replaced Minnesota Statutes 1978, Section 424.31, in part. Minnesota Statutes 1978, Section 424.31, with respect to authorized volunteer firefighter relief association special fund disbursements, limited expenditures from the volunteer firefighter relief association special fund to the following:

- (1) For the relief of sick, injured, and disabled members of they fire department in the city;
- (2) For the payment of pensions to disabled firefighters and the surviving spouses and orphans of firefighters;
- (3) For the payment of pensions to retired firefighters under the laws of the state;
- (4) For the payment of the fees, dues, and assessments in the Minnesota State Fire Department Association, and in the Volunteer Firemen's Benefit Association of Minnesota so as to entitle the members of any qualified fire department to membership in and benefits of such state association;
- (5) For the payment of such death or funeral benefits as may be from time to time stipulated in the bylaws of the relief association; and
- (6) For the payment of necessary expenses of administering the relief association, including the salaries of the president, secretary, and treasurer.

Laws 1979, Chapter 201, Section 15, Subdivision 3, coded as Minnesota Statutes 1979 Supplement, Section 424A.05, Subdivision 3, limited the expenditures payable from a volunteer firefighter relief association special fund to the following:

- (1) For the payment of service pensions to retired members of the relief association if authorized and paid pursuant to law and the bylaws governing the relief association;
- (2) For the payment of temporary or permanent disability retirement benefits to disabled members of the relief association if authorized and paid pursuant to law and specified in amount in the bylaws governing the relief association;
- (3) For the payment of survivor retirement benefits to surviving spouses and surviving children of deceased members of the relief association if authorized by and paid pursuant to law and specified in amount in the bylaws governing the relief association;
- (4) For the payment of any funeral benefits to the surviving spouse, or if no surviving spouse, the estate, of the deceased member of the relief association if authorized by law and specified in amount in the bylaws governing the relief association;
- (5) For the payment of the fees, dues and assessments to the Minnesota State Fire Department Association and to the State Volunteer Firefighters Benefit Association in order to entitled relief association members to membership in and the benefits of these state associations; and
- (6) For the payment of administrative expenses of the relief association as authorized pursuant to Section 69.80.

In 2000 (Laws 2000, Chapter 461, Article 15, Section 11), Minnesota Statutes, Section 424A.05, Subdivision 3, was amended, based primarily on volunteer firefighter relief association changes suggested by the Minnesota Area Relief Association Coalition (MARAC) and recommended by the Fire Subcommittee of the Legislative Commission on Pensions and Retirement, allowing the payment of a survivor benefit to a designated beneficiary if the designated beneficiary is a natural person and if there is no surviving spouse or surviving child, and allowing the payment of MARAC dues.

In 2006 (Laws 2006, Chapter 271, Article 13, Section 4), Minnesota Statutes, Section 424A.05, Subdivision 3, was again amended, based on a recommendation from the Volunteer Firefight Working Group assembled by the Office of the State Auditor to permit the payment of a death benefit to the estate of a deceased active firefighter if there is no designated beneficiary.

1.1 moves to amend H.F. No. 3938; S.F. No., as follows:

1.2 Page 4, line 2, after "by" insert ":" and insert:

1.3 "(1)"

1.4 and before the second "the" insert:

1.5 "(2)"

1.6 and before the third "the" insert:

1.7 "(3)"

1.8 Page 4, line 3, before "a" insert:

1.9 "(4)"

1.10 Page 4, line 5, after the second "or" insert:

1.11 "(5)"

- 1.1 moves to amend H.F. No. 3938; S.F. No., as follows:
- 1.2 Page 4, line 5, after the second "or" insert "the depository agent"

- 1.1 moves to amend H.F. No. 3938; S.F. No., as follows:
- 1.2 Page 3, delete section 3
- 1.3 Page 8, delete section 5
- 1.4 Renumber the sections in sequence and correct the internal references
- 1.5 Amend the title accordingly

1.1 moves to amend H.F. No. 3938; S.F. No., as follows:

1.2 Page 4, delete lines 1 to 5 and insert:

1.3 "Subdivision 1. Authorized holder of assets; title to assets. (a) Assets of a covered
1.4 pension plan may be held only by:

1.5 (1) the plan treasurer;

1.6 (2) the State Board of Investment;

1.7 (3) the depository agent of the plan;

1.8 (4) a security broker or the broker's agent with, in either case, insurance equal to or

1.9 greater than the plan assets held from the Securities Investor Protection Corporation or

1.10 from excess insurance coverage; or

1.11 (5) the depository agent of the State Board of Investment."

1.1 moves to amend H.F. No. 3938; S.F. No., as follows:

1.2 Page 8, line 28, after the period insert "If the investment fraud and default insurance
1.3 is provided by a source other than the Securities Investor Protection Corporation, the
1.4 security broker or its agent must disclose any limitations applicable to the insurance, must
1.5 disclose any notice provisions applicable to the insurance, and must disclose any coverage
1.6 exceptions applicable to the insurance."

- 1.1 moves to amend H.F. No. 3938; S.F. No., as follows:
- 1.2 Page 9, line 11, delete "either"
- 1.3 Page 9, delete line 12
- 1.4 Page 9, line 13, delete the new language

- 1.1 moves to amend H.F. No. 3938; S.F. No., as follows:
- 1.2 Page 9, line 11, delete everything after "member"
- 1.3 Page 9, delete line 12
- 1.4 Page 9, line 13, delete "specify,"

1.1 moves to amend H.F. No. 3938; S.F. No., as follows:

1.2 Page 10, line 11, reinstate "~~from the first day of~~"

1.3 Page 10, lines 12 to 17, reinstate the stricken language

1.1 moves to amend H.F. No. 3938; S.F. No., as follows:

1.2 Page 3, after line 33, insert:

1.3 "Sec. 3. Minnesota Statutes 2006, section 69.772, subdivision 2, is amended to read:

1.4 Subd. 2. **Determination of accrued liability.** Each firefighters' relief association
1.5 which pays a service pension when a retiring firefighter meets the minimum requirements
1.6 for entitlement to a service pension specified in section 424A.02 and which in its articles
1.7 of incorporation or bylaws requires service credit for a period of service of at least 20
1.8 years of active service for a totally nonforfeitable service pension shall determine the
1.9 accrued liability of the special fund of the firefighters' relief association relative to each
1.10 active member of the relief association, calculated individually using the following table:

1.11	Cumulative	Accrued
1.12	Year	Liability
1.13
1.14	1	\$ 60 <u>334</u>
1.15	2	124 <u>334</u>
1.16	3	190 <u>334</u>
1.17	4	260 <u>334</u>
1.18	5	334
1.19	6	410
1.20	7	492
1.21	8	576
1.22	9	666
1.23	10	760
1.24	11	858
1.25	12	962
1.26	13	1070
1.27	14	1184
1.28	15	1304
1.29	16	1428

2.1	17	1560
2.2	18	1698
2.3	19	1844
2.4	20	2000
2.5	21 and thereafter	100 additional per year

2.6 As set forth in the table the accrued liability for each member of the relief association
2.7 corresponds to the cumulative years of active service to the credit of the member. The
2.8 accrued liability of the special fund for each active member is determined by multiplying
2.9 the accrued liability from the chart by the ratio of the lump sum service pension amount
2.10 currently provided for in the bylaws of the relief association to a service pension of \$100
2.11 per year of service. If a member has fractional service as of December 31, the figure for
2.12 service credit to be used for the determination of accrued liability pursuant to this section
2.13 shall be rounded to the nearest full year of service credit. The total accrued liability of the
2.14 special fund as of December 31 shall be the sum of the accrued liability attributable to
2.15 each active member of the relief association.

2.16 To the extent that the state auditor considers it to be necessary or practical, the
2.17 state auditor may specify and issue procedures, forms, or mathematical tables for use in
2.18 performing the calculations of the accrued liability for deferred members pursuant to this
2.19 subdivision."

2.20 Renumber the sections in sequence and correct the internal references

2.21 Amend the title accordingly

..... moves to amend H.F. No. 3938; S.F. No., as follows:

Page 12, after line 26, insert:

"Sec. 11. **REPEALER OF PRIOR INCONSISTENT SPECIAL VOLUNTEER
FIRE RELIEF ASSOCIATION ANCILLARY BENEFIT LEGISLATION.**

Subdivision 1. **Anoka.** Laws 1969, chapter 352, section 1, subdivisions 3, 4, 5, 6, are repealed.

Subd. 2. **Butterfield** Laws 1975, chapter 185, section 1, is repealed.

Subd. 3. **Coon Rapids.** Laws 1973, chapter 304, section 1, subdivisions 3, 4, 5, 6, 7, 8, 9, are repealed.

Subd. 4. **Edina.** Laws 1965, chapter 592, sections 3 as amended by Laws 1969, chapter 644, section 2, Laws 1975, chapter 229, section 2; 4 as amended by Laws 1969, chapter 644, section 2, Laws 1975, chapter 229, section 3, Laws 1985, chapter 261, section 37, Laws 1991, chapter 125, section 1; Laws 1985, chapter 261, section 37 as amended by Laws 1991, chapter 125, section 1; Laws 1991, chapter 125, section 1, are repealed.

Subd. 5. **Fairmont** Laws 1967, chapter 575, sections 2 as amended by Laws 1979, chapter 201, section 23; 3; 4, are repealed.

Subd. 6. **Falcon Heights.** Laws 1969, chapter 526, sections 3; 4; 5 as amended by Laws 1974, chapter 208, section 2; 7 as amended by Laws 1974, chapter 208, section 3, are repealed.

Subd. 7. **Golden Valley** Laws 1971, chapter 140, sections 2 as amended by Laws 1973, chapter 30, section 2; 3 as amended by Laws 1973, chapter 30, section 3; 4 as amended by Laws 1973, chapter 30, section 4; 5 as amended by Laws 1973, chapter 30, section 5, Laws 1993, chapter 244, article 4, section 1, are repealed.

Subd. 8. **Wayzata.** Laws 1973, chapter 472, section 1 as amended by Laws 1976, chapter 272, section 1, Laws 1979, chapter 201, section 33, is repealed.

2.1 Subd. 9. White Bear Lake. Laws 1971, chapter 214, section 1, subdivisions 1,
2.2 2, 3, 4, 5, are repealed.

2.3 **EFFECTIVE DATE; LOCAL APPROVAL.** (a) Subdivision 1 is effective the day
2.4 after the governing body of Anoka and its chief clerical officer timely complete their
2.5 compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3.

2.6 (b) Subdivision 2 is effective the day after the governing body of Butterfield and its
2.7 chief clerical officer timely complete their compliance with Minnesota Statutes, section
2.8 645.021, subdivisions 2 and 3.

2.9 (c) Subdivision 3 is effective the day after the governing body of Coon Rapids and
2.10 its chief clerical officer timely complete their compliance with Minnesota Statutes, section
2.11 645.021, subdivisions 2 and 3.

2.12 (d) Subdivision 4 is effective the day after the governing body of Edina and its
2.13 chief clerical officer timely complete their compliance with Minnesota Statutes, section
2.14 645.021, subdivisions 2 and 3.

2.15 (e) Subdivision 5 is effective the day after the governing body of Fairmont and its
2.16 chief clerical officer timely complete their compliance with Minnesota Statutes, section
2.17 645.021, subdivisions 2 and 3.

2.18 (f) Subdivision 6 is effective the day after the governing body of Falcon Heights and
2.19 its chief clerical officer timely complete their compliance with Minnesota Statutes, section
2.20 645.021, subdivisions 2 and 3.

2.21 (g) Subdivision 7 is effective the day after the governing body of Golden Valley and
2.22 its chief clerical officer timely complete their compliance with Minnesota Statutes, section
2.23 645.021, subdivisions 2 and 3.

2.24 (h) Subdivision 8 is effective the day after the governing body of Wayzata and its
2.25 chief clerical officer timely complete their compliance with Minnesota Statutes, section
2.26 645.021, subdivisions 2 and 3.

2.27 (i) Subdivision 9 is effective the day after the governing body of White Bear Lake
2.28 and its chief clerical officer timely complete their compliance with Minnesota Statutes,
2.29 section 645.021, subdivisions 2 and 3."

2.30 Renumber the sections in sequence and correct the internal references

2.31 Amend the title accordingly

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State of Minnesota HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH
SESSION

HOUSE FILE No. **3938**

March 10, 2008

Authored by Murphy, M., by request,

The bill was read for the first time and referred to the Committee on Governmental Operations, Reform, Technology and Elections

1.1 A bill for an act
1.2 relating to retirement; volunteer firefighter relief associations; requiring
1.3 misconduct reporting by public accountants; authorizing brokers to hold relief
1.4 association assets; clarifying certain authorized investment limitations; requiring
1.5 broker certification of sufficient securities investor protection corporation
1.6 insurance for broker-held assets; adding ancillary benefit definition; revising
1.7 surviving spouse definition; modifying interest crediting for deferred service
1.8 pensions; clarifying the limitation on ancillary benefits; disallowing special fund
1.9 payment of funeral benefits; amending Minnesota Statutes 2006, sections 6.67;
1.10 69.011, subdivision 1; 356A.06, subdivisions 1, 7, 8b; 424A.001, subdivision 6,
1.11 by adding a subdivision; 424A.02, subdivisions 7, 9; 424A.05, subdivision 3.

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

1.13 Section 1. Minnesota Statutes 2006, section 6.67, is amended to read:

1.14 **6.67 PUBLIC ACCOUNTANTS; REPORT OF EVIDENCE POINTING TO**
1.15 **MISCONDUCT.**

1.16 Whenever a public accountant in the course of auditing the books and affairs of a
1.17 county, city, town, school district, ~~or other public corporations, shall discover~~ corporation,
1.18 or local public pension plan governed by section 69.77, sections 69.771 to 69.775, or
1.19 chapter 354A, 422A, 423B, 423C, or 424A, discovers evidence pointing to nonfeasance,
1.20 misfeasance, or malfeasance, on the part of an officer or employee in the conduct of duties
1.21 and affairs, the public accountant shall promptly make a report of such discovery to the
1.22 state auditor and the county attorney of the county in which the governmental unit is
1.23 situated and the public accountant shall also furnish a copy of the report of audit upon
1.24 completion to said officers. The county attorney shall act on such report in the same
1.25 manner as required by law for reports made to the county attorney by the state auditor.

1.26 **EFFECTIVE DATE.** This section is effective the day following final enactment.

2.1 Sec. 2. Minnesota Statutes 2006, section 69.011, subdivision 1, is amended to read:

2.2 Subdivision 1. **Definitions.** Unless the language or context clearly indicates that a
2.3 different meaning is intended, the following words and terms shall for the purposes of this
2.4 chapter and chapters 423, 423A, 424 and 424A have the meanings ascribed to them:

2.5 (a) "Commissioner" means the commissioner of revenue.

2.6 (b) "Municipality" means:

2.7 (1) a home rule charter or statutory city;

2.8 (2) an organized town;

2.9 (3) a park district subject to chapter 398;

2.10 (4) the University of Minnesota;

2.11 (5) for purposes of the fire state aid program only, an American Indian tribal
2.12 government entity located within a federally recognized American Indian reservation;

2.13 (6) for purposes of the police state aid program only, an American Indian tribal
2.14 government with a tribal police department which exercises state arrest powers under
2.15 section 626.90, 626.91, 626.92, or 626.93;

2.16 (7) for purposes of the police state aid program only, the Metropolitan Airports
2.17 Commission with respect to peace officers covered under chapter 422A; and

2.18 (8) for purposes of the police state aid program only, the Department of Natural
2.19 Resources and the Department of Public Safety with respect to peace officers covered
2.20 under chapter 352B.

2.21 (c) "Minnesota Firetown Premium Report" means a form prescribed by the
2.22 commissioner containing space for reporting by insurers of fire, lightning, sprinkler
2.23 leakage and extended coverage premiums received upon risks located or to be performed
2.24 in this state less return premiums and dividends.

2.25 (d) "Firetown" means the area serviced by any municipality having a qualified fire
2.26 department or a qualified incorporated fire department having a subsidiary volunteer
2.27 firefighters' relief association.

2.28 (e) "Market value" means latest available market value of all property in a taxing
2.29 jurisdiction, whether the property is subject to taxation, or exempt from ad valorem
2.30 taxation obtained from information which appears on abstracts filed with the commissioner
2.31 of revenue or equalized by the State Board of Equalization.

2.32 (f) "Minnesota Aid to Police Premium Report" means a form prescribed by the
2.33 commissioner for reporting by each fire and casualty insurer of all premiums received
2.34 upon direct business received by it in this state, or by its agents for it, in cash or otherwise,
2.35 during the preceding calendar year, with reference to insurance written for insuring against
2.36 the perils contained in auto insurance coverages as reported in the Minnesota business

3.1 schedule of the annual financial statement which each insurer is required to file with
3.2 the commissioner in accordance with the governing laws or rules less return premiums
3.3 and dividends.

3.4 (g) "Peace officer" means any person:

3.5 (1) whose primary source of income derived from wages is from direct employment
3.6 by a municipality or county as a law enforcement officer on a full-time basis of not less
3.7 than 30 hours per week;

3.8 (2) who has been employed for a minimum of six months prior to December 31
3.9 preceding the date of the current year's certification under subdivision 2, clause (b);

3.10 (3) who is sworn to enforce the general criminal laws of the state and local
3.11 ordinances;

3.12 (4) who is licensed by the Peace Officers Standards and Training Board and is
3.13 authorized to arrest with a warrant; and

3.14 (5) who is a member of a local police relief association to which section 69.77
3.15 applies, the State Patrol retirement plan, the public employees police and fire fund, or the
3.16 Minneapolis Employees Retirement Fund.

3.17 (h) "Full-time equivalent number of peace officers providing contract service" means
3.18 the integral or fractional number of peace officers which would be necessary to provide
3.19 the contract service if all peace officers providing service were employed on a full-time
3.20 basis as defined by the employing unit and the municipality receiving the contract service.

3.21 (i) "Retirement benefits other than a service pension" means any disbursement
3.22 authorized under section 424A.05, subdivision 3, clauses (2); and (3), ~~and (4)~~.

3.23 (j) "Municipal clerk, municipal clerk-treasurer, or county auditor" means the person
3.24 who was elected or appointed to the specified position or, in the absence of the person,
3.25 another person who is designated by the applicable governing body. In a park district,
3.26 the clerk is the secretary of the board of park district commissioners. In the case of the
3.27 University of Minnesota, the clerk is that official designated by the Board of Regents.
3.28 For the Metropolitan Airports Commission, the clerk is the person designated by the
3.29 commission. For the Department of Natural Resources or the Department of Public Safety,
3.30 the clerk is the respective commissioner. For a tribal police department which exercises
3.31 state arrest powers under section 626.90, 626.91, 626.92, or 626.93, the clerk is the person
3.32 designated by the applicable American Indian tribal government.

3.33 **EFFECTIVE DATE.** This section is effective January 1, 2009.

3.34 Sec. 3. Minnesota Statutes 2006, section 356A.06, subdivision 1, is amended to read:

Subdivision 1. **Authorized holder of assets; title to assets.** (a) Assets of a covered pension plan may be held only by the plan treasurer; the State Board of Investment; the depository agent of the plan; a security broker with both insurance from the nonprofit corporation created by the Securities Investor Protection Act, as amended, and appropriate excess coverage, or the broker's agent; or of the State Board of Investment.

(b) Legal title to plan assets must be vested in the plan, the State Board of Investment, the governmental entity that sponsors the plan, the nominee of the plan, or the depository agent. The holder of legal title shall function as a trustee for a person or entity with a beneficial interest in the assets of the plan.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 4. Minnesota Statutes 2006, section 356A.06, subdivision 7, is amended to read:

Subd. 7. **Expanded list of authorized investment securities.** (a) **Authority.**

Except to the extent otherwise authorized by law, a covered pension plan not described by subdivision 6, paragraph (a), shall invest its assets only in accordance with this subdivision.

(b) **Securities generally.** The covered pension plan has the authority to purchase, sell, lend, or exchange the securities specified in paragraphs (c) to (i), including puts and call options and future contracts traded on a contract market regulated by a governmental agency or by a financial institution regulated by a governmental agency. These securities may be owned as units in commingled trusts that own the securities described in paragraphs (c) to (i), including real estate investment trusts and insurance company commingled accounts, including separate accounts.

(c) **Government obligations.** The covered pension plan may invest funds in governmental bonds, notes, bills, mortgages, and other evidences of indebtedness if the issue is backed by the full faith and credit of the issuer or the issue is rated among the top four quality rating categories by a nationally recognized rating agency. The obligations in which funds may be invested under this paragraph include guaranteed or insured issues of (1) the United States, its agencies, its instrumentalities, or organizations created and regulated by an act of Congress; (2) Canada and its provinces, provided the principal and interest is payable in United States dollars; (3) the states and their municipalities, political subdivisions, agencies, or instrumentalities; (4) the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, or any other United States government sponsored organization of which the United States is a member, provided the principal and interest is payable in United States dollars.

(d) **Corporate obligations.** The covered pension plan may invest funds in bonds, notes, debentures, transportation equipment obligations, or any other longer term evidences of indebtedness issued or guaranteed by a corporation organized under the laws of the United States or any state thereof, or the Dominion of Canada or any province thereof if they conform to the following provisions:

(1) the principal and interest of obligations of corporations incorporated or organized under the laws of the Dominion of Canada or any province thereof must be payable in United States dollars; and

(2) obligations must be rated among the top four quality categories by a nationally recognized rating agency.

(e) **Other obligations.** (1) The covered pension plan may invest funds in bankers acceptances, certificates of deposit, deposit notes, commercial paper, mortgage participation certificates and pools, asset backed securities, repurchase agreements and reverse repurchase agreements, guaranteed investment contracts, savings accounts, and guaranty fund certificates, surplus notes, or debentures of domestic mutual insurance companies if they conform to the following provisions:

(i) bankers acceptances and deposit notes of United States banks are limited to those issued by banks rated in the highest four quality categories by a nationally recognized rating agency;

(ii) certificates of deposit are limited to those issued by (A) United States banks and savings institutions that are rated in the highest four quality categories by a nationally recognized rating agency or whose certificates of deposit are fully insured by federal agencies; or (B) credit unions in amounts up to the limit of insurance coverage provided by the National Credit Union Administration;

(iii) commercial paper is limited to those issued by United States corporations or their Canadian subsidiaries and rated in the highest two quality categories by a nationally recognized rating agency;

(iv) mortgage participation or pass through certificates evidencing interests in pools of first mortgages or trust deeds on improved real estate located in the United States where the loan to value ratio for each loan as calculated in accordance with section 61A.28, subdivision 3, does not exceed 80 percent for fully amortizable residential properties and in all other respects meets the requirements of section 61A.28, subdivision 3;

(v) collateral for repurchase agreements and reverse repurchase agreements is limited to letters of credit and securities authorized in this section;

(vi) guaranteed investment contracts are limited to those issued by insurance companies or banks rated in the top four quality categories by a nationally recognized

rating agency or to alternative guaranteed investment contracts where the underlying assets comply with the requirements of this subdivision;

(vii) savings accounts are limited to those fully insured by federal agencies; and

(viii) asset backed securities must be rated in the top four quality categories by a nationally recognized rating agency.

(2) Sections 16A.58, 16C.03, subdivision 4, and 16C.05 do not apply to certificates of deposit and collateralization agreements executed by the covered pension plan under clause (1), item (ii).

(3) In addition to investments authorized by clause (1), item (iv), the covered pension plan may purchase from the Minnesota Housing Finance Agency all or any part of a pool of residential mortgages, not in default, that has previously been financed by the issuance of bonds or notes of the agency. The covered pension plan may also enter into a commitment with the agency, at the time of any issue of bonds or notes, to purchase at a specified future date, not exceeding 12 years from the date of the issue, the amount of mortgage loans then outstanding and not in default that have been made or purchased from the proceeds of the bonds or notes. The covered pension plan may charge reasonable fees for any such commitment and may agree to purchase the mortgage loans at a price sufficient to produce a yield to the covered pension plan comparable, in its judgment, to the yield available on similar mortgage loans at the date of the bonds or notes. The covered pension plan may also enter into agreements with the agency for the investment of any portion of the funds of the agency. The agreement must cover the period of the investment, withdrawal privileges, and any guaranteed rate of return.

(f) Corporate stocks. The covered pension plan may invest funds in stocks or convertible issues of any corporation organized under the laws of the United States or the states thereof, any corporation organized under the laws of the Dominion of Canada or its provinces, or any corporation listed on an exchange regulated by an agency of the United States or of the Canadian national government, if they conform to the following provisions:

(1) the aggregate value of investments under this paragraph, plus paragraphs (g) and (k), plus equity investments under paragraphs (h), (i), and (j), as adjusted for realized gains and losses, must not exceed 85 percent of the market or book value, whichever is less, of a fund; and

(2) investments must not exceed five percent of the total outstanding shares of any one corporation.

(g) Developed market foreign stocks investments. In addition to investments authorized under paragraph (f), the covered pension fund may invest in foreign stock sold

7.1 on an exchange in any developed market country that is included in the Europe, Australia,
7.2 and Far East Index.

7.3 (h) **Commingled or mutual investments.** The covered pension plan may invest
7.4 in index funds or mutual funds, including index mutual funds, through bank-sponsored
7.5 collective funds and shares of open-end investment companies registered under the
7.6 Federal Investment Company Act of 1940, ~~if the investments of the index or of the mutual~~
7.7 ~~fund~~ to the extent that these funds comply with paragraphs (c) to (j).

7.8 (i) **Real estate investment trust; related investments.** The covered pension plan
7.9 may invest in real estate investment trusts secured by mortgages or deeds of trust and
7.10 sold on an exchange, and insurance company commingled accounts, including separate
7.11 accounts, of a debt or equity nature.

7.12 (j) **Exchange traded funds.** The covered pension plan may invest funds in exchange
7.13 traded funds, subject to the maximums, the requirements, and the limitations set forth in
7.14 paragraphs (c) to (i), as applicable.

7.15 (k) **Other investments.** (1) In addition to the investments authorized in paragraphs
7.16 (b) to (j), and subject to the provisions in clause (2), the covered pension plan may invest
7.17 funds in:

7.18 (i) venture capital investment businesses through participation in limited partnerships
7.19 and corporations;

7.20 (ii) real estate ownership interests or loans secured by mortgages or deeds of trust
7.21 through investment in limited partnerships or bank sponsored collective funds;

7.22 (iii) regional and mutual funds through bank sponsored collective funds and
7.23 open-end investment companies registered under the Federal Investment Company Act
7.24 of 1940 ~~which do~~ to the extent that a fund or a portion of a fund does not qualify under
7.25 paragraph (h);

7.26 (iv) resource investments through limited partnerships, private placements, and
7.27 corporations; and

7.28 (v) international debt securities and emerging market equity securities.

7.29 (2) The investments authorized in clause (1) must conform to the following
7.30 provisions:

7.31 (i) the aggregate value of all investments made according to clause (1), including
7.32 allocated amounts of index and mutual funds, may not exceed 20 percent of the market
7.33 value of the fund for which the covered pension plan is investing;

7.34 (ii) there must be at least four unrelated owners of the investment other than the
7.35 covered pension plan for investments made under clause (1), item (i), (ii), (iii), or (iv);

(iii) covered pension plan participation in an investment vehicle is limited to 20 percent thereof for investments made under clause (1), item (i), (ii), (iii), or (iv); and

(iv) covered pension plan participation in a limited partnership does not include a general partnership interest or other interest involving general liability. The covered pension plan may not engage in any activity as a limited partner which creates general liability.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 5. Minnesota Statutes 2006, section 356A.06, subdivision 8b, is amended to read:

Subd. 8b. **Disclosure of investment authority; receipt of statement.** (a) For this subdivision, the term "broker" means a broker, broker-dealer, investment advisor, investment manager, or third party agent who transfers, purchases, sells, or obtains investment securities for, or on behalf of, a covered pension plan.

(b) Before a covered pension plan may complete an investment transaction with or in accord with the advice of a broker, the covered pension plan shall provide annually to the broker a written statement of investment restrictions applicable under state law to the covered pension plan or applicable under the pension plan governing board investment policy.

(c) A broker must acknowledge in writing annually the receipt of the statement of investment restrictions and must agree to handle the covered pension plan's investments and assets in accord with the provided investment restrictions. A covered pension plan may not enter into or continue a business arrangement with a broker until the broker has provided this written acknowledgment to the chief administrative officer of the covered pension plan.

(d) If any portion of the plan's assets are held by a security broker or its agent, the security broker or its agent must acknowledge in writing annually that sufficient insurance has been obtained from the Securities Investor Protection Corporation, supplemented by additional insurance, if necessary, to cover the full amount of covered pension plan assets held by the security broker or its agent. Uniform acknowledgment forms prepared by the state auditor shall be used by covered pension plans and brokers to meet the requirements of this subdivision.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 6. Minnesota Statutes 2006, section 424A.001, is amended by adding a subdivision to read:

9.1 Subd. 1a. **Ancillary benefit.** "Ancillary benefit" means a benefit other than a service
9.2 pension that is permitted by law and that is provided for in the relief association bylaws.

9.3 **EFFECTIVE DATE.** This section is effective January 1, 2009.

9.4 Sec. 7. Minnesota Statutes 2006, section 424A.001, subdivision 6, is amended to read:

9.5 Subd. 6. **Surviving spouse.** For purposes of this chapter, and the governing bylaws
9.6 of any relief association to which this chapter applies, the term "surviving spouse" means
9.7 ~~any person who was the dependent spouse of a deceased active member or retired former~~
9.8 ~~member living with the member at the time of the death of the active member or retired~~
9.9 ~~former member for at least one year prior to the date on which the member terminated~~
9.10 ~~active service and membership~~ the spouse of a deceased member who was legally married
9.11 to the member either at the time of separation from active service with the fire department
9.12 or at death, as specified by the governing bylaws, or, if the governing bylaws do not
9.13 specify, at the time of death.

9.14 **EFFECTIVE DATE.** This section is effective January 1, 2009.

9.15 Sec. 8. Minnesota Statutes 2006, section 424A.02, subdivision 7, is amended to read:

9.16 Subd. 7. **Deferred service pensions.** (a) A member of a relief association is entitled
9.17 to a deferred service pension if the member:

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

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

9.22 (3) separates from active service and membership before reaching age 50 or the
9.23 minimum age for retirement and commencement of a service pension specified in the
9.24 bylaws governing the relief association if that age is greater than age 50.

9.25 (b) The deferred service pension is payable when the former member reaches age
9.26 50, or the minimum age specified in the bylaws governing the relief association if that age
9.27 is greater than age 50, and when the former member makes a valid written application.

9.28 (c) A relief association that provides a lump sum service pension governed by
9.29 subdivision 3 may, when its governing bylaws so provide, pay interest on the deferred
9.30 lump sum service pension during the period of deferral. If provided for in the bylaws,
9.31 interest must be paid in one of the following manners:

9.32 (1) at the investment performance rate actually earned on that portion of the assets
9.33 if the deferred benefit amount is invested by the relief association in a separate account

10.1 established and maintained by the relief association or if the deferred benefit amount is
10.2 invested in a separate investment vehicle held by the relief association; or

10.3 (2) at an interest rate of up to five percent, compounded annually, as set by the board
10.4 of directors and approved as provided in subdivision 10; ~~or.~~

10.5 ~~(3) at a rate equal to the actual time weighted total rate of return investment~~
10.6 ~~performance of the special fund as reported by the Office of the State Auditor under~~
10.7 ~~section 356.219, up to five percent, compounded annually, and applied consistently for~~
10.8 ~~all deferred service pensioners.~~

10.9 ~~A relief association may not use the method provided for in clause (3), until it has~~
10.10 ~~modified its bylaws to be consistent with that clause.~~

10.11 (d) Interest under paragraph (c), clause (2) ~~or (3)~~, is payable ~~from the first day of~~
10.12 ~~the month next following the date on which the municipality has approved the deferred~~
10.13 ~~service pension interest rate established by the board of trustees or from the first day of the~~
10.14 ~~month next following the date on which the member separated from active fire department~~
10.15 ~~service and relief association membership, whichever is later, to the last day of the month~~
10.16 ~~immediately before the month in which the deferred member becomes eligible to begin~~
10.17 ~~receipt of the service pension and applies for the deferred service pension.~~

10.18 (e) A relief association that provides a defined contribution service pension may,
10.19 if its governing bylaws so provide, credit interest or additional investment performance
10.20 on the deferred lump sum service pension during the period of deferral. If provided for
10.21 in the bylaws, the interest must be paid in one of the manners specified in paragraph
10.22 (c) or alternatively the relief association may credit any investment return on the assets
10.23 of the special fund of the defined contribution volunteer firefighter relief association in
10.24 proportion to the share of the assets of the special fund to the credit of each individual
10.25 deferred member account through the date on which the investment return is recognized
10.26 by and credited to the special fund.

10.27 (f) For a deferred service pension that is transferred to a separate account established
10.28 and maintained by the relief association or separate investment vehicle held by the relief
10.29 association, the deferred member bears the full investment risk subsequent to transfer and
10.30 in calculating the accrued liability of the volunteer firefighters relief association that pays
10.31 a lump sum service pension, the accrued liability for deferred service pensions is equal
10.32 to the separate relief association account balance or the fair market value of the separate
10.33 investment vehicle held by the relief association.

10.34 (g) The deferred service pension is governed by and must be calculated under
10.35 the general statute, special law, relief association articles of incorporation, and relief

11.1 association bylaw provisions applicable on the date on which the member separated from
 11.2 active service with the fire department and active membership in the relief association.

11.3 **EFFECTIVE DATE.** This section is effective the day following final enactment.

11.4 Sec. 9. Minnesota Statutes 2006, section 424A.02, subdivision 9, is amended to read:

11.5 Subd. 9. **Limitation on ancillary benefits.** Any relief association, including
 11.6 any volunteer firefighters relief association governed by section 69.77 or any volunteer
 11.7 firefighters division of a relief association governed by chapter 424, may only pay
 11.8 ancillary benefits which would constitute an authorized disbursement as specified in
 11.9 section 424A.05 subject to the following requirements or limitations:

11.10 (1) with respect to a relief association in which governing bylaws provide for a
 11.11 lump sum service pension to a retiring member, no ancillary benefit may be paid to any
 11.12 former member or paid to any person on behalf of any former member after the former
 11.13 member (i) terminates active service with the fire department and active membership
 11.14 in the relief association; and (ii) commences receipt of a service pension as authorized
 11.15 under this section; and

11.16 (2) with respect to any relief association, no ancillary benefit paid or payable to any
 11.17 member, to any former member, or to any person on behalf of any member or former
 11.18 member, may exceed in amount the total earned service pension of the member or former
 11.19 member. The total earned service pension must be calculated ~~using~~ by multiplying
 11.20 the service pension amount specified in the bylaws of the relief association ~~and at the~~
 11.21 time of death or disability, whichever applies, by the years of service credited to the
 11.22 member or former member. The years of service must be determined as of (i) the date
 11.23 the member or former member became entitled to the ancillary benefit; or (ii) the date
 11.24 the member or former member died entitling a survivor or the estate of the member or
 11.25 former member to an ancillary benefit. The ancillary benefit must be calculated ~~(i)~~ without
 11.26 regard to whether the member ~~or former member~~ had attained the minimum amount of
 11.27 service and membership credit specified in the governing bylaws; ~~and (ii) without regard~~
 11.28 ~~to the percentage amounts specified in subdivision 2.~~ For active members, the amount
 11.29 of a permanent disability benefit or a survivor benefit must be equal to the member's
 11.30 total earned service pension except that the bylaws of any relief association may provide
 11.31 for the payment of a survivor benefit in an amount not to exceed five times the yearly
 11.32 service pension amount specified in the bylaws on behalf of any member who dies before
 11.33 having performed five years of active service in the fire department with which the relief
 11.34 association is affiliated.

12.1 **EFFECTIVE DATE.** This section is effective January 1, 2009.

12.2 Sec. 10. Minnesota Statutes 2006, section 424A.05, subdivision 3, is amended to read:

12.3 Subd. 3. **Authorized disbursements from the special fund.** (a) Disbursements
12.4 from the special fund are not permitted to be made for any purpose other than one of
12.5 the following:

12.6 (1) for the payment of service pensions to retired members of the relief association if
12.7 authorized and paid under law and the bylaws governing the relief association;

12.8 (2) for the payment of temporary or permanent disability benefits to disabled
12.9 members of the relief association if authorized and paid pursuant to law and specified in
12.10 amount in the bylaws governing the relief association;

12.11 (3) for the payment of survivor benefits to surviving spouses and surviving children,
12.12 or if none, to designated beneficiaries, of deceased members of the relief association,
12.13 and if survivors and if no designated beneficiary, for the payment of a death benefit to
12.14 the estate of the deceased active firefighter, if authorized by and paid pursuant to law and
12.15 specified in amount in the bylaws governing the relief association;

12.16 ~~(4) for the payment of any funeral benefits to the surviving spouse, or if no surviving~~
12.17 ~~spouse, the estate, of the deceased member of the relief association if authorized by law~~
12.18 ~~and specified in amount in the bylaws governing the relief association;~~

12.19 ~~(5)~~ for the payment of the fees, dues and assessments to the Minnesota State Fire
12.20 Department Association, to the Minnesota Area Relief Association Coalition, and to
12.21 the state Volunteer Firefighters Benefit Association in order to entitle relief association
12.22 members to membership in and the benefits of these associations or organizations; and

12.23 ~~(6)~~ (5) for the payment of administrative expenses of the relief association as
12.24 authorized under section 69.80.

12.25 (b) For purposes of this chapter, a designated beneficiary must be a natural person.

12.26 **EFFECTIVE DATE.** This section is effective January 1, 2009.