



S.F. 578
(Betzold)

H.F. 1123
(Murphy, M.)

Executive Summary of Commission Staff Materials

Affected Pension Plan(s): MSRS, PERA, TRA, First Class City Teacher Plans
Relevant Provisions of Law: Minnesota Statutes, Chapters 43A, 352B, 353, 354, 354A, and 356
General Nature of Proposal: Administrative and benefit-related provisions
Date of Summary: February 23, 2009

Significant Proposed Changes

- Creates a new method for determining TRA service credit and makes related changes in the TRA qualified part-time teaching provision.
- Revises the TRA service credit accrual provision to permit earlier accrual dates.
- Revises PERA erroneous receipts provision to provide interest on employee overpayments.
- Expands the Post Retirement Option (PRO) program eligibility provision to include all state employees who have PERA coverage rather than just PERA staff.
- Allows active TRA members to name supplemental needs trust beneficiary.
- Reinstates a TRA full actuarial value military service credit purchase provision.
- Permits TRA and first class city teacher plans to waive periodic physical examination requirements for continued disability benefit eligibility.
- Clarifies PERA disabilitant provisions regarding shift to retirement status at normal retirement age.
- Revises PERA military break-in-service eligibility requirements for greater consistency with USERRA by requiring a return to work with the same employer rather than to general return to public service.
- Makes various changes of an administrative nature, including amending state provisions for consistency with federal compliance requirements and removing obsolete contribution rate phase-in language in various plans.

Most Significant Policy Issues Raised by the Proposed Legislation

1. Flawed nature of TRA service credit proposal; harm to part-time teachers with low pay, possible harm to substitute teachers (Sec. 19).
2. Proposed service credit procedure causes inconsistent treatment of comparable teachers within TRA (Sec. 19).
3. Unknown implications of alternative work schedule TRA service credit procedure language (Sec. 19).
4. Revising TRA benefit accrual dates is a slight benefit improvement; cost (Sec. 21).
5. PERA reversal of interest payment policy on overpayments due to erroneous receipt (Sec. 9).
6. PRO Program expansion appropriateness for administrative bill (Secs. 1 and 2).
7. Justification for change in PRO Program break-in-service requirements (Secs. 1 and 2).
8. Administrative burden of permitting active TRA members to name supplemental needs trust to joint-and-survivor annuity; complications if married due to precedence of spousal right to joint-and-survivor annuity (Sec. 40).
9. Sufficient need for reinstatement of TRA military full actuarial value purchase provision; risk to TRA due to market deterioration; inconsistent with recent PERA provision (Sec. 31).
10. Lack of standards for waiving physical in TRA and first class city teacher plans; potential abuse (Secs. 25 and 37).
11. Whether PERA disabilitant provision revisions create unintended harm (Secs. 10-13).
12. Change in contribution time limit following break-in-service in PERA USERRA-compliant military service credit provision (Sec. 5).

Potential Amendments

Sections 1-2: PERA Post Retirement Option Program

- S0578-1A removes the Post Retirement Option (PRO) program expansion by deleting Section 1.
S0578-2A retains the current PRO program break-in-service requirements by removing Section 2.

Section 5: PERA Allowable Service Definition

- S0578-3A retains existing law regarding contributions for periodic, repetitive leaves and military breaks in service more than 20 days after termination of service.

Section 9: PERA Erroneous Receipts

- S0578-4A retains the current PERA erroneous receipts provision.
S0578-5A removes proposed payment of interest on employee overpayments language.
S0578-6A removes para. (g), the proposed authority to correct operational failures by applying IRS procedures.

Sections 10-13: PERA Disability

- S0578-7A leaves PERA basic member disabilitants on disability status at normal retirement age as in current law rather than considering these individuals as remaining in disability status.

Section 19: TRA Service Credit

- S0578-8A retains existing law by removing sections dealing with the new service credit procedure.
S0578-9A leaves existing service credit based on hours in place but shifts the responsibility for computing service credit from school districts to TRA; requires school districts to report work hour data to TRA.
S0578-10A leaves existing service credit based on hours in place but shifts the responsibility for computing service credit from school districts to TRA; requires school districts to report work hour data to TRA; imposes non-compliance penalty on school districts.

Section 21: TRA Retirement Annuity Accrual Date

- S0578-11A retains existing TRA annuity accrual provision.

Section 22: TRA Reemployed Annuitant Exempt Earnings

- S0578-12A changes the effective date from January 1, 2010, to a date to be specified by the Commission.
S0578-13A, an alternative to S0578-12A, retains the use of calendar year rather than fiscal year.
S0578-14A revises first class city teacher plans' reemployed annuitant exempt earnings provision to use fiscal year rather than calendar year comparisons, comparable to the TRA proposal.

Section 25: TRA Disabilitant Physical Examination *(see Sec. 37 for first class city teachers)*

- S0578-15A retains mandatory physical examinations for continued disability eligibility (Sec. 25 and 37).
S0578-16A, an alternative to S0578-15A, makes waiver contingent upon a certification from the plan medical advisor.
S0578-17A adds a certification requirement to similar MSRS and PERA provisions.

Section 31: TRA Proposed Military Service Credit Purchase at Full Actuarial Value

- S0578-18A deletes Section 31.
S0578-19A adds an expiration date to be specified by the Commission.
S0578-20A revises similar PERA service credit purchase provisions enacted in 2008 to include some of the restrictions included in the TRA proposal.

Section 37: First Class City Teachers Disabilitant Physical Examination *(see Sec. 25 for TRA)*

- S0578-15A retains mandatory physical examinations for continued disability eligibility (Sec. 25 and 37).
S0578-21A creates a medical advisor certification requirement, similar to the TRA provision, for the first class city teacher fund associations.

Section 40: Supplemental Needs Trust Expanded Authority for TRA

- S0578-22A deletes the TRA expanded authority section.
S0578-23A retains the expanded authority provision and permits the Commission to name additional pension plans to the expanded authority.



TO: Members of the Legislative Commission on Pensions and Retirement
FROM: Ed Burek, Deputy Director EB
RE: S.F. 578 (Betzold); H.F. xxxx: MSRS, PERA, TRA, First Class City Teacher Plans; Administrative and Benefit-Related Provisions
DATE: February 16, 2009

Summary of S.F. 578 (Betzold); H.F. xxxx

S.F. 578 (Betzold); H.F. xxxx, contains Minnesota State Retirement System (MSRS), Public Employees Retirement Association (PERA), Teachers Retirement Association (TRA), and first class city teacher plans administrative and benefit-related provisions, and does the following:

- creates a new method for determining TRA service credit and makes related changes in the TRA qualified part-time teaching provision;
- expands the Post Retirement Option (PRO) program eligibility provision to include all state employees who have PERA coverage rather than just PERA staff;
- revises PERA erroneous receipts provision to provide interest on employee e overpayments;
- creates a first class city teacher plan erroneous receipts provision;
- reinstates a TRA full actuarial value military service purchase of service provision;
- revises the TRA service credit accrual provision to permit earlier accrual dates;
- revises PERA military break-in-service eligibility requirements for greater consistency with the Uniformed Service Employment and Reemployment Rights Act (USERRA) by requiring a return to work with the same employer rather than to general return to public service;
- clarifies PERA disabilitant provisions regarding shift to retirement status at normal retirement age;
- clarifies TRA refund provisions by specifying that any TRA disability benefits received must be deducted from any refund amount;
- shifts TRA reemployed annuitant reporting and exempt income provisions from a calendar year basis to a fiscal year basis;
- permits TRA and first class city teacher plans to waive periodic physical examination requirements for continued disability benefit eligibility;
- revises automatic benefit deposit provision applicable to many plans to improve the ability to recapture overpayments after the death of an annuitant;
- clarifies supplemental needs trust provision for all plans and expands TRA member authority to name trust beneficiary;
- revises major plan appeal procedures to authorize plan executive director to require applicant to take part in fact-finding process; and
- makes various changes of an administrative nature, including amending state provisions for consistency with federal compliance requirements and removing obsolete contribution rate phase-in language in various plans.

Section-By-Section Summary; Discussion and Analysis

Section 1 revises Minnesota Statutes, Section 43A.346, Subdivision 2, the Post Retirement Option (PRO) program eligibility provision, by expanding the PERA staff inclusion to include all state employees with PERA coverage.

Section 2 revises Minnesota Statutes, Section 43A.346, Subdivision 6, the PRO program duration provision, by striking the requirement that there be a 30-day break following termination of a PRO position before an offer of renewal can be offered if the individual is under age 62.

Sections 1 and 2 raise the following pension and related public policy issues for Commission consideration:

1. Need for Change in PERA Eligibility Group. The PRO program allows retired state employees to be rehired part-time and have any reemployed annuitant earnings limitation provisions waived. A few years ago the eligibility provision for the PRO program was expanded to include PERA staff. The PERA staff members are considered to be state employees. The issue is whether it is appropriate to expand PRO program eligibility to a larger group, all state employees who have

PERA coverage. Mary Vanek, PERA Executive Director, has indicated that in addition to PERA staff, there are other state employees who have PERA coverage and who are, or may, be interested in participating in this program. If the intent of the Legislature is to allow access to this program to any retired state employee whose employing unit is interested in using the PRO program, an expansion to state employees currently excluded from coverage is consistent with that intent. Other state employees who have PERA coverage include some community college employees who elected to retain PERA coverage, certain court employees who became state employees and retained PERA coverage, and certain public defenders who have PERA coverage.

2. Program Expansion Appropriateness for Administrative Bill. An issue is whether an expansion of PRO program coverage is appropriate in a bill intended to be administrative. There are benefit-related aspects to these provisions because individuals who are placed in this program are exempt from any reemployed annuitant exempt earnings provisions. The creation of the PRO program, and any prior expansions of coverage, were not done through administrative bills. Separate bills were introduced.
3. Justification for Change in Break Requirements. The issue is whether the 30-day break-in-service requirement between renewals of a PRO position should be removed as proposed in section 2. This change reverses language inserted last year. That language was inserted to reflect federal separation from service requirements needed for plan qualification, as understood at that time by the pension plan administrators and the Department of Employee Relations (DOER). Currently, pension plan administrators have concluded that the revisions last year went beyond what is needed for plan qualification purposes. The administrators contend that what is needed for plan qualification purposes is a clear break in the employee/employer relationship when the individual retires and before the first PRO program position is offered to the individual. A break between renewals of a PRO program position are not needed. The proposed change is justified if the Commission is confident that the administrators are correctly interpreting plan qualification requirements, and if there are no other policy justifications which warrant retaining the requirement.

Potential Amendments for Commission Consideration:

- Amendment S0578-1A. If the Commission concludes that the eligibility for the PRO program should not be expanded, Amendment S0578-1A would remove that expansion by deleting section 1 from the bill.
- Amendment S0578-2A. If the Commission concludes that the PRO program break-in-service requirements should remain unchanged, Amendment S0578-2A will retain current law by removing section 2 from the bill.

Section 3 revises Minnesota Statutes, Section 352B.02, Subdivision 1a, the MSRS State Patrol Plan employee contribution provision, by removing obsolete phase-in language.

Section 4 revises Minnesota Statutes, Section 352B.02, Subdivision 1c, the MSRS State Patrol Plan employer contribution provision, by removing obsolete phase-in language.

Section 5 revises Minnesota Statutes, Section 353.01, Subdivision 16, the PERA allowable service definition provision, by:

- clarifying language;
- revising periodic, repetitive leave and USERRA-compliant service credit language to permit contributions within 30 days of termination of service rather than within 20 days;
- revising the USERRA-compliant service credit provision to require return to employment with the same government subdivision rather than to public service in general; and
- clarifying that allowable service credit includes service during a period of reduced salary during a period of workers' compensation.

Section 5 raises the following pension and related public policy issues for Commission consideration:

1. Change in Contribution Time Limit Following Break-In-Service. The periodic, repetitive leave and USERRA-compliant service credit language is revised to permit contributions within 30 days of termination of service rather than within 20 days. The change is not required by USERRA. Rather, PERA desires to create more uniformity between its various leave of absence provisions. In 2008 the Legislature revised a generalized PERA leave of absence payment methodology provision, passed the year before, to permit individuals to make payment for a leave within 30

days of termination of employment, rather than requiring payment prior to termination. The payment procedure applies to most forms of PERA leaves. PERA has indicated that it seeks to make the periodic, repetitive leave provision and USERRA-compliant provision more consistent with that general methodology.

Since a short window allowing contributions for a leave to be made after termination of service appears in several provisions of current law, this would suggest that the Legislature concludes a short window is appropriate, particularly in situations where the termination may not be under the control of the employee. However, extending the period slightly for periodic, repetitive leaves and the military break-in-service USERRA-compliant leaves may add very modest amounts of net liability to the plans due to service credit created by leave payments which under existing law would be rejected.

2. USERRA Provision, Revised Reemployment Requirement. The eligibility requirements for PERA's USERRA-compliant military break-in-service provision are revised from requiring that the individual "returns to public service" (page 4.30) to applying only if the individual returns to employment with the same government subdivision (page 4.35 and 4.36). The revision is consistent with USERRA, which extends a reemployment right with the same employer. If the individual returns to a different employer, USERRA does not apply. The PERA existing law language, which permits payment under the provision if the individual returns to public employment in general, went beyond what is required under USERRA.

Potential Amendment for Commission Consideration:

- Amendment S0578-3A. If the Commission concludes that the contributions for periodic, repetitive leaves and military breaks in service not be permitted more than 20 days after termination of service as in current law, rather than 30 days as proposed, Amendment S0578-3A can be used to retain the existing law treatment.

Section 6 revises Minnesota Statutes, Section 353.0161, Subdivision 1, the PERA leave of absence service credit purchase provision, by correcting a cross-reference.

Section 7 revises Minnesota Statutes, Section 353.27, Subdivision 2, the PERA-General employee contribution provision, by removing obsolete phase-in language.

Section 8 revises Minnesota Statutes, Section 353.27, Subdivision 3, the PERA-General employer contribution provision, by removing obsolete phase-in language.

Section 9 revises Minnesota Statutes, Section 353.27, Subdivision 7, PERA's adjustment for erroneous receipts provision, by requiring payment of interest on refunds of erroneous employee contributions, using the procedure normally used for paying refunds to terminated employees.

Section 9 raises the following pension and related public policy issues for Commission consideration:

1. Need for Change; Cost Implications. The issue is whether the added cost to PERA of providing interest on these refunds has sufficient policy merit to justify the added cost to the plan. PERA has indicated a desire to revise this provision to permit payment of interest due to a situation where several employers in the Duluth area have overstated salary for pension purposes. If the salary is overstated, the employee and employer contributions are also overstated, requiring a refund of contributions as specified in this provision. Paying interest on these refunds compensates the individuals for the time value of money, but it will increase PERA liabilities by the amount of the interest to be paid. The Commission may wish to hear brief testimony of this salary overstatement issue, and may wish to be informed about PERA's estimate of the additional cost if interest is permitted.
2. PERA Reversal of Policy. Prior to 2006, this PERA erroneous receipts provision provided interest on refunds of erroneous employee contributions. In its 2006 administrative bill, PERA sought to remove the interest on employee contribution overpayments. Those changes were accepted by the Commission and were enacted. PERA is now seeking to revise the provision to again require PERA to pay interest on refunds of excess employee contribution amounts, comparable to the 2006 version of statute. The Commission may wish to inquire why this reversal occurred and why PERA is now seeking a return to pre-2006 policy.

3. Unknown Implications of Alternative Procedure Language. PERA is proposing new language, which language did not appear in the 2006 version of the statute. Under the new language (lines 8.24 to 8.33), in lieu of payment of interest provisions of the statute, PERA may “correct plan operational failures by applying the procedures defined in Internal Revenue Service Employee Plans Compliance Resolution System’s Revenue Procedures.” The Commission may wish to hear testimony from PERA regarding those procedures. If the Commission is not comfortable with that process, the Commission may wish to remove lines 8.30 to 8.33.

Potential Amendments for Commission Consideration:

- Amendment S0578-4A. If the Commission concludes that no changes should be made in the PERA erroneous receipts provision, Amendment S0578-4A can be used to remove this section from the bill.
- Amendment S0578-5A. If the Commission wishes to remove the proposed payment of interest on employee overpayments but make no other change to the provision as drafted, Amendment S0578-5A removes the interest language.
- Amendment S0578-6A. If the Commission wishes to remove the proposed authority to correct operational failures by applying other procedures permitted by the Internal Revenue Service, rather than following the proposed interest payment procedures, but make no other change to the provision as drafted, Amendment S0578-6A can be used to remove paragraph (g) on page 9.9 to 9.12.

Section 10 revises Minnesota Statutes, Section 353.33, Subdivision 1, the PERA-General disability eligibility provision, by clarifying that basic member disability benefit eligibility ends at normal retirement age.

Section 11 adds a new subdivision to Minnesota Statutes, Section 353.33, the PERA-General disability provision, (containing language from another subdivision) clarifying that no PERA-General member can receive a disability benefit and a retirement benefit at the same time.

Section 12 revises Minnesota Statutes, Section 353.33, Subdivision 11, the PERA-General coordinated member disabilitant-transfer-to-retirement provision, by moving language to another subdivision and revising the subdivision title.

Section 13 revises Minnesota Statutes, Section 353.33, Subdivision 12, the PERA-General basic member disability and disabilitant survivor benefit provision, by clarifying language and by specifying that the disability benefit converts to a retirement benefit at normal retirement age.

Sections 10 to 13 raise the following pension and related public policy issue for Commission consideration:

1. Question of Unintended Harm. The Commission may wish to hear brief testimony from PERA’s executive director to seek assurance that the revisions in Sections 10 to 13 do not create harm. Those sections are intended to clarify PERA disability provisions, particularly these applying to basic members, without revising any benefit levels and to correct what PERA concludes is an error in statute. PERA has indicated that at normal retirement age PERA transfers both basic and coordinated disabilitants to retirement status, eliminating the need for periodic medical reviews for individuals on disability status, and PERA believed that practice was fully supported by statute. However, a review of the Minnesota Statutes, Section 353.33, Subdivision 12, revealed that according to the statutory language, basic member disabilitants remain in disability status after normal retirement age is reached. There is no difference between the benefit amount the individual receives, whether considered to be disabled or retired, and PERA’s executive director was not aware of any difference in tax treatment between the two categories.

Potential Amendment for Commission Consideration:

- Amendment S0578-7A. If the Commission wishes to leave PERA basic member disabilitants on disability status at normal retirement age as in current law, rather than consider these individuals as remaining in disability status, Amendment S0578-7A provides that treatment.

Section 14 removes obsolete phase-in language in Minnesota Statutes, Section 353.65, Subdivision 2, the Public Employees Police and Fire Plan (PERA-P&F) employee contribution provision.

Section 15 removes obsolete phase-in language in Minnesota Statutes, Section 353.65, Subdivision 3, the PERA-P&F plan employer contribution provision.

Section 16 corrects a crossreference in Minnesota Statutes, Section 353A.08, Subdivision 6a, a PERA consolidation account military service credit purchase provision.

Section 17 adds a subdivision, defining annual base salary, to Minnesota Statutes, Section 354.05, for purposes of computing TRA service credit. As proposed, "annual base salary" is:

- a) For independent school districts and educational cooperatives, the lowest Bachelor of Arts base contract salary for the previous fiscal year for that employing unit;
- b) For charter schools, the lowest starting salary for a full-time licensed teacher during the previous fiscal year for that employing unit;
- c) For state agencies and professional organizations, the lowest starting annual salary for a full-time TRA-covered position for the previous fiscal year for that employing unit;
- d) For new employing units, the annual base salary for the first year of operation will be as stated in a), b), or c) above, except that the lowest annual salary for the first year of operation will be used since there is no prior year; and
- e) If a new employing unit is formed by merging existing units, the annual base salary will be the lowest annual salary as specified in a), b), or c) above for any unit included in the merger.

Section 18 amends Minnesota Statutes, Section 354.05, TRA's definition section, by adding a subdivision defining fiscal year, using language moved from TRA's board authority provision.

Section 19 revises Minnesota Statutes, Section 354.091, TRA's service credit provision, by changing the methodology for determining service credit for K-12 teachers. Under current law, teaching at least 170 full days in a fiscal year provides the K-12 teacher with a full year of service credit. Teaching at least five hours in a day results in a full day of service credit, while teaching less than five hours in a day results in fractional service credit (a teacher who teaches four hours a day would receive $\frac{4}{5}$ th service credit, or 80 percent of a full day's credit). A K-12 teacher with less than 170 full days of service credit receives a fraction of a full year's service credit, based on the relation of that service to 170 days.

As proposed for revision, K-12 teacher service credit will be a function of the teacher's salary relative to a base salary in the district rather than hours of service. Service credit will be computed monthly by dividing the teacher's monthly salary by the monthly base salary for the applicable employing unit, and the result is multiplied by .111 (or 11.1 percent). The result is then capped at 11.1 percent. (A teacher may not earn more than 11.1 percent of one full year's service credit in a month.) Annual service credit is calculated by adding the monthly service credit amounts for the months in the applicable fiscal year. A teacher may not earn more than one year of service credit in a fiscal year.

For employing units that have non-traditional work schedules or pay schedules, the procedure for determining service credit must be approved by the executive director.

The changes are effective for teaching service performed after June 30, 2010.

TRA is proposing a fundamental shift in the way TRA service credit is determined. Under current TRA law service credit is based on hours worked, with five or more hours considered a full day and 170 full days entitling the teacher to a year of service credit. Individuals who work less than five hours in a day receive prorated service credit. Under existing law, each school district is responsible for determining the service credit earned by the given teacher consistent with TRA's service credit law, and the employing unit is to report that service credit to TRA on a payroll cycle basis.

This system was put into law at TRA's request and has been in TRA law for 40 years, since 1969. TRA contends this system is badly flawed. TRA contends that many school districts are not keeping track of hours worked by their teachers, despite the requirement that the school districts must report TRA service credit earned by their teachers, in a system where service credit is based on work hours.

A review of law suggests TRA does not receive any work hour information, only service credit as reported by the district, supposedly based on work hour information.. Minnesota Statutes, Section 354.52, which covers reports from school districts to TRA, indicates that TRA receives information on the employment status of each teacher, including full-time, part-time, intermittent, substitute, or part-time mobility; and information on the amount of salary paid, but hours worked is not specifically included in the list.

While there is an obvious need to change the current situation, the question is how to change it and the nature of the change to make. A change which would be least disruptive is to leave the statute specifying how TRA service credit is to be determined unchanged, while shifting responsibility from the school districts to TRA for computing service credit. This will work if quality information on hours worked can

be obtained and sent to TRA, even if it is not detailed. Under existing law any teacher working five or more hours in a day is to receive full service credit for that day. Thus for most teachers, TRA would not need to know exact hours, just whether the teacher worked five hours or more. TRA would need more detailed information only on teachers working less than five hours, so TRA could determine how to prorate the service credit.

TRA contends many school districts are not keeping track of teacher hours worked because of a belief that the Fair Labor Standards Act applies to teachers, and that Fair Labor Standards Act requirements might lead to increased overtime payments to teachers if work hours were recorded. Assuming the Fair Labor Standards Act or Acts are applicable to teachers, this suggests that districts are attempting to circumvent the requirements of the Fair Labor Standards Act, and that a further unfortunate consequence is that they are also unable to properly comply with the TRA law which requires school districts to compute TRA service credit earned by the employed teachers. This has considerable implications for TRA. Given the plan's accrual rates, service credit and salary credit determine the pension benefits being earned and thus the plan's accrued liabilities. TRA's liabilities, according to its latest actuarial report, exceed \$22.2 billion. Depending on the extent of errors in reported service credit, that reported liability could overstate or understate what the liability ought to be by many millions of dollars, and perhaps billions of dollars.

Regarding the application of the Fair Labor Standards Act or Acts, Commission staff review suggests that the federal Fair Labor Standards Act does not apply to teachers. The exemption provision of the federal Fair Labor Standards Act indicates that K-12 teachers and school administrators are exempt from wage, maximum hour, and overtime pay provisions of the federal Fair Labor Standards Act. (Attached is part of the exemption section from the federal Fair Labor Standards Act, Section 213, Title 29, United States Code.) There is also a Minnesota Fair Labor Standards Act. Documentation provided by TRA suggests that the Minnesota Fair Labor Standards Act overtime provisions do not apply to nearly all teachers, due to exemptions. Minnesota Statutes, Chapter 177, a portion of which is cited as the Minnesota Fair Labor Standards Act, deals with minimum wage and overtime compensation standards. Minnesota Rules created to comply with that chapter suggest that any teacher receiving at least \$170 per week is exempted from overtime wage provisions of the Minnesota Fair Labor Standards Act. Material provided by TRA is also attached.

Unless it can be established by testimony or other documentation that the federal or Minnesota Fair Labor Standards Act is applicable to teachers, it would appear that some school districts are acting on a misconception when they fail to accurately determine work hours. If Fair Labor Standards Act provisions do not apply to teachers, it may be of value to provide information to teachers to correct this misconception. This would permit better compliance with the existing TRA service credit procedure. That change, particularly if coupled by a shift in responsibility from the school districts to TRA for computing service credit, may be preferable to the more radical changes TRA is proposing.

The fundamental question raised by TRA's proposal is whether to take action to improve the teacher work hour information to permit better compliance with TRA's current service credit law, or whether that system should be abandoned and be replaced.

Section 19 raises the following pension and related public policy issues for Commission consideration:

1. Possible TRA Management Issue. The current system, basing service credit on hours worked with five or more hours considered a full day, and 170 full days entitling the teacher to a year of service credit, has been in use for some or all TRA-covered teachers for 40 years. If this system has been problematic from the beginning, why did it take so long to recognize the problem and propose remedial legislation? If the reporting compliance problem is recent, what event or events caused the decline in the quality of reporting?
2. Flawed Nature of Proposal; Harm to Part-Time Teachers With Low Pay, Possible Harm to Substitute Teachers. The serious flaw in TRA's proposed procedure is that the higher an individual is paid, the easier it is for that individual to receive TRA service credit. For individuals who work full time, the present system and the proposed system are likely to provide the individuals with full service credit. However, treatment of part-time employees is an area of concern. The proposed system will strongly favor higher paid part-time individuals while possibly harming lower paid part-time teachers. The provision may also harm substitute teachers. The proposal, if implemented, may generate complaints from part-time teachers and substitute teachers.

For part-time teachers and administrators, the proposed system produces flawed results. Two part-time workers who work the same number of hours or days will receive different service credit if their salaries differ. Consider an individual with full-time salary equal to the base salary (the

lowest BA rate for the district). If this individual worked half-time during a given month, he or she would receive half of full service credit. In contrast, another individual with full-time equivalent salary which is twice the base rate could work half time and would receive full service credit. A third individual with full-time equivalent salary equal to three times the base rate could work half time and receive full service credit. Actually, this individual could work as little as one-third time and receive full service credit. Only if the individual worked less than one-third time would he or she receive less than a full-month of service credit.

The proposal may also harm some substitute teachers. The Commission staff understanding is that some or all school districts provide a flat rate paid per day to short-term or occasional substitute teachers. If that daily rate is less than daily pay based on the base BA salary, these substitute teachers are almost surely to receive less service credit under the proposed system than under the current one. The Commission may wish to determine through testimony or other means the pay rates for substitute teachers. If these rates for some or all districts are below the annual base salaries as specified in section 17, some substitute teachers (other than TRA annuitants who return to teaching and are thus not earning new service credit) will be harmed by this proposal.

3. Appropriateness of Benefit Improvement/Redistribution in Administrative Bill. The issue is whether a provision which enhances benefits for some higher paid teachers/administrators, by making it easier for them to obtain full-time service credit for part-time work, is appropriate for inclusion in an administrative bill, particularly when the change seems likely to harm the lowest-paid teachers.
4. Fair Labor Standards Act Application Question. The question is whether the Fair Labor Standards Act applies to teachers. If it does not, simply improving work hour recording and reporting seems a much easier and better alternative than the radical change TRA is proposing. As discussed previously, it appears that all teachers are exempt from the federal Fair Labor Standards Act and it appears that nearly all teachers are exempted from the Minnesota Fair Labor Standards Act. The Commission may wish to have testimony from TRA, the Department of Education, school board associations, or other interested parties on the issue of the application of those two acts.
5. TRA Effort to Seek Better Compliance With Current Law. The issue is what steps TRA has taken to seek better compliance with existing school district service credit reporting requirements.
 - Has TRA made a serious effort to educate school districts about the reporting requirements in law?
 - Has TRA considered imposing fines (if permitted under existing law) for school districts that submit faulty information?
 - If this is not covered under existing law, has TRA considered seeking legislation to permit TRA to fine school districts to foster better compliance?
 - Has TRA sought assistance from the Department of Education to encourage school districts to obtain and report the information which TRA needs?
 - If not already in law, should the Legislature consider withholding some or all state aid to a school district which fails to submit service credit related information to TRA, or which submits faulty data?
6. Alternatives Regarding Service Credit Reporting. The issue is whether other alternatives should be explored. Some alternatives are:
 - a) Take no action. The problem with this approach is that TRA contends the current system is not working due to school district reluctance to record work hours, and taking no action will continue those questionable results into the future.
 - b) Retain the present system, leaving the computation of service credit in TRA law unchanged and with the reporting of service credit remaining the responsibility of the school districts, but make a serious effort to educate school districts of their responsibilities under TRA law, and provide information about the application of the Fair Labor Standards Acts to teachers and school administrators.
 - c) Retain the present system, leaving the computation of service credit in TRA law unchanged but shift responsibility from the school districts to TRA to compute the service credit. This would also include a requirement that school districts report work hours to TRA, at a level of detail needed by TRA. This will need to be coupled by some program to improve the recording of work hours by school districts.
 - d) Revise TRA's proposal by comparing the salary earned by the teacher with the full-time equivalent contract salary of that teacher, rather than compare it to lowest BA level salary in

the district. It would be possible under this approach to develop system which closely matches the results in current law without having to collect any work hour information. However, TRA contends this approach is not practical because it would require TRA to keep track of separate contracts for each of its over 70,000 active members, and those contracts may change during the year when teachers take on revised duties. The Commission may wish to explore this further through testimony to ensure this approach is not practical. TRA receives individual-specific salary information on an ongoing basis through its payroll reporting system, used to receive and credit contributions from salary. Given the level of computerization at TRA, perhaps the problem is a concern that the school districts would fail to provide updates on contracts in a timely manner, leading to errors in TRA's system.

7. Annual Base Salary Definition Issues. The annual base salary definitions which appear in Section 15 include a provision to set annual base salary in the first year of operation for new employing units. While existing employing units will use the lowest salary from the prior year as the base salary, new employers must use the current year's lowest salary, since there was no prior year. This may be unavoidable given the proposed system, but it can harm a part-time teacher in the new district, assuming salaries increase over time. This year's base salary is higher than last year's would have been, which tends to reduce the service credit the part-time teacher will earn in the employing unit's first year of operation. Another issue is that because base salaries will differ across school districts, two part-time teachers or administrators in different school districts earning the same salary and working the same hours may receive different amounts of service credit. The individual in the district with the higher base salary might receive less service credit.
8. Issue of Unspecified Procedure for Non-Traditional Work Schedule. Under TRA law, service credit procedures for non-traditional work schedules are not specified in law, but must be approved by TRA's executive director. (In S.F. 578 (Betzold); H.F. xxxx, the applicable language is being moved from page 13.27 to 12.31 to page 14.27 to 14.29.) While this authority is not new, an issue is whether the Commission continues to be comfortable extending that discretion to TRA, without having any legislative review of those procedures or without specifying those procedures in law, given the fundamental changes being proposed for computing TRA service credit in traditional situations.
9. Inconsistent Treatment Within TRA. The problem is the numerous procedures that may be used, resulting in inconsistent treatment of seemingly comparable TRA-covered teachers. Under this proposal, service credit for Minnesota State Colleges and Universities System (MnSCU) members with TRA coverage will continue as in current law, with service credit based on definitions for full- and part-time employment as found in collective bargaining agreements. For most K-12 teachers, service credit will be determined based on comparisons of the individual's salary to BA base salary, as specified in the bill draft; while for others, deemed "non-traditional" under some unspecified criteria, service credit will be determined under an unspecified procedure or procedures to be specified by the TRA executive director.
10. Inconsistency Across Teacher Plans. The issue is that the various procedures in the draft, some unspecified, will result in greater disparity between TRA's service credit procedures compared to those of the St. Paul Teachers Retirement Fund Association (SPTRFA) and the Duluth Teachers Retirement Fund Association (DTRFA). It is unclear how first class city teacher plans compute service credit. Currently, I find nothing in law specifying how service credit is to be determined in the SPTRFA or DTRFA beyond a general statement in the first class city teacher plan definition of "allowable service," which reads in part: "Allowable service" means any service rendered by a teacher during a period in which the teacher receives salary from which employee contribution salary deduction are made and credited by the teachers retirement fund association...." It is unclear how much service is needed to qualify for a year of service credit, or how part-time employee service credit is determined.
11. Support by TRA Members and Teacher Unions. The issue is whether this service credit proposal is supported by full-time teachers, part-time and substitute teachers, and by teacher unions. Since this proposal may harm part-time and substitute teachers, the proposal may not have universal support.
12. Cost Implications. The issue is the cost of this change. The proposal makes it easier for some to earn service credit and harder for others. Unless these impacts exactly offset, the proposal will have some impact on the total service credit awarded to TRA members in aggregate in a given year and in the resulting plan liabilities. Service credit is a key component in benefit computations, so any net change in crediting service in the plan will revise plan cost and contribution requirements.

TRA has claimed the cost is negligible. The Commission may wish to question TRA on this matter and insist that the Commission be provided with an actuarial cost estimate by the actuary.

Potential Amendments for Commission Consideration:

- Amendment S0578-8A. If, because of flaws in the proposed procedure, the Commission concludes that the TRA existing law service credit procedure should not be revised, amendment S0578-8A can be used to retain existing law by removing sections dealing with the new service credit procedure from the bill.
- Amendment S0578-9A, an alternative to amendment S0578-8A, leaves the existing service credit based on hours in place, but shifts the responsibility for computing service credit from the school districts to TRA, and requires the school districts to report work hour data to TRA to enable TRA to do that calculation.
- Amendment S0578-10A, an alternative to Amendments S0578-8A and S0578-9A, is identical to the S0578-9A amendment except that it also imposes an additional non-compliance penalty on school districts which fail to report hourly work information or which file inaccurate or incomplete information. The amount of the penalty is to be specified by the Commission by filling in a blank in the amendment. The TRA executive director is authorized to require an employing unit to provide whatever information or data TRA deems necessary to determine compliance with the work hour reporting requirement.

Section 20 simplifies language in Minnesota Statutes, Section 354.42, Subdivision 2, the TRA employee contribution provision.

Section 21 revises and clarifies Minnesota Statutes, Section 354.44, Subdivision 4, TRA's retirement annuity accrual date provision, by permitting annuities to accrue as early as the day after termination, rather than on the 16th of the month after application for retirement if application is made before the 15th, or on the first of the following month if application is made after the 16th of the month.

Section 21 raises the following pension and related public policy issues for Commission consideration:

1. Benefit Improvement, Cost. The issue is whether a benefit improvement provision should be included in an administrative bill. The proposal permits annuities to accrue as much as two weeks earlier than present law, increasing the total lifetime payout to the retiring member.
2. Inconsistency Across Plans. This proposal is inconsistent with the first class city teacher plan annuity accrual law, Minnesota Statutes, Section 354.A.31, Subdivision 2. That law is patterned after the TRA existing law version. The proposal will create an inconsistency between similar teacher plans.

Potential Amendment for Commission Consideration:

- Amendment S0578-11A. If, because of the above policy issues, the Commission concludes that the existing law TRA annuity accrual provision should be retained, Amendment S0578-11A can be used to remove this section from the bill.

Section 22 revises Minnesota Statutes, Section 354.44, Subdivision 5, TRA's reemployed annuitant exempt earnings provision, by comparing salary to exempt earnings limits on a fiscal year, rather than calendar year, basis.

Section 22 raises the following pension and related public policy issues for Commission consideration:

1. Inconsistency Across Teacher Plans. The first class city teacher plan reemployed annuitant provision, Minnesota Statutes, Section 354A.31, Subdivision 3, is based on calendar years, like the current law TRA provision. The TRA proposal will create inconsistency between TRA and first class city teacher plans. First class city teacher plan administrators reviewed earlier drafts of the administrative bill but did not seek a comparable change in the first class city teacher plan provision.
2. Effective Date Question; Implementation Issue. The effective date of this TRA provision is January 1, 2010, the start of new calendar year, rather than the start of a new fiscal year. The Commission may wish to inquire about how TRA will begin implementation of this provision, specifically, how TRA will move from the calendar year reviews of salary to determine if the

exempt limit has been exceeded, to a fiscal year (school year) comparison. Perhaps there is a need to change the effective date.

Potential Amendments for Commission Consideration:

- Amendment S0578-12A can be used to change the effective date from January 1, 2010, to a date to be specified by the Commission by filling in the blank.
- Amendment S0578-13A, an alternative to Amendment S0578-12A, can be used if the Commission wishes to retain use of calendar year, rather than fiscal year as proposed by TRA.
- Amendment S0578-14A, which could be used if Amendment S0578-13A is not adopted, applies to the first class city teacher plans and revises their reemployed annuitant exempt earnings provision to use fiscal year rather than calendar year comparisons, comparable to the TRA proposal. If this amendment is used, the Commission would need to fill in the effective date.

Section 23 revises Minnesota Statutes, Section 354.47, TRA's death refund provision, by specifying that any permanent disability benefits received by the member prior to death must be subtracted from any death refund to heirs otherwise payable following the member's death.

Section 23 raises the following pension and related public policy issue for Commission consideration:

1. Conforming Law to Policy. TRA has indicated that it has followed the policy of subtracting prior disability benefits paid from any death refund without specific authority in statute. The proposed revision in the statute will make the statute consistent with the long-standing TRA policy. An issue for the Commission is whether the Commission supports that policy and the specific change in the law.

Section 24 revises Minnesota Statutes, Section 354.48, Subdivision 4, a TRA disability determination provision requiring TRA's executive director to have disability applicants examined by at least two medical practitioners selected by the TRA medical advisor, by removing redundant language stating that the practitioners must be selected by the medical advisor.

Section 25 revises Minnesota Statutes, Section 354.48, Subdivision 6, a TRA disabilitant physical examination provision requiring disabilitants to have periodic examinations for continued eligibility, to allow the executive director to waive examinations.

Section 25 raises the following pension and related public policy issues for Commission consideration:

1. Intent. TRA has stated an intention to reduce unnecessary costs. In cases where a disabilitant has no hope of recovery, TRA would contend no useful purpose is served by requiring periodic physical examinations to determine continued disability benefit eligibility. The TRA proposal is consistent with similar disabilitant-continued-eligibility-physical-examination provisions in MSRS and PERA current law (Minnesota Statutes, Sections 352.113, Subdivision 6, and 353.031, Subdivision 8). The MSRS and PERA provisions are permissive.

While the TRA proposal would create more consistency across plans, the practice may lead to some individuals receiving disability benefits after eligibility should have ended. The Commission may wish to seek assurance that the administrative savings will exceed any losses to the fund by payment of disability benefits to individuals who should no longer qualify.

2. Potential Fraud or Abuse. The issue is whether the proposal could lead to fraud or abuse given the full discretion being given the TRA executive director, if a future director is less than ethical.
3. Lack of Standards for Waiving Physical. No standards are proposed in law for when a physical may be waived. However, none exist in the similar MSRS and PERA existing law language. The Commission may wish to consider adding standards or a requirement that the executive director can waive a physical for a disabilitant only if the medical advisor concludes there is no reasonable chance of recovery during the time period in which physical examinations are waived. If the Commission concludes that standards should be added, the Commission may also wish to consider whether to add standards to similar MSRS and PERA provisions.

Potential Amendments for Commission Consideration:

- Amendment S0578-15A. If the Commission concludes that physical examinations for continued disability eligibility should remain mandatory, Amendment S0578-15A can be used to delete this section and also a comparable section (Section 37) for the first class city teacher plans.
- Amendment S0578-16A, an alternative to Amendment S0578-15A, can be used if the Commission concludes that the disabilitant re-examinations should be at the discretion of the executive director as stated, but that language should be added making the waiver contingent upon a certification from the plan medical advisor that no reasonable expectation exists that, during the time period specified in the waiver, the disabilitant could recover sufficiently to no longer qualify for disability benefits.
- Amendment S0578-17A. If the Commission adopts Amendment S0578-16A, the Commission may wish to consider Amendment S0578-17A, which would add a comparable certification requirement to the similar MSRS and PERA provisions.

Section 26 revises Minnesota Statutes, Section 354.49, Subdivision 2, the primary TRA refund provision, by specifying that any permanent disability benefits received by the member must be subtracted from any refund otherwise payable to the terminated employee. Section 26 raises the same policy issues as Section 23.

Section 27 revises Minnesota Statutes, Section 354.52, Subdivision 2a, a provision requiring employers to report annually on post-retirement income of its employees, by indicating that post-retirement income reporting will now occur through the regular payroll cycle reporting.

Section 28 revises Minnesota Statutes, Section 354.52, Subdivision 4b, a TRA payroll cycle reporting requirement provision, by adding a requirement that employing units must report the post-retirement salary earned by TRA annuitants who provide teaching service, and by striking the requirement that the employing unit compute service credit for its members.

Section 29 amends Minnesota Statutes, Section 354.52, by adding a subdivision requiring that TRA employing units annually report base salary and the beginning and ending dates of the regular school year.

Section 30 revises Minnesota Statutes, Section 354.52, Subdivision 6, a TRA provision requiring fines for employing unit failures to comply with reporting requirements, by making the provision apply to the new annual base salary reporting requirement (Section 26), and by permitting a reporting delay if base salary has not been settled or determined by the June 30 report due date.

Section 31 is a new section, coded as Minnesota Statutes, Section 354.543, a TRA military service credit purchase at full actuarial value provision. The provision permits vested TRA members who performed military service before becoming TRA members, or who had a break in TRA service to provide military service but who failed to purchase service credit in the plan in a timely manner under the more favorable TRA USERRA-compliant military service purchase provision, to purchase TRA service credit at full actuarial value for the initial period of enlistment, induction, or call to active duty without voluntary extension. Purchases are permitted if the individual has not purchased service credit for that military service period in any other Minnesota defined benefit plan. Payment must be made prior to the teacher's termination of teaching service.

TRA seeks to reestablish a TRA full actuarial value military service credit purchase provision similar to the one which was allowed to expire May 16, 2007. Purchases are not permitted if the individual has purchased service credit for that military service period in any other Minnesota defined benefit plan other than a volunteer fire plan, or if the separation from uniformed service was less than honorable. Payment must be made before the teacher terminates from teaching service.

In 2007, the PERA full actuarial value military service credit purchase was reinstated by a Commission amendment to the Omnibus Pension Bill and passed as Laws 2008, Chapter 349, Article 5, Section 17. While TRA's current proposal is similar in most ways to the recently enacted PERA provision, and to the recently expired TRA provision, and requires payment under the full actuarial value payment provision (Section 356.551), the provision raises several policy issues. In part, the policy issues stem from the extraordinary deterioration in the U.S. and foreign stock markets.

Section 31 raises the following pension and related public policy issues for Commission consideration:

1. Sufficient Need for Reinstatement. The first issue is whether there is sufficient need to reinstate this provision. The prior TRA provision was added to law in 1999 as a temporary provision and,

although it was extended a few times, it was permitted to expire in 2007 because there was insufficient interest in having it continue. Individuals who wanted the treatment provided by that law made payment in the early years following its 1999 enactment. There may be insufficient need at the current time to justify reinstating the provision. Individuals who have a break in TRA-covered teaching service to provide military service do not need this provision. They can use the much more favorable USERRA-compliant TRA military service credit purchase provision, Minnesota Statutes, Section 354.53, providing that the employee makes employee contribution equivalent payments within the timeframes specified in that law.

2. Inconsistent With Recent PERA Provision. The TRA proposal is not fully consistent with the recently enacted PERA provision. The PERA provision is temporary, set to expire in 2013. In contrast, TRA is proposing a permanent provision. If the Commission chooses to consider this TRA proposal, it may wish to add an expiration date.
3. Subsidy Created by Market Deterioration. A full actuarial value service credit purchase will place unfunded liability on the pension fund if the pension fund is unable to earn an 8.5 percent return. In periods of extreme market volatility and strongly negative returns earned by the pension fund, the individual may receive a very generous subsidy. Under these circumstances, the Commission may wish to consider whether it is appropriate at this time to enact laws creating new service credit purchases. Individuals currently have a strong incentive to shift investment risk from themselves to the pension fund.
4. Special Law Versus General Law. Given market deterioration, the Commission may wish to not act on the general law request, and instead consider only special law requests. An argument for not taking action on the TRA proposal is that the provision covers only individuals who 1) provided military service before becoming teachers, rather than during their teacher careers, or 2) failed to take advantage in a timely manner to the TRA USERRA-compliant military service provision, and thus forfeited that USERRA right, or (3) failed to take advantage of the TRA full actuarial purchase provision which was in law for several years prior to its expiration. If these cases were heard individually, as separate special law bills, the Commission may be justified in concluding that given the failure by an individual to take advantage of earlier opportunities, the equity arguments do not support a special law purchase. If equity would not support special law purchases, there may be little justification for a general law approach.
5. Scope, Similar Requests. The Commission may wish to consider that providing a full actuarial value military service credit purchase provision in TRA may lead to similar requests to add provisions to other pension funds, although as of this drafting, administrators from PERA, MSRS, and first class city teacher plans have reviewed earlier drafts of the administrative bill and have not requested similar treatment. To the extent that the TRA language, if enacted, will serve as a model for similar provisions, the Commission may wish to take care in crafting this provision. Adding to the scope of permitted purchases given recent market conditions will impose considerable risk on the plans.
6. Revisiting PERA Provision. The issue is whether the provision that passed for PERA plans in the 2008 Omnibus Retirement Bill should be revised to eliminate the expiration date on the PERA provision. PERA has not requested that action.

Potential Amendments for Commission Consideration:

- Amendment S0578-18A removes this provision from the bill. The amendment can be used if the Commission concludes there is insufficient demand for the provision, or if the provision exposes the pension fund to too much risk in the present investment climate.
- Amendment S0578-19A. If amendment S0578-18A is not used, Amendment S0578-19A can be used to add an expiration date, to be determined by the Commission. For guidance, the Commission may wish to consider the expiration date of July 1, 2013, used in the somewhat similar PERA provision enacted last year. The Commission may also wish to consider that the PERA provision will expire five years from its enactment date so, for this TRA provision, a similar effective timeframe would suggest a July 1, 2014, expiration date.
- Amendment S0578-20A. If the section remains in the bill, this amendment could be used to revise the somewhat similar PERA service credit purchase provisions enacted last year to include some of the restrictions found in this TRA proposal, such as prohibiting purchases if the military service was not served honorably. If the Commission concludes that the TRA provision should not have

an expiration date, the Commission may wish to consider making a comparable change in the PERA provision by striking the repealer language found on page 1.26 of this amendment.

Section 32 revises Minnesota Statutes, Section 354.55, Subdivision 11, the TRA deferred annuity augmentation provision, by removing obsolete, incorrect crossreferences, and by clarifying the provision.

Section 33 revises Minnesota Statutes, Section 354.66, Subdivision 3, the definition section to TRA's qualified part-time teaching service provision, by making the provision consistent with TRA's proposed new system for computing service credit (Section 16). The minimum service needed to qualify under the part-time teaching service provision is revised from at least 50 days of service to at least 30 percent of full-time equivalent salary, with corresponding changes for teacher/legislators.

Section 33 raises the following pension and related public policy issue for Commission consideration:

1. Implications of Change. The TRA qualified part-time teacher provision is revised for consistency with the TRA service credit proposal discussed previously. In this section the qualified part-time teaching service eligibility criteria is changed from days of provided service compared to a normal full teaching year, to salary relative to full-time salary. Since many teachers, including some teachers who are legislators, use this provision, the Commission may want TRA to verify that individuals who previously qualified for this program are likely to continue to qualify, to avoid harm and unintended consequences.

Section 34 corrects a cross-reference in Minnesota Statutes, Section 354A.096, the first class city teacher plan medical leave provision.

Section 35 removes obsolete phase-in language, and by removing erroneous Social Security language in Minnesota Statutes, Section 354A.12, Subdivision 2a, the first class city teacher plan employer regular contributions and additional contribution provision.

Section 36 adds a new subdivision to Minnesota Statutes, Section 354A.12, creating an erroneous salary deduction/direct payment provision, based on the TRA provision in existing law.

Section 37 revises Minnesota Statutes, Section 354A.36, Subdivision 6, a first class city teacher plan disabilitant physical examination provision requiring disabilitants to have periodic examinations for continued eligibility, to allow the executive director or board to waive examinations.

Section 37 raises the following pension and related public policy issues for Commission consideration:

1. Intent. The presumed intention is to reduce unnecessary costs. In cases where a disabilitant has no reasonable hope of recovery, no useful purpose may be served by requiring periodic physical examinations to determine continued disability benefit eligibility. However, the practice may lead to some individuals receiving disability benefits after eligibility should have ended. The Commission may wish to seek assurance that the administrative savings will exceed any losses to the fund by payment of disability benefits to individuals who should no longer qualify.
2. Potential Fraud or Abuse. The issue is whether the proposal could lead to fraud or abuse given the full discretion being given the TRA executive director, if a future director is less than ethical.
3. Lack of Standards for Waiving Physical. No standards are proposed in law for when a physical may be waived. The Commission may wish to add standards or a requirement that the executive director can waive a physical for a disabilitant only if the medical advisor concludes there is no reasonable chance of recovery during the time period in which physical examination are waived.

Potential Amendment for Commission Consideration:

- Amendment S0578-21A. The Commission presumably wishes to treat this provision comparably to the corresponding provision for TRA, section 25 of the bill. If the Commission chooses to create a medical advisor certification requirement for the TRA provision, the Commission may be inclined to include a similar medical advisor certification requirement for the first class city teacher fund associations, as found in Amendment S0578-21A.

Section 38 revises Minnesota Statutes, Section 356.401, Subdivision 2, an automatic deposit authority provision, by placing restrictions on deposits to joint or multi-party accounts. The new restriction is that direct deposit to joint accounts may only be made if the benefit recipient consents in writing to authorize

the financial institution to release to the pension fund the names and addresses of joint owners of the account. If there is an overpayment to the account following the death of the annuitant, the pension plan can issue an administrative subpoena ordering the financial institution to disclose the account co-owners and all deposits and withdrawals from the account which occur after the annuitant's death.

Section 38 raises the following pension and related public policy issue for Commission consideration:

1. Need for Change. Pension plan administrators should be prepared to discuss with the Commission the extent of any past loss suffered by the pension funds, and why current authority under existing law is now deemed insufficient.

Section 39. Minnesota Statutes, Section 356.465, Subdivision 1, a provision applicable to most plans other than volunteer fire plans, which permits retiring plan members to name a supplemental needs trust to the second half of a joint-and-survivor annuity, is revised to clarify that this provision does not take precedence over the mandatory spousal joint-and-survivor provision enacted in 2008 (Section 356.46).

Section 40. Minnesota Statutes, Section 356.465, the supplemental needs trust provision applicable to most plans, is amended by adding a new subdivision applicable only to TRA which expands authority for TRA members to elect the trust. As revised, an active, disabled, deferred, or retiring TRA member, rather than just a retiring TRA member, may name a supplemental needs trust.

Minnesota Statutes, Section 356.465, the supplemental needs trust provision, applies to the MSRS, PERA, TRA, first class city teacher, and Minneapolis local plans. Under the existing law version of this statute, only "retiring" members may elect this trust option.

Section 40 raises the following pension and related public policy issues for Commission consideration:

1. Administrative Burden. At a minimum, permitting active and deferred members to specify an optional annuity to a supplemental trust poses some administrative burden, and some care may be needed to ensure that the pension fund does not become liable to pay multiple benefits. Avoiding those issues may have been why the initial supplemental trust legislation, enacted in 2002, limited the election to retiring members.
2. Precedence of Mandatory Surviving Spouse Coverage Provision. Minnesota Statutes, Section 356.46, given revisions enacted last year, mandates that a joint-and-survivor annuity must be provided to a retiring member's spouse unless that spouse waives that right, and language in that provision creates precedence over other law to the contrary. Therefore, at a minimum the married active, disabled, or deferred member will need a waiver from the spouse if Section 40 is to apply, unless that spouse is the beneficiary of the trust. This need for a waiver is not stated in the proposed language. Also, if there is a divorce and the active member remarries, the second wife would also need to waive the mandatory spouse joint-and-survivor coverage if the supplemental need trust designation is to have effect.
3. Implications of Changing Election. An active member may seek to revoke an earlier supplemental needs trust designation election. The Commission may wish to seek assurance that the initial election does not create a property right which may later lead to unexpected plan liabilities.
4. Scope. If the Commission supports the proposed change for TRA, an issue is whether to expand the scope. In discussion of early drafts of the administrative bill with MSRS and PERA administrators, they were not supportive of including their pension plans under this proposal. The first class city teacher plan administrators reviewed earlier drafts of the administrative bill and did not ask for inclusion. Perhaps the Minneapolis Employees Retirement Fund (MERF) and the two local Minneapolis relief associations may wish to be included.

Potential Amendments for Commission Consideration:

- Amendment S0578-22A deletes this section from the bill, and can be use if the Commission concludes that TRA should not have the expanded authority it is requesting.
- Amendment S0578-23A, an alternative to Amendment S0578-22A, can be used if the Commission concludes that the provision should remain in the bill and be expanded. The amendment permits the Commission to name additional pension plans to the expanded authority.

Section 41 revises Minnesota Statutes, Section 356.611, subdivision 3, the federal compliance maximum benefit limitation provision, to indicate that the maximum must be increased for cost of living increases after termination of service, and strikes obsolete language.

Section 42 amends Minnesota Statutes, Section 356.611, subdivision 4, the federal compliance definition of compensation provision, by clarifying items included and excluded from the determination of compensation.

Section 43 revises Minnesota Statutes, Section 356.635, subdivision 6, a federal compliance provision list of eligible plans to receive rollovers, to include, for rollovers to a non-spousal beneficiary, an account or annuity treated as an inherited individual retirement account under section 402(c)(11) of Internal Revenue Code.

Section 44 revises Minnesota Statutes, Section 356.635, subdivision 7, a federal compliance provision definition of “distributee,” to include a non-spouse beneficiary who qualifies for a distribution under the plan and is a designated beneficiary under section 401(a)(9)(E) of Internal Revenue Code.

Section 45 adds language to Minnesota Statutes, Section 356.96, subdivision 5, the major plan appeal procedure petition for review provision, permitting an executive director to require the applicant to participate in a fact-finding session conducted by an administrative law judge assigned by the Office of Administrative Hearings, and, if applicable, take part in a vocational assessment.

Section 46 repeals Minnesota Statutes, Sections 354.06, subdivision 6; and 354.55, subdivision 14.

- Minnesota Statutes, Section 354.06, subdivision 6 is the TRA definition fiscal year found in the TRA Board provision. It being repealed here and moved to the TRA definition section by section 15.
- Minnesota Statutes, Section 354.55, subdivision 14, is an obsolete TRA annuity increase provision providing a one-time increase in 1973.

TITLE 29--LABOR

CHAPTER 8--FAIR LABOR STANDARDS

Sec. 213. Exemptions

(a) Minimum wage and maximum hour requirements

The provisions of sections 206 (except subsection (d) in the case of paragraph (1) of this subsection) and 207 of this title shall not apply with respect to--

(1) any employee employed in a bona fide executive, administrative, or professional capacity (including any employee employed in the capacity of academic administrative personnel or teacher in elementary or secondary schools), or in the capacity of outside salesman (as such terms are defined and delimited from time to time by regulations of the Secretary, subject to the provisions of subchapter II of chapter 5 of title 5, except that an employee of a retail or service establishment shall not be excluded from the definition of employee employed in a bona fide executive or administrative capacity because of the number of hours in his workweek which he devotes to activities not directly or closely related to the performance of executive or administrative activities, if less than 40 per centum of his hours worked in the workweek are devoted to such activities); or

(2) Repealed. Pub. L. 101-157, Sec. 3(c)(1), Nov. 17, 1989, 103 Stat. 939.

(3) any employee employed by an establishment which is an amusement or recreational establishment, organized camp, or religious or non-profit educational conference center, if (A) it does not operate for more than seven months in any calendar year, or (B) during the preceding calendar year, its average receipts for any six months of such year were not more than $33\frac{1}{3}$ per centum of its average receipts for the other six months of such year, except that the exemption from sections 206 and 207 of this title provided by this paragraph does not apply with respect to any employee of a private entity engaged in providing services or facilities (other than, in the case of the exemption from section 206 of this title, a private entity engaged in providing services and facilities directly related to skiing) in a national park or a national forest, or on land in the National Wildlife Refuge System, under a contract with the Secretary of the Interior or the Secretary of Agriculture; or

(4) Repealed. Pub. L. 101-157, Sec. 3(c)(1), Nov. 17, 1989, 103 Stat. 939.

(5) any employee employed in the catching, taking, propagating, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life, or in the first processing, canning or packing such marine products at sea as an incident to, or in conjunction with, such fishing operations, including the going to and returning from work and loading and unloading when performed by any such employee; or

(6) any employee employed in agriculture (A) if such employee is employed by an employer who did not, during any calendar quarter during the preceding calendar year, use more than five hundred man-days of agricultural labor, (B) if such employee is the parent, spouse, child, or other member of his employer's immediate family, (C) if such employee (i) is employed as a hand harvest laborer and is paid on a piece rate basis in an operation which has been, and is customarily and generally recognized as having been, paid on a piece rate basis in the region of employment, (ii) commutes daily from his permanent residence to the farm on which he is so employed, and (iii) has been employed in agriculture less than thirteen weeks during the preceding calendar year, (D) if such employee (other than an employee described in clause (C) of this subsection) (i) is sixteen years of age or under and is employed as a hand harvest laborer, is paid on a piece rate basis in an operation which has been, and is customarily and generally recognized as having been, paid on a piece rate basis in the region of employment, (ii) is employed on the same farm as his parent or person standing in the place of his parent, and (iii) is paid at the same piece rate as employees over age sixteen are paid on the same farm, or (E) if such employee is principally engaged in the range production of livestock; or

(7) any employee to the extent that such employee is exempted by regulations, order, or certificate of the Secretary issued under section 214 of this title; or

(8) any employee employed in connection with the publication of any weekly, semiweekly, or daily newspaper with a circulation of less than four thousand the major part of which circulation is within the county where published or counties contiguous thereto; or

(9) Repealed. Pub. L. 93-259, Sec. 23(a)(1), Apr. 8, 1974, 88 Stat. 69.

5200.0180 EXECUTIVE, ADMINISTRATIVE, AND PROFESSIONAL PERSONNEL.

Subpart 1. **Duties determine status.** The primary duties of the employee are determinative of his or her status under this exemption. Only where the employee's primary duties meet all the criteria under a particular test may the employer consider the employee to be exempt from the overtime wage provisions.

Subp. 2. **Definition of manage.** For purposes of parts 5200.0180 to 5200.0210, the term "manage" means to control and direct the business operations of a given enterprise, department, or branch establishment. Duties involved in managing must involve the making of decisions and the issuance of directions to other employees which involve skill and judgment. The term includes those employees that act primarily and principally in a directive capacity as opposed to those who primarily do the actual work.

Subp. 3. **Discretionary powers.** The thrust of this criterion is to distinguish between those employees empowered to independently commit their employers on matters of importance and those employees who merely make day-to-day decisions which, although necessary to the daily operations of the employer's business, are routine, or follow prescribed procedures, or involve a determination of whether specific standards are met, or are lacking in substantial importance to the employer's business as a whole. One test which should be utilized in determining whether an employee exercises discretionary powers is to ask whether the decisions being made involve a discretion as to company policy or procedure or commit the employer on matters of substantial importance. Mere recommendations with respect to policies and procedures are not sufficient unless it can be shown that the employer consistently accepted and followed those recommendations.

Subp. 4. **Sole charge.** Only one employee per enterprise, department, or branch establishment may be considered to be in sole charge regardless of the number of work shifts per day.

Subp. 5. **Determination of exempt and nonexempt work.** In determining exempt and nonexempt work under parts 5200.0180 to 5200.0210, work directly related to executive or administrative work may be included if the executive work which it relates to is actually performed by the employee. It is not sufficient to claim certain work is exempt where the executive or administrative function it might be directly related to is not performed by the employee.

Statutory Authority: *MS s 177.28*

Posted: *June 11, 2008*

5200.0210 PROFESSIONAL TESTS.Subpart 1. **Professional test I.** Professional test I:

- A. receives at least \$250 per week in salary or fee;
- B. either:
 - (1) performs work requiring advanced knowledge in a field of science or learning;
 - (2) performs work as a teacher in the activity of imparting knowledge; or
 - (3) performs work requiring invention, imagination, or talent in a recognized field of artistic endeavor; and
- C. consistently exercises discretion and judgment.

Subp. 2. **Professional test II.** Professional test II:

- A. receives at least \$170 per week in salary or fee;
- B. either:
 - (1) performs work requiring advanced knowledge in a field of learning customarily acquired by prolonged specialized intellectual study, not a general academic education, an apprenticeship, or training in routine mental or physical processes;
 - (2) performs original work dependent on the person's own creativeness in a recognized field of artistic endeavor; or
 - (3) is a certified teacher working as such or recognized as such in the school system where the person works;
- C. consistently exercises judgment and discretion;
- D. performs predominantly intellectual work so varied that the output cannot be standardized by time necessary for accomplishment; and
- E. devotes less than 20 percent of the hours worked to activities not essential to the person's professional work.

Statutory Authority: *MS s 177.28*

History: *17 SR 1279*

Posted: *June 11, 2008*

- 1.1 moves to amend S.F. No. 578; H.F. No., as follows:
- 1.2 Page 1, delete section 1
- 1.3 Renumber the sections in sequence and correct the internal references
- 1.4 Amend the title accordingly

- 1.1 moves to amend S.F. No. 578; H.F. No., as follows:
- 1.2 Page 2, delete section 2
- 1.3 Renumber the sections in sequence and correct the internal references
- 1.4 Amend the title accordingly

- 1.1 moves to amend S.F. No. 578; H.F. No., as follows:
- 1.2 Page 4, line 23, reinstate the stricken language and delete the new language
- 1.3 Page 5, line 18, reinstate the stricken language and delete the new language

- 1.1 moves to amend S.F. No. 578; H.F. No., as follows:
- 1.2 Page 7, delete section 9
- 1.3 Renumber the sections in sequence and correct the internal references
- 1.4 Amend the title accordingly

- 1.1 moves to amend S.F. No. 578; H.F. No., as follows:
- 1.2 Page 8, line 25, reinstate "~~without~~" and delete the new language
- 1.3 Page 8, lines 26, 30 to 31, delete the new language
- 1.4 Page 9, line 8, delete the new language

1.1 moves to amend S.F. No. 548; H.F. No., as follows:

1.2 Page 9, delete lines 9 to 12

- 1.1 moves to amend S.F. No. 578; H.F. No., as follows:
- 1.2 Page 9, delete section 10
- 1.3 Page 10, line 29, reinstate the stricken language and delete the new language
- 1.4 Page 10, lines 30 to 31, delete the new language
- 1.5 Renumber the sections in sequence and correct the internal references
- 1.6 Amend the title accordingly

- 1.1 moves to amend S.F. No. 578; H.F. No., as follows:
- 1.2 Page 12, delete section 17
- 1.3 Page 13, delete section 19
- 1.4 Page 19, lines 24 to 25, reinstate the stricken language
- 1.5 Page 19, lines 27 to 28, reinstate the stricken language and delete the new language
- 1.6 Page 19, line 30, delete "(10)" and insert "(11)"
- 1.7 Page 19, line 31, strike "(11)" and insert "(12)"
- 1.8 Page 19, line 32, delete ", except for the" and insert "."
- 1.9 Page 19, delete line 33
- 1.10 Page 20, delete sections 29 to 30
- 1.11 Page 23, delete section 33
- 1.12 Renumber the sections in sequence and correct the internal references
- 1.13 Amend the title accordingly

- 1.1 moves to amend S.F. No. 578; H.F. No., as follows:
- 1.2 Page 12, delete section 17
- 1.3 Page 13, delete section 19
- 1.4 Page 19, line 24, after "~~credit~~" insert "hours worked each workday during the payroll
- 1.5 period" and reinstate the semicolon
- 1.6 Page 19, line 25, reinstate the stricken language
- 1.7 Page 19, lines 27 to 28, reinstate the stricken language and delete the new language
- 1.8 Page 19, line 30, delete "(10)" and insert "(11)"
- 1.9 Page 19, line 31, strike "(11)" and insert "(12)"
- 1.10 Page 19, line 32, delete ", except for the" and insert ":
- 1.11 Page 19, delete line 33
- 1.12 Page 20, delete sections 29 and 30
- 1.13 Page 23, delete section 33
- 1.14 Renumber the sections in sequence and correct the internal references
- 1.15 Amend the title accordingly

- 1.1 moves to amend S.F. No. 578; H.F. No., as follows:
- 1.2 Page 12, delete section 17
- 1.3 Page 13, delete section 19
- 1.4 Page 19, line 24, after "~~credit~~" insert "hours worked each workday during the payroll
- 1.5 period" and reinstate the semicolon
- 1.6 Page 19, line 25, reinstate the stricken language
- 1.7 Page 19, lines 27 to 28, reinstate the stricken language and delete the new language
- 1.8 Page 19, line 30, delete "(10)" and insert "(11)"
- 1.9 Page 19, line 31, strike "(11)" and insert "(12)"
- 1.10 Page 19, line 32, delete ", except for the" and insert " ."
- 1.11 Page 19, delete line 33
- 1.12 Page 20, delete section 29
- 1.13 Page 20, line 10, reinstate "~~or~~" and delete ", or 4d,"
- 1.14 Page 20, delete lines 12 to 14, and insert:
- 1.15 "(b) An employing unit that does not comply with reporting of work hours under
- 1.16 subdivision 4b, clause (7), by providing the association with information determined by the
- 1.17 executive director to be incomplete or inaccurate, must pay an additional fine of \$..... per
- 1.18 calendar day until the association receives data deemed accurate by the executive director.
- 1.19 (c) The executive director is authorized to require an employing unit to submit
- 1.20 any information or records deemed necessary by the executive director to make the
- 1.21 determination required under this subdivision."
- 1.22 Page 23, delete section 33
- 1.23 Renumber the sections in sequence and correct the internal references
- 1.24 Amend the title accordingly

- 1.1 moves to amend S.F. No. 578; H.F. No., as follows:
- 1.2 Page 15, delete section 21
- 1.3 Renumber the sections in sequence and correct the internal references
- 1.4 Amend the title accordingly

1.1 moves to amend S.F. No. 578; H.F. No., as follows:

1.2 Page 16, line 34, delete "January 1, 2010" and insert "....."

- 1.1 moves to amend S.F. No. 578; H.F. No., as follows:
- 1.2 Page 16, delete section 22
- 1.3 Page 19, line 4, reinstate the stricken language and delete the new language
- 1.4 Renumber the sections in sequence and correct the internal references
- 1.5 Amend the title accordingly

1.1 moves to amend S.F. No. 578; H.F. No., as follows:

1.2 Page 26, after line 14, insert:

1.3 "Sec. 37. Minnesota Statutes 2008, section 354A.31, subdivision 3, is amended to read:

1.4 Subd. 3. **Resumption of teaching after commencement of a retirement annuity.**

1.5 (a) Any person who retired and is receiving a coordinated program retirement annuity
1.6 under the provisions of sections 354A.31 to 354A.41 or any person receiving a basic
1.7 program retirement annuity under the governing sections in the articles of incorporation or
1.8 bylaws and who has resumed teaching service for the school district in which the teachers
1.9 retirement fund association exists is entitled to continue to receive retirement annuity
1.10 payments, except that all or a portion of the annuity payments must be deferred during the
1.11 ~~calendar~~ fiscal year immediately following the ~~calendar~~ fiscal year in which the person's
1.12 salary from the teaching service is in an amount greater than \$46,000. The amount of the
1.13 annuity deferral is one-third the salary amount in excess of \$46,000 and must be deducted
1.14 from the annuity payable for the ~~calendar~~ fiscal year immediately following the ~~calendar~~
1.15 fiscal year in which the excess amount was earned.

1.16 (b) If the person is retired for only a fractional part of the ~~calendar~~ fiscal year during
1.17 the initial year of retirement, the maximum reemployment salary exempt from triggering a
1.18 deferral as specified in this subdivision must be prorated for that ~~calendar~~ fiscal year.

1.19 (c) After a person has reached the Social Security normal retirement age, no deferral
1.20 requirement is applicable regardless of the amount of any compensation received for
1.21 teaching service for the school district in which the teachers retirement fund association
1.22 exists.

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

1.25 (e) For the purpose of this subdivision, salary from teaching service includes: (i)
1.26 all income for services performed as a consultant or independent contractor; or income
1.27 resulting from working with the school district in any capacity; and (ii) the greater of either
1.28 the income received or an amount based on the rate paid with respect to an administrative
1.29 position, consultant, or independent contractor in the school district in which the teachers
1.30 retirement fund association exists and at the same level as the position occupied by the
1.31 person who resumes teaching service.

1.32 (f) On or before February 15 of each year, each applicable employing unit shall
1.33 report to the teachers retirement fund association the amount of postretirement salary as
1.34 defined in this subdivision, earned as a teacher, consultant, or independent contractor
1.35 during the previous ~~calendar~~ fiscal year by each retiree of the teachers retirement fund

2.1 association for teaching service performed after retirement. The report must be in a format
2.2 approved by the executive secretary or director.

2.3 **EFFECTIVE DATE.** This section is effective"

2.4 Renumber the sections in sequence and correct the internal references

2.5 Amend the title accordingly

- 1.1 moves to amend S.F. No. 578; H.F. No., as follows:
- 1.2 Page 18, delete section 25
- 1.3 Page 26, delete section 37
- 1.4 Renumber the sections in sequence and correct the internal references
- 1.5 Amend the title accordingly

1.1 moves to amend S.F. No. 578; H.F. No., as follows:

1.2 Page 18, line 9, before "At" insert "(a)"

1.3 Page 18, line 11, reinstate "~~shall~~" and delete "may"

1.4 Page 18, after line 20, insert:

1.5 "(b) The executive director may waive the expert examination otherwise required
1.6 under paragraph (a) if the medical advisor certifies that there is no reasonable expectation
1.7 during the time period specified in the waiver form that the disabilitant could recover
1.8 sufficiently to no longer qualify for disability."

1.1 moves to amend S.F. No. 578; H.F. No., as follows:

1.2 Page 2, after line 34, insert:

1.3 "Sec. 3. Minnesota Statutes 2008, section 352.113, subdivision 6, is amended to read:

1.4 Subd. 6. **Regular medical or psychological examinations.** (a) At least once
1.5 each year during the first five years following the allowance of a disability benefit to
1.6 any employee, and at least once in every three-year period thereafter, the executive
1.7 director ~~may~~ shall require any disabled employee to undergo a medical, chiropractic, or
1.8 psychological examination. The examination must be made at the place of residence of
1.9 the employee, or at any place mutually agreed upon, by an expert or experts designated
1.10 by the medical adviser and engaged by the director. If any examination indicates to the
1.11 medical adviser that the employee is no longer permanently and totally disabled, or
1.12 is engaged in or can engage in a gainful occupation, payments of the disability benefit
1.13 by the fund must be discontinued. The payments must be discontinued as soon as the
1.14 employee is reinstated to the payroll following sick leave, but in no case may payment
1.15 be made for more than 60 days after the medical adviser finds that the employee is no
1.16 longer permanently and totally disabled.

1.17 (b) The executive director may waive the expert examination otherwise required
1.18 under paragraph (a) if the medical advisor certifies that there is no reasonable expectation
1.19 during the time period specified in the waiver form that the disabilitant could recover
1.20 sufficiently to no longer qualify for disability.

1.21 **EFFECTIVE DATE.** This section is effective July 1, 2009."

1.22 Page 6, after line 27, insert:

1.23 "Sec. 8. Minnesota Statutes 2008, section 353.031, subdivision 5, is amended to read:

1.24 Subd. 5. **Medical adviser.** The executive director ~~may~~ shall contract with licensed
1.25 physicians or physicians on the staff of the state commissioner of health, as designated
1.26 by the commissioner, to be the medical adviser of the association. The medical adviser
1.27 shall review all medical reports submitted to the association, including the findings of
1.28 an independent medical examination requested under this section, and shall advise the
1.29 executive director.

1.30 **EFFECTIVE DATE.** This section is effective July 1, 2009.

1.31 Sec. 9. Minnesota Statutes 2008, section 353.031, subdivision 8, is amended to read:

1.32 Subd. 8. **Proof of continuing disability.** (a) A disability benefit payment must not
1.33 be made except upon adequate proof furnished to the executive director of the association
1.34 that the person remains disabled.

2.1 (b) During the time when disability benefits are being paid, the executive director
 2.2 of the association ~~has the right~~ shall require, at reasonable times, ~~to require~~ the disabled
 2.3 member to submit proof of the continuance of the disability claimed. This requirement
 2.4 may be waived if the medical advisory certifies that there is no reasonable expectation
 2.5 during the time period specified in the waiver form that the disabilitant could recover
 2.6 sufficiently to no longer qualify for disability.

2.7 (c) Adequate proof of a disability must include a written expert report by a licensed
 2.8 physician, a licensed chiropractor, or, with respect to a mental impairment, a licensed
 2.9 psychologist.

2.10 **EFFECTIVE DATE.** This section is effective July 1, 2009."

2.11 Renumber the sections in sequence and correct the internal references

2.12 Amend the title accordingly

- 1.1 moves to amend S.F. No. 578; H.F. No., as follows:
- 1.2 Page 20, delete section 31
- 1.3 Renumber the sections in sequence and correct the internal references
- 1.4 Amend the title accordingly

1.1 moves to amend S.F. No. 578; H.F. No., as follows:

1.2 Page 21, after line 8, insert:

1.3 "Subd. 4. **Expiration.** This section expires on"

1.1 moves to amend S.F. No. 578; H.F. No., as follows:

1.2 Page 6, after line 20, insert:

1.3 "Sec. 6. Minnesota Statutes 2008, section 353.01, subdivision 16b, is amended to read:

1.4 Subd. 16b. **Uncredited military service credit purchase.** (a) A public employee
1.5 who has at least three years of allowable service with the Public Employees Retirement
1.6 Association or the public employees police and fire plan and who performed service in the
1.7 United States armed forces before becoming a public employee, or who failed to obtain
1.8 service credit for a military leave of absence under subdivision 16, paragraph ~~(h)~~ (a),
1.9 clause 7, is entitled to purchase allowable service credit for the initial period of enlistment,
1.10 induction, or call to active duty without any voluntary extension by making payment under
1.11 section 356.551. This authority is voided if the public employee has not purchased service
1.12 credit from any other Minnesota defined benefit public employee pension plan, other than
1.13 a volunteer fire plan, for the same period of service, or if the separation from the United
1.14 States armed forces was under less than honorable conditions.

1.15 (b) A public employee who desires to purchase service credit under paragraph
1.16 (a) must apply with the executive director to make the purchase. The application must
1.17 include all necessary documentation of the public employee's qualifications to make the
1.18 purchase, signed written permission to allow the executive director to request and receive
1.19 necessary verification of applicable facts and eligibility requirements, and any other
1.20 relevant information that the executive director may require.

1.21 (c) Allowable service credit for the purchase period must be granted by the
1.22 Public Employees Retirement Association or the public employees police and fire plan,
1.23 whichever applies, to the purchasing public employee upon receipt of the purchase
1.24 payment amount. Payment must be made before the ~~effective date of retirement of the~~
1.25 ~~public employee~~ employee's termination of public service or termination of membership,
1.26 whichever is earlier.

1.27 (d) This subdivision is repealed July 1, 2013.

1.28 **EFFECTIVE DATE.** This section is effective the day after final enactment."

1.29 Renumber the sections in sequence and correct the internal references

1.30 Amend the title accordingly

1.1 moves to amend S.F. No. 578; H.F. No., as follows:

1.2 Page 26, line 16, before "At" insert "(a)"

1.3 Page 26, line 18, reinstate "~~shall~~"

1.4 Page 26, lines 19 to 21, delete the new language

1.5 Page 27, after line 7, insert:

1.6 "(b) The board may waive the expert examination otherwise required under
1.7 paragraph (a) if the physician, chiropractor, or psychologist engaged by the board certifies
1.8 that there is no reasonable expectation during the time period specified in the waiver form
1.9 that the disabilitant could recover sufficiently to no longer qualify for disability."

- 1.1 moves to amend S.F. No. 578; H.F. No., as follows:
- 1.2 Page 28, delete section 40
- 1.3 Renumber the sections in sequence and correct the internal references
- 1.4 Amend the title accordingly

1.1 moves to amend S.F. No. 578; H.F. No., as follows:

1.2 Page 28, delete line 11 and insert:

1.3 "(b) Applicable plans are:

1.4 (1) the Teachers Retirement Association; and

1.5 (2)"

Senator Betzold introduced--

S.F. No. 578: Referred to the Committee on State and Local Government Operations and Oversight.

1.1 A bill for an act
 1.2 relating to retirement; specifying a new process for computing Teachers
 1.3 Retirement Association service credit; authorizing deduction of other
 1.4 benefits received from Teachers Retirement Association refunds; expanding
 1.5 postretirement option program eligibility to include all state employees with
 1.6 Public Employees Retirement Association coverage; revising Public Employees
 1.7 Retirement Association erroneous receipts provision to provide interest on
 1.8 employee contribution overpayments; creating Teachers Retirement Association
 1.9 full actuarial value uncredited military service provision; making administrative
 1.10 revisions and technical corrections in various retirement provisions; amending
 1.11 Minnesota Statutes 2008, sections 43A.346, subdivisions 2, 6; 352B.02,
 1.12 subdivisions 1a, 1c; 353.01, subdivision 16; 353.0161, subdivision 1; 353.27,
 1.13 subdivisions 2, 3, 7; 353.33, subdivisions 1, 11, 12, by adding a subdivision;
 1.14 353.65, subdivisions 2, 3; 353A.08, subdivision 6a; 354.05, by adding
 1.15 subdivisions; 354.091; 354.42, subdivision 2; 354.44, subdivisions 4, 5;
 1.16 354.47, subdivision 1; 354.48, subdivisions 4, 6; 354.49, subdivision 2; 354.52,
 1.17 subdivisions 2a, 4b, 6, by adding a subdivision; 354.55, subdivision 11; 354.66,
 1.18 subdivision 3; 354A.096; 354A.12, subdivision 2a, by adding a subdivision;
 1.19 354A.36, subdivision 6; 356.401, subdivision 2; 356.465, subdivision 1, by
 1.20 adding a subdivision; 356.611, subdivisions 3, 4; 356.635, subdivisions 6, 7;
 1.21 356.96, subdivision 5; proposing coding for new law in Minnesota Statutes,
 1.22 chapter 354; repealing Minnesota Statutes 2008, sections 354.06, subdivision 6;
 1.23 354.55, subdivision 14.

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

1.25 Section 1. Minnesota Statutes 2008, section 43A.346, subdivision 2, is amended to
 1.26 read:

1.27 Subd. 2. **Eligibility.** (a) This section applies to a terminated state employee who:

1.28 (1) for at least the five years immediately preceding separation under clause (2),
 1.29 was regularly scheduled to work 1,044 or more hours per year in a position covered by
 1.30 a pension plan administered by the Minnesota State Retirement System or the Public
 1.31 Employees Retirement Association;

1.32 (2) terminated state or Metropolitan Council employment;

2.1 (3) at the time of termination under clause (2), met the age and service requirements
 2.2 necessary to receive an unreduced retirement annuity from the plan and satisfied
 2.3 requirements for the commencement of the retirement annuity or, for a terminated
 2.4 employee under the unclassified employees retirement plan, met the age and service
 2.5 requirements necessary to receive an unreduced retirement annuity from the plan and
 2.6 satisfied requirements for the commencement of the retirement annuity or elected a
 2.7 lump-sum payment; and

2.8 (4) agrees to accept a postretirement option position with the same or a different
 2.9 appointing authority, working a reduced schedule that is both (i) a reduction of at least 25
 2.10 percent from the employee's number of previously regularly scheduled work hours; and
 2.11 (ii) 1,044 hours or less in state or Metropolitan Council service.

2.12 (b) For purposes of this section, an unreduced retirement annuity includes a
 2.13 retirement annuity computed under a provision of law which permits retirement, without
 2.14 application of an earlier retirement reduction factor, whenever age plus years of allowable
 2.15 service total at least 90.

2.16 (c) For purposes of this section, as it applies to ~~staff~~ state employees who are
 2.17 members of the Public Employees Retirement Association who are at least age 62, the
 2.18 length of separation requirement and termination of service requirement prohibiting return
 2.19 to work agreements under section 353.01, subdivisions 11a and 28, are not applicable.

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

2.21 Sec. 2. Minnesota Statutes 2008, section 43A.346, subdivision 6, is amended to read:

2.22 Subd. 6. **Duration.** Postretirement option employment shall be for an initial period
 2.23 not to exceed one year. During that period, the appointing authority may not modify the
 2.24 conditions specified in the written offer without the person's consent, except as required
 2.25 by law or by the collective bargaining agreement or compensation plan applicable to the
 2.26 person. At the end of the initial period, the appointing authority has sole discretion to
 2.27 determine if the offer of a postretirement option position will be renewed, renewed with
 2.28 modifications, or terminated. ~~If the person is under age 62, an offer of renewal and any~~
 2.29 ~~related verbal offer or agreement must not be made until at least 30 days after termination~~
 2.30 ~~of the person's previous postretirement option employment.~~ Postretirement option
 2.31 employment may be renewed for periods of up to one year, not to exceed a total duration
 2.32 of five years. No person shall be employed in one or a combination of postretirement
 2.33 option positions under this section for a total of more than five years.

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

3.1 Sec. 3. Minnesota Statutes 2008, section 352B.02, subdivision 1a, is amended to read:

3.2 Subd. 1a. **Member contributions.** (a) ~~Each~~ The member shall pay a sum equal to
3.3 ~~the following contribution is 10.40 percent of the member's salary, which constitutes the~~
3.4 ~~member contribution to the fund.~~

3.5	before July 1, 2007	8.40
3.6	from July 1, 2007, to June 30, 2008	9.10
3.7	from July 1, 2008, to June 30, 2009	9.80
3.8	from July 1, 2009, and thereafter	10.40.

3.9 (b) These contributions must be made by deduction from salary as provided in
3.10 section 352.04, subdivision 4.

3.11 **EFFECTIVE DATE.** This section is effective July 1, 2009.

3.12 Sec. 4. Minnesota Statutes 2008, section 352B.02, subdivision 1c, is amended to read:

3.13 Subd. 1c. **Employer contributions.** (a) In addition to member contributions,
3.14 department heads shall pay a sum equal to ~~the following~~ 15.60 percent of the salary upon
3.15 which deductions were made, which shall constitute the employer contribution to the fund.

3.16	before July 1, 2007	12.60
3.17	from July 1, 2007, to June 30, 2008	13.60
3.18	from July 1, 2008, to June 30, 2009	14.60
3.19	from July 1, 2009, and thereafter	15.60.

3.20 (b) Department contributions must be paid out of money appropriated to departments
3.21 for this purpose.

3.22 **EFFECTIVE DATE.** This section is effective July 1, 2009.

3.23 Sec. 5. Minnesota Statutes 2008, section 353.01, subdivision 16, is amended to read:

3.24 Subd. 16. **Allowable service; limits and computation.** (a) "Allowable service"
3.25 means:

3.26 (1) service during years of actual membership in the course of which employee
3.27 deductions were withheld from salary and contributions were made, at the applicable rates
3.28 under section 353.27, 353.65, or 353E.03;

3.29 (2) periods of service covered by payments in lieu of salary deductions under section
3.30 sections 353.27, subdivision 12, and 353.35;

3.31 ~~(2)~~ (3) service in years during which the public employee was not a member but for
3.32 which the member later elected, while a member, to obtain credit by making payments to
3.33 the fund as permitted by any law then in effect;

4.1 ~~(3)~~ (4) a period of authorized leave of absence with pay from which deductions for
4.2 employee contributions are made, deposited, and credited to the fund;

4.3 ~~(4)~~ (5) a period of authorized personal, parental, or medical leave of absence without
4.4 pay, including a leave of absence covered under the federal Family Medical Leave Act,
4.5 that does not exceed one year, and for which a member obtained service credit for each
4.6 month in the leave period by payment under section 353.0161 to the fund made in place of
4.7 salary deductions. An employee must return to public service and render a minimum of
4.8 three months of allowable service in order to be eligible to make payment under section
4.9 353.0161 for a subsequent authorized leave of absence without pay. Upon payment, the
4.10 employee must be granted allowable service credit for the purchased period;

4.11 ~~(5)~~ (6) a periodic, repetitive leave that is offered to all employees of a governmental
4.12 subdivision. The leave program may not exceed 208 hours per annual normal work
4.13 cycle as certified to the association by the employer. A participating member obtains
4.14 service credit by making employee contributions in an amount or amounts based on the
4.15 member's average salary that would have been paid if the leave had not been taken. The
4.16 employer shall pay the employer and additional employer contributions on behalf of the
4.17 participating member. The employee and the employer are responsible to pay interest on
4.18 their respective shares at the rate of 8.5 percent a year, compounded annually, from the
4.19 end of the normal cycle until full payment is made. An employer shall also make the
4.20 employer and additional employer contributions, plus 8.5 percent interest, compounded
4.21 annually, on behalf of an employee who makes employee contributions but terminates
4.22 public service. The employee contributions must be made within one year after the end of
4.23 the annual normal working cycle or within ~~20~~ 30 days after termination of public service,
4.24 whichever is sooner. The executive director shall prescribe the manner and forms to be
4.25 used by a governmental subdivision in administering a periodic, repetitive leave. Upon
4.26 payment, the member must be granted allowable service credit for the purchased period;

4.27 ~~(6)~~ (7) an authorized temporary or seasonal layoff under subdivision 12, limited
4.28 to three months allowable service per authorized temporary or seasonal layoff in one
4.29 calendar year. An employee who has received the maximum service credit allowed for an
4.30 authorized temporary or seasonal layoff must return to public service and must obtain a
4.31 minimum of three months of allowable service subsequent to the layoff in order to receive
4.32 allowable service for a subsequent authorized temporary or seasonal layoff; ~~or~~

4.33 ~~(7)~~ (8) a period during which a member is absent from employment by a
4.34 governmental subdivision by reason of service in the uniformed services, as defined in
4.35 United States Code, title 38, section 4303(13), if the member returns to public service with
4.36 the same governmental subdivision upon discharge from service in the uniformed service

5.1 within the time frames required under United States Code, title 38, section 4312(e),
5.2 provided that the member did not separate from uniformed service with a dishonorable or
5.3 bad conduct discharge or under other than honorable conditions. The service is credited
5.4 if the member pays into the fund equivalent employee contributions based upon the
5.5 contribution rate or rates in effect at the time that the uniformed service was performed
5.6 multiplied by the full and fractional years being purchased and applied to the annual salary
5.7 rate. The annual salary rate is the average annual salary during the purchase period that
5.8 the member would have received if the member had continued to be employed in covered
5.9 employment rather than to provide uniformed service, or, if the determination of that
5.10 rate is not reasonably certain, the annual salary rate is the member's average salary rate
5.11 during the 12-month period of covered employment rendered immediately preceding the
5.12 period of the uniformed service. Payment of the member equivalent contributions must
5.13 be made during a period that begins with the date on which the individual returns to
5.14 public employment and that is three times the length of the military leave period, or
5.15 within five years of the date of discharge from the military service, whichever is less. If
5.16 the determined payment period is less than one year, the contributions required under
5.17 this clause to receive service credit may be made within one year of the discharge date.
5.18 Payment may not be accepted following ~~20~~ 30 days after termination of public service
5.19 under subdivision 11a. If the member equivalent contributions provided for in this clause
5.20 are not paid in full, the member's allowable service credit must be prorated by multiplying
5.21 the full and fractional number of years of uniformed service eligible for purchase by the
5.22 ratio obtained by dividing the total member contributions received by the total member
5.23 contributions otherwise required under this clause. The equivalent employer contribution,
5.24 and, if applicable, the equivalent additional employer contribution must be paid by the
5.25 governmental subdivision employing the member if the member makes the equivalent
5.26 employee contributions. The employer payments must be made from funds available to
5.27 the employing unit, using the employer and additional employer contribution rate or
5.28 rates in effect at the time that the uniformed service was performed, applied to the same
5.29 annual salary rate or rates used to compute the equivalent member contribution. The
5.30 governmental subdivision involved may appropriate money for those payments. The
5.31 amount of service credit obtainable under this section may not exceed five years unless a
5.32 longer purchase period is required under United States Code, title 38, section 4312. The
5.33 employing unit shall pay interest on all equivalent member and employer contribution
5.34 amounts payable under this clause. Interest must be computed at a rate of 8.5 percent
5.35 compounded annually from the end of each fiscal year of the leave or the break in service

6.1 to the end of the month in which the payment is received. Upon payment, the employee
6.2 must be granted allowable service credit for the purchased period; or

6.3 (9) a period specified under subdivision 40.

6.4 (b) For calculating benefits under sections 353.30, 353.31, 353.32, and 353.33 for
6.5 state officers and employees displaced by the Community Corrections Act, chapter 401,
6.6 and transferred into county service under section 401.04, "allowable service" means the
6.7 combined years of allowable service as defined in paragraph (a), clauses (1) to (6), and
6.8 section 352.01, subdivision 11.

6.9 (c) For a public employee who has prior service covered by a local police or
6.10 firefighters relief association that has consolidated with the Public Employees Retirement
6.11 Association or to which section 353.665 applies, and who has elected the type of benefit
6.12 coverage provided by the public employees police and fire fund either under section
6.13 353A.08 following the consolidation or under section 353.665, subdivision 4, "applicable
6.14 service" is a period of service credited by the local police or firefighters relief association
6.15 as of the effective date of the consolidation based on law and on bylaw provisions
6.16 governing the relief association on the date of the initiation of the consolidation procedure.

6.17 (d) No member may receive more than 12 months of allowable service credit in a
6.18 year either for vesting purposes or for benefit calculation purposes.

6.19 (e) MS 2002 [Expired]

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

6.21 Sec. 6. Minnesota Statutes 2008, section 353.0161, subdivision 1, is amended to read:

6.22 Subdivision 1. **Application.** This section applies to employees covered by any plan
6.23 specified in this chapter or chapter 353E for any period of authorized leave of absence
6.24 specified in section 353.01, subdivision 16, paragraph (a), clause ~~(4)~~ (5), for which the
6.25 employee obtains credit for allowable service by making payment as specified in this
6.26 section to the applicable fund.

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

6.28 Sec. 7. Minnesota Statutes 2008, section 353.27, subdivision 2, is amended to read:

6.29 Subd. 2. **Employee contribution.** (a) For a basic member, the employee
6.30 contribution is ~~the following applicable percentage of the total~~ 9.10 percent of salary
6.31 ~~amount for a "basic member" and. For a "coordinated member":~~ coordinated member,
6.32 the employee contribution is six percent of salary plus any contribution rate adjustment
6.33 under subdivision 3b.

	Basic Program	Coordinated Program
7.1		
7.2	Effective before January 1, 2006	9.10 5.10
7.3	Effective January 1, 2006	9.10 5.50
7.4	Effective January 1, 2007	9.10 5.75
7.5	Effective January 1, 2008	9.10 6.00 plus any contribution
7.6		rate adjustment under
7.7		subdivision 3b

7.8 (b) These contributions must be made by deduction from salary as defined in section
 7.9 353.01, subdivision 10, in the manner provided in subdivision 4. If any portion of a
 7.10 member's salary is paid from other than public funds, the member's employee contribution
 7.11 must be based on the total salary received by the member from all sources.

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

7.13 Sec. 8. Minnesota Statutes 2008, section 353.27, subdivision 3, is amended to read:

7.14 Subd. 3. **Employer contribution.** (a) For a basic member, the employer
 7.15 contribution is the following applicable percentage of the total 9.10 percent of salary
 7.16 amount for "basic members" and. For "coordinated members": a coordinated member,
 7.17 the employer contribution is six percent of salary plus any contribution rate adjustment
 7.18 under subdivision 3b.

	Basic Program	Coordinated Program
7.19		
7.20	Effective before January 1, 2006	9.10 5.10
7.21	Effective January 1, 2006	9.10 5.50
7.22	Effective January 1, 2007	9.10 5.75
7.23	Effective January 1, 2008	9.10 6.00 plus any contribution
7.24		rate adjustment under
7.25		subdivision 3b

7.26 (b) This contribution must be made from funds available to the employing
 7.27 subdivision by the means and in the manner provided in section 353.28.

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

7.29 Sec. 9. Minnesota Statutes 2008, section 353.27, subdivision 7, is amended to read:

7.30 Subd. 7. **Adjustment for erroneous receipts or disbursements.** (a) Except
 7.31 as provided in paragraph (b), erroneous employee deductions and erroneous employer
 7.32 contributions and additional employer contributions for a person, who otherwise does not
 7.33 qualify for membership under this chapter, are considered:

7.34 (1) valid if the initial erroneous deduction began before January 1, 1990. Upon
 7.35 determination of the error by the association, the person may continue membership in the

8.1 association while employed in the same position for which erroneous deductions were
8.2 taken, or file a written election to terminate membership and apply for a refund upon
8.3 termination of public service or defer an annuity under section 353.34; or

8.4 (2) invalid, if the initial erroneous employee deduction began on or after January 1,
8.5 1990. Upon determination of the error, the association shall refund all erroneous employee
8.6 deductions and all erroneous employer contributions as specified in paragraph (d). No
8.7 person may claim a right to continued or past membership in the association based on
8.8 erroneous deductions which began on or after January 1, 1990.

8.9 (b) Erroneous deductions taken from the salary of a person who did not qualify
8.10 for membership in the association by virtue of concurrent employment before July 1,
8.11 1978, which required contributions to another retirement fund or relief association
8.12 established for the benefit of officers and employees of a governmental subdivision, are
8.13 invalid. Upon discovery of the error, the association shall remove all invalid service and,
8.14 upon termination of public service, the association shall refund all erroneous employee
8.15 deductions to the person, with interest as determined under section 353.34, subdivision 2,
8.16 and all erroneous employer contributions without interest to the employer. This paragraph
8.17 has both retroactive and prospective application.

8.18 (c) Employer contributions and employee deductions taken in error from amounts
8.19 which are not salary under section 353.01, subdivision 10, are invalid upon discovery by
8.20 the association and must be refunded as specified in paragraph (d).

8.21 (d) Upon discovery of the receipt of erroneous deductions and contributions under
8.22 paragraph (a), clause (2), or paragraph (c), the association must require the employer to
8.23 discontinue the erroneous employee deductions and erroneous employer contributions.
8.24 Upon discontinuation, the association either must refund the invalid employee deductions
8.25 to the person ~~without~~ with interest as determined under section 353.34, subdivision 2, and
8.26 the invalid employer contributions without interest to the employer or provide a credit
8.27 against future contributions payable by the employer for the amount of all erroneous
8.28 deductions and contributions. If the employing unit receives a credit under this paragraph,
8.29 the employing unit is responsible for refunding to the applicable employee any amount
8.30 that had been erroneously deducted from the person's salary, with interest as specified
8.31 in this paragraph. In the event that a retirement annuity or disability benefit has been
8.32 computed using invalid service or salary, the association must adjust the annuity or benefit
8.33 and recover any overpayment under subdivision 7b.

8.34 (e) In the event that a salary warrant or check from which a deduction for the
8.35 retirement fund was taken has been canceled or the amount of the warrant or check
8.36 returned to the funds of the department making the payment, a refund of the sum

9.1 deducted, or any portion of it that is required to adjust the deductions, must be made
9.2 to the department or institution.

9.3 (f) Any refund to a member under this subdivision that is reasonably determined
9.4 to cause the plan to fail to be a qualified plan under section 401(a) of the federal
9.5 Internal Revenue Code, as amended, may not be refunded and instead must be credited
9.6 against future contributions payable by the employer. The employer receiving the
9.7 credit is responsible for refunding to the applicable employee any amount that had been
9.8 erroneously deducted from the person's salary, with interest as specified in paragraph (d).

9.9 (g) Notwithstanding the payment of interest on erroneously reported employee
9.10 contributions provided for under this section, the association may correct plan operational
9.11 failures by applying the procedures defined in the Internal Revenue Service Employee
9.12 Plans Compliance Resolution System's Revenue Procedures.

9.13 EFFECTIVE DATE. This section applies to any refund issued on or after June
9.14 1, 2009.

9.15 Sec. 10. Minnesota Statutes 2008, section 353.33, subdivision 1, is amended to read:

9.16 Subdivision 1. **Age, service, and salary requirements.** A coordinated or basic
9.17 member who has at least three years of allowable service and becomes totally and
9.18 permanently disabled before normal retirement age, ~~and a basic member who has at least~~
9.19 ~~three years of allowable service and who becomes totally and permanently disabled;~~ upon
9.20 application as defined under section 353.031, is entitled to a disability benefit in an amount
9.21 determined under subdivision 3. If the disabled person's public service has terminated
9.22 at any time, at least two of the required three years of allowable service must have been
9.23 rendered after last becoming an active member.

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

9.25 Sec. 11. Minnesota Statutes 2008, section 353.33, is amended by adding a subdivision
9.26 to read:

9.27 Subd. 1a. **Benefit restriction.** No person is entitled to receive disability benefits
9.28 and a retirement annuity at the same time.

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

9.30 Sec. 12. Minnesota Statutes 2008, section 353.33, subdivision 11, is amended to read:

9.31 Subd. 11. **Coordinated member disabilitant transfer to retirement status.** ~~No~~
9.32 ~~person is entitled to receive disability benefits and a retirement annuity at the same time.~~

10.1 The disability benefits paid to a coordinated member must terminate when the person
 10.2 reaches normal retirement age. If the coordinated member is still totally and permanently
 10.3 disabled upon attaining normal retirement age, the coordinated member is deemed to be on
 10.4 retirement status. If an optional annuity is elected under subdivision 3a, the coordinated
 10.5 member shall receive an annuity under the terms of the optional annuity previously
 10.6 elected, or, if an optional annuity is not elected under subdivision 3a, the coordinated
 10.7 member may elect to receive a normal retirement annuity under section 353.29 or an
 10.8 annuity equal to the disability benefit paid before the coordinated member reaches normal
 10.9 retirement age, whichever amount is greater, or elect to receive an optional annuity
 10.10 under section 353.30, subdivision 3. The annuity of a disabled coordinated member who
 10.11 attains normal retirement age must be computed under the law in effect upon attainment
 10.12 of normal retirement age. Election of an optional annuity must be made before the
 10.13 coordinated member attains normal retirement age. If an optional annuity is elected, the
 10.14 election is effective on the date on which the person attains normal retirement age and
 10.15 the optional annuity begins to accrue on the first day of the month next following the
 10.16 month in which the person attains that age.

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

10.18 Sec. 13. Minnesota Statutes 2008, section 353.33, subdivision 12, is amended to read:

10.19 Subd. 12. **Basic ~~disability~~ disabilitant transfer to retirement status; survivor**
 10.20 **benefits.** (a) If a basic member who is receiving a disability benefit under subdivision 3+
 10.21 ~~(1)~~ dies before attaining age 65 or within five years of the effective date of the
 10.22 disability, whichever is later, the surviving spouse is entitled to receive a survivor
 10.23 benefit under section 353.31, ~~unless~~ and any dependent child or children are entitled to
 10.24 dependent child benefits under section 353.31, subdivision 1b, paragraph (b). If there are
 10.25 no dependent children, in lieu of the survivor benefit specified under section 353.31, the
 10.26 surviving spouse ~~elected~~ may elect to receive a refund under section 353.32, subdivision 1+;
 10.27 ~~(2)~~ (b) If a basic member who is receiving a disability benefit under subdivision 3 is
 10.28 living at age 65 or five years after the effective date of the disability, whichever is later, the
 10.29 basic member may ~~continue to~~ receive a normal retirement annuity equal to the disability
 10.30 benefit previously received, adjusted for the amount no longer payable under subdivision
 10.31 3, paragraph (b), or the person may elect a joint and survivor optional annuity under
 10.32 section 353.31, subdivision 1b. The election of the joint and survivor optional annuity
 10.33 must occur within 90 days of attaining age 65 or of reaching the five-year anniversary
 10.34 of the effective date of the disability benefit, whichever is later. The optional annuity
 10.35 takes effect on the first day of the month following the month in which the person attains

11.1 age 65 or reaches the five-year anniversary of the effective date of the disability benefit,
11.2 whichever is later, ~~or,~~

11.3 ~~(3) if there is a dependent child or children under clause (1) or (2), the dependent~~
11.4 ~~child is entitled to a dependent child benefit under section 353.31, subdivision 1b,~~
11.5 ~~paragraph (b).~~

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

11.7 Sec. 14. Minnesota Statutes 2008, section 353.65, subdivision 2, is amended to read:

11.8 Subd. 2. **Employee contribution rate.** ~~(a) The employee contribution is an amount~~
11.9 ~~equal to the 9.4 percent of the total salary of the member specified in paragraph (b).~~ This
11.10 contribution must be made by deduction from salary in the manner provided in subdivision
11.11 4. Where any portion of a member's salary is paid from other than public funds, the
11.12 member's employee contribution is based on the total salary received from all sources.

11.13 ~~(b) For calendar year 2006, the employee contribution rate is 7.0 percent. For~~
11.14 ~~calendar year 2007, the employee contribution rate is 7.8 percent. For calendar year 2008,~~
11.15 ~~the employee contribution rate is 8.6 percent. For calendar year 2009 and thereafter, the~~
11.16 ~~employee contribution rate is 9.4 percent.~~

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

11.18 Sec. 15. Minnesota Statutes 2008, section 353.65, subdivision 3, is amended to read:

11.19 Subd. 3. **Employer contribution rate.** ~~(a) The employer contribution shall be an~~
11.20 ~~amount equal to the 14.1 percent of the total salary of every the member as specified in~~
11.21 ~~paragraph (b).~~ This contribution ~~shall~~ must be made from funds available to the employing
11.22 subdivision by the means and in the manner provided in section 353.28.

11.23 ~~(b) For calendar year 2006, the employer contribution rate is 10.5 percent. For~~
11.24 ~~calendar year 2007, the employer contribution rate is 11.7 percent. For calendar year 2008,~~
11.25 ~~the employer contribution rate is 12.9 percent. For calendar year 2009 and thereafter, the~~
11.26 ~~employer contribution rate is 14.1 percent.~~

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

11.28 Sec. 16. Minnesota Statutes 2008, section 353A.08, subdivision 6a, is amended to read:

11.29 Subd. 6a. **Military service contribution and refund.** A person who was an active
11.30 member of a local police or firefighters relief association upon its consolidation with the
11.31 public employees retirement association, and who was otherwise eligible for automatic
11.32 service credit for military service under Minnesota Statutes 2000, section 423.57, and

12.1 who has not elected the type of benefit coverage provided by the public employees
 12.2 police and fire fund at the time of consolidation, must make employee contributions
 12.3 under section 353.01, subdivision 16, paragraph ~~(h)~~ (a), clause (8), to receive allowable
 12.4 service credit from the association for a military service leave after the effective date of the
 12.5 consolidation. A person who later elects, under subdivision 3, to retain benefit coverage
 12.6 under the bylaws of the local relief association is eligible for a refund from the association
 12.7 at the time of retirement. The association shall refund the employee contributions
 12.8 plus interest at the rate of six percent, compounded quarterly, from the date on which
 12.9 contributions were made until the first day of the month in which the refund is paid. The
 12.10 employer shall receive a refund of the employer contributions. The association shall not
 12.11 pay a refund to a person who later elects, under subdivision 3, the type of benefit coverage
 12.12 provided by the public employees police and fire fund or to the person's employer.

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

12.14 Sec. 17. Minnesota Statutes 2008, section 354.05, is amended by adding a subdivision
 12.15 to read:

12.16 Subd. 41. **Annual base salary.** (a) "Annual base salary" means:

12.17 (1) for an independent school district or educational cooperative, the lowest full-time
 12.18 Bachelor of Arts (BA) base contract salary for the previous fiscal year for that employing
 12.19 unit;

12.20 (2) for a charter school, the lowest starting annual salary for a full-time licensed
 12.21 teacher employed during the previous fiscal year for that employing unit; and

12.22 (3) for a state agency or professional organization, the lowest starting annual salary
 12.23 for a full-time Teachers Retirement Association covered position for the previous fiscal
 12.24 year for that employing unit.

12.25 (b) If there is no previous fiscal year data because an employer unit is new and
 12.26 paragraph (c) does not apply, the annual base salary for the first year of operation will be
 12.27 as stated in paragraph (a), except that the base contract salary for the current fiscal year,
 12.28 rather than the previous fiscal year, must be used.

12.29 (c) For a new employer unit created as a result of a merger or consolidation, the
 12.30 annual base salary will be the lowest annual base salary as specified in paragraph (a) for
 12.31 any of the employer units involved in the merger or consolidation.

12.32 **EFFECTIVE DATE.** This section is effective July 1, 2010.

13.1 Sec. 18. Minnesota Statutes 2008, section 354.05, is amended by adding a subdivision
13.2 to read:

13.3 Subd. 42. Fiscal year. The fiscal year of the association begins on July 1 of each
13.4 calendar year and ends on June 30 of the following calendar year.

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

13.6 Sec. 19. Minnesota Statutes 2008, section 354.091, is amended to read:

13.7 **354.091 SERVICE CREDIT.**

13.8 Subdivision 1. Definition; monthly base salary. For purposes of this section,
13.9 "monthly base salary" means the annual base salary, as defined in section 354.05,
13.10 subdivision 41, divided by 12.

13.11 Subd. 2. Service credit annual limit. (a) In computing service credit, No teacher
13.12 may receive credit for more than one year of teaching service for any fiscal year.

13.13 ~~Additionally, in crediting allowable service:~~

13.14 ~~(1) if a teacher teaches less than five hours in a day, service credit must be given for~~
13.15 ~~the fractional part of the day as the term of service performed bears to five hours;~~

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

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

13.20 ~~(4) if a teacher teaches for only a fractional part of the year, service credit must be~~
13.21 ~~given for such fractional part of the year in the same relationship as the period of service~~
13.22 ~~performed bears to 170 days.~~

13.23 ~~(b) A teacher must receive a full year of service credit based on the number of days~~
13.24 ~~in the employer's full school year if that school year is less than 170 days. Teaching~~
13.25 ~~service performed before July 1, 1961, must be computed under the law in effect at the~~
13.26 ~~time it was performed.~~

13.27 ~~(c) A teacher must not lose or gain retirement service credit as a result of the~~
13.28 ~~employer converting to a flexible or alternate work schedule. If the employer converts~~
13.29 ~~to a flexible or alternate work schedule, the forms for reporting teaching service and the~~
13.30 ~~procedures for determining service credit must be determined by the executive director~~
13.31 ~~with the approval of the board of trustees.~~

13.32 Subd. 3. Service credit calculation. (a) Except as specified in subdivisions 4 and
13.33 5, service credit will be calculated monthly by dividing the teacher's monthly salary by

14.1 the monthly base salary for the teacher's employing unit and multiplying the result by
 14.2 11.1 percent.

14.3 (b) For purposes of computing service credit, salary will be allocated to each
 14.4 calendar month based on the pay period begin and end dates. If the pay period covers
 14.5 more than one calendar month, the salary must be allocated based on the number of days
 14.6 in each calendar month.

14.7 (c) A teacher may not receive more than 11.1 percent of a year's service credit in
 14.8 a calendar month.

14.9 (d) Annual service credit is calculated by adding the allowable monthly service
 14.10 credit for all 12 months of the fiscal year with the result rounded to two decimal places,
 14.11 subject to the annual limit specified in subdivision 2.

14.12 Subd. 4. Service credit determination for Minnesota State Colleges and
 14.13 Universities system teachers. ~~(d)~~ For all services rendered on or after July 1, 2003,
 14.14 service credit for all members employed by the Minnesota State Colleges and Universities
 14.15 system must be determined:

14.16 (1) for full-time employees, by the definition of full-time employment contained in
 14.17 the collective bargaining agreement for those units listed in section 179A.10, subdivision
 14.18 2, or contained in the applicable personnel or salary plan for those positions designated in
 14.19 section 179A.10, subdivision 1; and

14.20 (2) for part-time employees, by the appropriate proration of full-time equivalency
 14.21 based on the provisions contained in the collective bargaining agreement for those units
 14.22 listed in section 179A.10, subdivision 2, or contained in the applicable personnel or salary
 14.23 plan for those positions designated in section 179A.10, subdivision 1, and the applicable
 14.24 procedures of the Minnesota State Colleges and Universities system; ~~and.~~

14.25 ~~(3) in no case may a member receive more than one year of service credit for any~~
 14.26 ~~fiscal year.~~

14.27 Subd. 5. Service credit procedure, nontraditional schedules. For employer units
 14.28 that have nontraditional work schedules or pay schedules, the procedure for determining
 14.29 service credit must be approved by the executive director.

14.30 EFFECTIVE DATE. This section is effective for teaching service performed after
 14.31 June 30, 2010.

14.32 Sec. 20. Minnesota Statutes 2008, section 354.42, subdivision 2, is amended to read:

14.33 Subd. 2. **Employee contribution.** (a) For a basic member, the employee
 14.34 contribution to the fund is ~~an amount equal to the following percentage~~ 9.0 percent of the

15.1 ~~member's salary of a member.~~ For a coordinated member, the employee contribution is
 15.2 5.5 percent of the member's salary.

15.3 ~~(1) after July 1, 2006, for a teacher employed by Special School District No. 1,~~
 15.4 ~~Minneapolis, 5.5 percent if the teacher is a coordinated member, and 9.0 percent if the~~
 15.5 ~~teacher is a basic member;~~

15.6 ~~(2) for every other teacher, after July 1, 2006, 5.5 percent if the teacher is a~~
 15.7 ~~coordinated member and 9.0 percent if the teacher is a basic member.~~

15.8 (b) This contribution must be made by deduction from salary. Where any portion
 15.9 of a member's salary is paid from other than public funds, the member's employee
 15.10 contribution must be based on the entire salary received.

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

15.12 Sec. 21. Minnesota Statutes 2008, section 354.44, subdivision 4, is amended to read:

15.13 Subd. 4. **Retirement annuity accrual date.** (a) An annuity payment begins to
 15.14 accrue, provided that the age and service requirements under subdivision 1 are satisfied,
 15.15 after the termination of teaching service, or after the application for retirement has been
 15.16 filed with the ~~board, whichever is later~~ executive director, as follows:

15.17 (1) ~~on the 16th day of~~ after the month of termination ~~or filing if the termination or~~
 15.18 ~~filing occurs on or before the 15th day of the month of teaching service;~~

15.19 (2) ~~on the first day of the month following the month of termination or filing if~~
 15.20 ~~the termination or filing occurs on or after the 16th day of the month~~ day of receipt of
 15.21 application if the application is filed with the executive director after the six-month period
 15.22 that occurs immediately following the termination of teaching service;

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

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

15.29 ~~(b) (4)~~ If an application for retirement is filed with the ~~board~~ executive director
 15.30 during the six-month period that occurs immediately following the termination of teaching
 15.31 service, the annuity may begin to accrue as if the application for retirement had been filed
 15.32 with the board on the date teaching service terminated ~~or a later date under paragraph~~
 15.33 ~~(a), clause (4).~~

15.34 (b) A member, or a person authorized to act on behalf of the member, may specify a
 15.35 different date of retirement from that determined in paragraph (a), as follows:

16.1 (1) if the application is filed on or before the date of termination of teaching service,
 16.2 the accrual date may be a date no earlier than the day after the termination of teaching
 16.3 service and no later than six months after the termination date; or

16.4 (2) if the application is filed during the six-month period that occurs immediately
 16.5 following the termination of teaching service, the accrual date may begin to accrue
 16.6 retroactively, but no earlier than the day after teaching service terminated and no later
 16.7 than six months after the termination date.

16.8 **EFFECTIVE DATE.** This section is effective January 1, 2010.

16.9 Sec. 22. Minnesota Statutes 2008, section 354.44, subdivision 5, is amended to read:

16.10 Subd. 5. **Resumption of teaching service after retirement.** (a) Any person who
 16.11 retired under the provisions of this chapter and has thereafter resumed teaching in any
 16.12 employer unit to which this chapter applies is eligible to continue to receive payments in
 16.13 accordance with the annuity except that all or a portion of the annuity payments must be
 16.14 deferred during the calendar year immediately following ~~any calendar~~ the fiscal year in
 16.15 which the person's salary from the teaching service is in an amount greater than \$46,000.
 16.16 The amount of the annuity deferral is one-half of the salary amount in excess of \$46,000
 16.17 and must be deducted from the annuity payable for the calendar year immediately
 16.18 following the ~~calendar~~ fiscal year in which the excess amount was earned.

16.19 (b) If the person is retired for only a fractional part of the ~~calendar~~ fiscal year during
 16.20 the initial year of retirement, the maximum reemployment salary exempt from triggering a
 16.21 deferral as specified in this subdivision must be prorated for that ~~calendar~~ fiscal year.

16.22 (c) After a person has reached the Social Security normal retirement age, no deferral
 16.23 requirement is applicable regardless of the amount of salary.

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

16.26 (e) For the purpose of this subdivision, salary from teaching service includes, but is
 16.27 not limited to:

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

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

16.34 **EFFECTIVE DATE.** This section is effective January 1, 2010.

17.1 Sec. 23. Minnesota Statutes 2008, section 354.47, subdivision 1, is amended to read:

17.2 Subdivision 1. **Death before retirement.** (a) If a member dies before retirement
17.3 and is covered under section 354.44, subdivision 2, and neither an optional annuity, nor a
17.4 reversionary annuity, nor a benefit under section 354.46, subdivision 1, is payable to the
17.5 survivors if the member was a basic member, then the surviving spouse, or if there is no
17.6 surviving spouse, the designated beneficiary is entitled to an amount equal to the member's
17.7 accumulated deductions with interest credited to the account of the member to the date of
17.8 death of the member. If the designated beneficiary is a minor, interest must be credited to
17.9 the date the beneficiary reaches legal age, or the date of receipt, whichever is earlier.

17.10 (b) If a member dies before retirement and is covered under section 354.44,
17.11 subdivision 6, and neither an optional annuity, nor reversionary annuity, nor the benefit
17.12 described in section 354.46, subdivision 1, is payable to the survivors if the member
17.13 was a basic member, then the surviving spouse, or if there is no surviving spouse,
17.14 the designated beneficiary is entitled to an amount equal to the member's accumulated
17.15 deductions credited to the account of the member as of June 30, 1957, and from July 1,
17.16 1957, to the date of death of the member, the member's accumulated deductions plus
17.17 six percent interest compounded annually.

17.18 (c) If the designated beneficiary under paragraph (b) is a minor, any interest credited
17.19 under that paragraph must be credited to the date the beneficiary reaches legal age, or
17.20 the date of receipt, whichever is earlier.

17.21 (d) The amount of any refund payable under this subdivision must be reduced by
17.22 any permanent disability payment under section 354.48 received by the member.

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

17.24 Sec. 24. Minnesota Statutes 2008, section 354.48, subdivision 4, is amended to read:

17.25 Subd. 4. **Determination by executive director.** (a) The executive director shall
17.26 have the member examined by at least two licensed physicians, licensed chiropractors,
17.27 or licensed psychologists ~~selected by the medical adviser.~~

17.28 (b) These physicians, chiropractors, or psychologists with respect to a mental
17.29 impairment, shall make written reports to the executive director concerning the member's
17.30 disability, including expert opinions as to whether or not the member is permanently and
17.31 totally disabled within the meaning of section 354.05, subdivision 14.

17.32 (c) The executive director shall also obtain written certification from the last
17.33 employer stating whether or not the member was separated from service because of
17.34 a disability which would reasonably prevent further service to the employer and as a
17.35 consequence the member is not entitled to compensation from the employer.

18.1 (d) If, upon the consideration of the reports of the physicians, chiropractors, or
 18.2 psychologists and any other evidence presented by the member or by others interested
 18.3 therein, the executive director finds that the member is totally and permanently disabled,
 18.4 the executive director shall grant the member a disability benefit.

18.5 (e) An employee who is placed on leave of absence without compensation because
 18.6 of disability is not barred from receiving a disability benefit.

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

18.8 Sec. 25. Minnesota Statutes 2008, section 354.48, subdivision 6, is amended to read:

18.9 Subd. 6. **Regular physical examinations.** At least once each year during the first
 18.10 five years following the allowance of a disability benefit to any member, and at least once
 18.11 in every three-year period thereafter, the executive director ~~shall~~ may require the disability
 18.12 ~~beneficiary~~ recipient to undergo an expert examination by a physician or physicians,
 18.13 by a chiropractor or chiropractors, or by one or more psychologists with respect to a
 18.14 mental impairment, engaged by the executive director. If an examination indicates that the
 18.15 member is no longer permanently and totally disabled or that the member is engaged or is
 18.16 able to engage in a substantial gainful occupation, payments of the disability benefit by
 18.17 the association must be discontinued. The payments must be discontinued as soon as the
 18.18 member is reinstated to the payroll following sick leave, but payment may not be made for
 18.19 more than 60 days after the physicians, the chiropractors, or the psychologists engaged by
 18.20 the executive director find that the person is no longer permanently and totally disabled.

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

18.22 Sec. 26. Minnesota Statutes 2008, section 354.49, subdivision 2, is amended to read:

18.23 Subd. 2. **Calculation.** (a) Except as provided in section 354.44, subdivision 1,
 18.24 any person who ceases to be a member by reason of termination of teaching service,
 18.25 shall receive a refund in an amount equal to the accumulated deductions credited to the
 18.26 account as of June 30, 1957, and after July 1, 1957, the accumulated deductions with
 18.27 interest at the rate of six percent per annum compounded annually. For the purpose of
 18.28 this subdivision, interest shall be computed on fiscal year end balances to the first day of
 18.29 the month in which the refund is issued.

18.30 (b) If the person has received permanent disability payments under section 354.48,
 18.31 the refund amount must be reduced by the amount of those payments.

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

19.1 Sec. 27. Minnesota Statutes 2008, section 354.52, subdivision 2a, is amended to read:

19.2 Subd. 2a. **Annual Postretirement income reports reporting.** ~~On or before each~~
 19.3 ~~February 15, a representative authorized by an~~ Each employing unit must report to the
 19.4 executive director the amount of income earned during the previous ~~calendar~~ fiscal year
 19.5 by each retiree for teaching service performed after retirement. This ~~annual report must be~~
 19.6 shall be done through the payroll reporting system and is based on reemployment income
 19.7 ~~as defined in section 354.44, subdivision 5, and it must be made on a form provided by the~~
 19.8 ~~executive director. Signing~~ Submitting the report salary data through payroll reporting
 19.9 has the force and effect of an oath as to the correctness of the amount of postretirement
 19.10 reemployment income earned.

19.11 **EFFECTIVE DATE.** This section is effective January 1, 2010.

19.12 Sec. 28. Minnesota Statutes 2008, section 354.52, subdivision 4b, is amended to read:

19.13 Subd. 4b. **Payroll cycle reporting requirements.** An employing unit shall provide
 19.14 the following data to the association for payroll warrants on an ongoing basis within 14
 19.15 calendar days after the date of the payroll warrant in a format prescribed by the executive
 19.16 director:

19.17 (1) association member number;

19.18 (2) employer-assigned employee number;

19.19 (3) Social Security number;

19.20 (4) amount of each salary deduction;

19.21 (5) amount of salary as defined in section 354.05, subdivision 35, from which each
 19.22 deduction was made;

19.23 (6) reason for payment;

19.24 (7) ~~service credit;~~

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

19.27 (9) ~~(8)~~ (8) fiscal year of salary earnings;

19.28 (10) ~~(9)~~ (9) total remittance amount including employee, employer, and additional
 19.29 employer contributions; ~~and~~

19.30 (10) reemployed annuitant salary under section 354.44, subdivision 5; and

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

19.32 **EFFECTIVE DATE.** This section is effective January 1, 2010, except for the
 19.33 striking of clause (7), which is effective July 1, 2010.

20.1 Sec. 29. Minnesota Statutes 2008, section 354.52, is amended by adding a subdivision
20.2 to read:

20.3 Subd. 4d. Annual base salary reporting. An employing unit must provide the
20.4 following data to the association on or before June 30 of each fiscal year:

20.5 (1) annual base salary, as defined in section 354.05, subdivision 41; and

20.6 (2) beginning and ending dates for the regular school work year.

20.7 **EFFECTIVE DATE.** This section is effective July 1, 2009.

20.8 Sec. 30. Minnesota Statutes 2008, section 354.52, subdivision 6, is amended to read:

20.9 Subd. 6. **Noncompliance consequences.** (a) An employing unit that does not
20.10 comply with the reporting requirements under subdivision 2a, 4a, ~~or~~ 4b, or 4d, must pay a
20.11 fine of \$5 per calendar day until the association receives the required data.

20.12 (b) If the annual base salary required to be reported under subdivision 4d has not
20.13 been settled or determined as of June 16, the fine must commence if the annual base salary
20.14 has not been reported to the association within 14 days following the settlement date.

20.15 **EFFECTIVE DATE.** This section is effective July 1, 2009.

20.16 Sec. 31. **[354.543] PRIOR OR UNCREDITED MILITARY SERVICE CREDIT**
20.17 **PURCHASE.**

20.18 Subdivision 1. Service credit purchase authorized. (a) If paragraph (b) does not
20.19 apply, a teacher who has at least three years of allowable service credit with the Teachers
20.20 Retirement Association and who performed service in the United States armed forces
20.21 before becoming a teacher as defined in section 354.05, subdivision 2, or who failed
20.22 to obtain service credit for a military leave of absence under the provisions of section
20.23 354.53, is entitled to purchase allowable and formula service credit for the initial period of
20.24 enlistment, induction, or call to active duty without any voluntary extension by making
20.25 payment under section 356.551.

20.26 (b) A service credit purchase is prohibited if:

20.27 (1) the teacher separated from service with the United States armed forces with a
20.28 dishonorable or bad conduct discharge or under other than honorable conditions; or

20.29 (2) the teacher has purchased or otherwise received service credit from any
20.30 Minnesota defined benefit public employee pension plan, other than a volunteer fire plan,
20.31 for the same period of service.

20.32 Subd. 2. Application and documentation. A teacher who desires to purchase
20.33 service credit under subdivision 1 must apply with the executive director to make the

21.1 purchase. The application must include all necessary documentation of the teacher's
 21.2 qualifications to make the purchase, signed written permission to allow the executive
 21.3 director to request and receive necessary verification of applicable facts and eligibility
 21.4 requirements, and any other relevant information that the executive director may require.

21.5 Subd. 3. Service credit grant. Allowable and formula service credit for the
 21.6 purchase period must be granted by the Teachers Retirement Association to the purchasing
 21.7 teacher upon receipt of the purchase payment amount. Payment must be made before the
 21.8 teacher's termination of teaching service.

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

21.10 Sec. 32. Minnesota Statutes 2008, section 354.55, subdivision 11, is amended to read:

21.11 Subd. 11. **Deferred annuity; augmentation.** (a) Any person covered under section
 21.12 354.44, subdivision 6, who ceases to render teaching service, may leave the person's
 21.13 accumulated deductions in the fund for the purpose of receiving a deferred annuity at
 21.14 retirement. ~~Eligibility for an annuity under this subdivision is governed pursuant to~~
 21.15 ~~section 354.44, subdivision 1, or 354.60.~~

21.16 (b) The amount of the deferred retirement annuity is determined by section 354.44,
 21.17 subdivision 6, and augmented as provided in this subdivision. The required reserves
 21.18 ~~related to that portion of~~ for the annuity which had accrued when the member ceased to
 21.19 render teaching service must be augmented, as further specified in this subdivision, by
 21.20 interest compounded annually from the first day of the month following the month during
 21.21 which the member ceased to render teaching service to the effective date of retirement.

21.22 (c) There shall be no augmentation if ~~this~~ the deferral period is less than three months
 21.23 or if ~~this period commences prior to~~ deferral commenced before July 1, 1971. ~~The rates of~~
 21.24 ~~interest used for this purpose must be five percent compounded annually commencing~~
 21.25 ~~July 1, 1971, until January 1, 1981, and three percent compounded annually thereafter~~
 21.26 ~~until January 1 of the year following the year in which the former member attains age 55~~
 21.27 ~~and from that date to the effective date of retirement, the rate is five percent compounded~~
 21.28 ~~annually if the employee became an employee before July 1, 2006, and at 2.5 percent~~
 21.29 ~~compounded annually if the employee becomes an employee after June 30, 2006.~~

21.30 (d) For persons who became covered employees before July 1, 2006, with a deferral
 21.31 period commencing after June 30, 1971, the annuity must be augmented using five
 21.32 percent interest compounded annually until January 1, 1981, and three percent interest
 21.33 compounded annually thereafter until January 1 of the year following the year in which
 21.34 the deferred annuitant attains age 55. From that date to the effective date of retirement, the
 21.35 rate is five percent compounded annually.

22.1 (e) For persons who become covered employees after June 30, 2006, the interest rate
 22.2 used to augment the deferred annuity is 2.5 percent interest compounded annually.

22.3 (f) If a person has more than one period of uninterrupted service, a separate average
 22.4 salary determined under section 354.44, subdivision 6, must be used for each period and
 22.5 the required reserves related to each period must be augmented by interest pursuant to as
 22.6 specified in this subdivision. The sum of the augmented required reserves so determined
 22.7 shall be the basis for purchasing is the present value of the deferred annuity. For the
 22.8 purposes of this subdivision, "period of uninterrupted service" means a period of covered
 22.9 teaching service during which the member has not been separated from active service for
 22.10 more than one fiscal year.

22.11 (g) If a person repays a refund, the service restored by the repayment must be
 22.12 considered as continuous with the next period of service for which the person has
 22.13 allowable service credit with this fund in the Teachers Retirement Association.

22.14 (h) If a person does not render teaching service in any one fiscal year or more
 22.15 consecutive fiscal years and then resumes teaching service, the formula percentages used
 22.16 from the date of the resumption of teaching service must be those applicable to new
 22.17 members.

22.18 (i) The mortality table and interest assumption used to compute the annuity must be
 22.19 the applicable mortality table established by the board under section 354.07, subdivision
 22.20 1, and the interest rate assumption under section 356.215 in effect when the member
 22.21 retires. A period of uninterrupted service for the purposes of this subdivision means a
 22.22 period of covered teaching service during which the member has not been separated from
 22.23 active service for more than one fiscal year.

22.24 ~~(e)~~ (j) In no case shall the annuity payable under this subdivision be less than the
 22.25 amount of annuity payable pursuant to under section 354.44, subdivision 6.

22.26 ~~(d)~~ (k) The requirements and provisions for retirement before normal retirement
 22.27 age contained in section 354.44, subdivision 6, clause (3) or (5), shall also apply to an
 22.28 employee fulfilling the requirements with a combination of service as provided in section
 22.29 354.60.

22.30 ~~(e)~~ (l) The augmentation provided by this subdivision applies to the benefit provided
 22.31 in section 354.46, subdivision 2.

22.32 ~~(f)~~ (m) The augmentation provided by this subdivision shall not apply to any period
 22.33 in which a person is on an approved leave of absence from an employer unit covered
 22.34 by the provisions of this chapter.

22.35 ~~(g)~~ (n) The retirement annuity or disability benefit of, or the survivor benefit payable
 22.36 on behalf of, a former teacher who terminated service before July 1, 1997, which is not

23.1 first payable until after June 30, 1997, must be increased on an actuarial equivalent basis
 23.2 to reflect the change in the postretirement interest rate actuarial assumption under section
 23.3 356.215, subdivision 8, from five percent to six percent under a calculation procedure and
 23.4 tables adopted by the board as recommended by an approved actuary and approved by the
 23.5 actuary retained under section 356.214.

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

23.7 Sec. 33. Minnesota Statutes 2008, section 354.66, subdivision 3, is amended to read:

23.8 Subd. 3. **Part-time teaching position, defined.** (a) For purposes of this section,
 23.9 the term "part-time teaching position" means a teaching position within the district in
 23.10 which the teacher is ~~employed for at least 50 full days or a fractional equivalent thereof as~~
 23.11 ~~prescribed in section 354.091, and for which the teacher is compensated in~~ for an amount
 23.12 of at least 30 percent, but not exceeding 80 percent of the compensation established by the
 23.13 board for a full-time teacher with identical education and experience with the employing
 23.14 unit.

23.15 (b) For a teacher to which subdivision 1c, paragraph (b), applies, the term "part-time
 23.16 teaching position" means a teaching position within the district in which the teacher is
 23.17 ~~employed for at least 25 full days or a fractional equivalent thereof as prescribed in section~~
 23.18 ~~354.091, and for which the teacher is compensated in~~ for an amount of at least 15 percent,
 23.19 but not exceeding 40 percent of the compensation established by the board for a full-time
 23.20 teacher, with identical education and experience with the employing unit.

23.21 **EFFECTIVE DATE.** This section is effective for service provided after June 30,
 23.22 2010.

23.23 Sec. 34. Minnesota Statutes 2008, section 354A.096, is amended to read:

23.24 **354A.096 MEDICAL LEAVE.**

23.25 Any teacher in the coordinated program of the St. Paul Teachers Retirement Fund
 23.26 Association or the new law coordinated program of the Duluth Teachers Retirement Fund
 23.27 Association who is on an authorized medical leave of absence and subsequently returns
 23.28 to teaching service is entitled to receive allowable service credit, not to exceed one year,
 23.29 for the period of leave, upon making the prescribed payment to the fund. This payment
 23.30 must include the required employee and employer contributions at the rates specified in
 23.31 section 354A.12, subdivisions 1 and ~~2~~ 2a, as applied to the member's average full-time
 23.32 monthly salary rate on the date the leave of absence commenced plus annual interest at
 23.33 the rate of 8.5 percent per year from the end of the fiscal year during which the leave

24.1 terminates to the end of the month during which payment is made. The member must pay
 24.2 the total amount required unless the employing unit, at its option, pays the employer
 24.3 contributions. The total amount required must be paid by the end of the fiscal year
 24.4 following the fiscal year in which the leave of absence terminated or before the member
 24.5 retires, whichever is earlier. Payment must be accompanied by a copy of the resolution or
 24.6 action of the employing authority granting the leave and the employing authority, upon
 24.7 granting the leave, must certify the leave to the association in a manner specified by the
 24.8 executive director. A member may not receive more than one year of allowable service
 24.9 credit during any fiscal year by making payment under this section. A member may not
 24.10 receive disability benefits under section 354A.36 and receive allowable service credit
 24.11 under this section for the same period of time.

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

24.13 Sec. 35. Minnesota Statutes 2008, section 354A.12, subdivision 2a, is amended to read:

24.14 Subd. 2a. **Employer regular and additional ~~contribution rates~~ contributions.**

24.15 (a) The employing units shall make the following employer contributions to teachers
 24.16 retirement fund associations:

24.17 ~~(1) for any coordinated member of a teachers retirement fund association in a city of~~
 24.18 ~~the first class, the employing unit shall pay the employer Social Security taxes;~~

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

24.23	Duluth Teachers Retirement	
24.24	Fund Association	4.50 percent
24.25	St. Paul Teachers Retirement	
24.26	Fund Association	4.50 percent

24.27 ~~(3)~~ (2) for any basic member of the St. Paul Teachers Retirement Fund Association,
 24.28 the employing unit shall make a regular employer contribution to the respective retirement
 24.29 fund in an amount equal to 8.00 percent of the salary of the basic member;

24.30 ~~(4)~~ (3) for a basic member of the St. Paul Teachers Retirement Fund Association, the
 24.31 employing unit shall make an additional employer contribution to the respective fund in
 24.32 an amount equal to 3.64 percent of the salary of the basic member;

24.33 ~~(5)~~ (4) for a coordinated member of a teachers retirement fund association in a city
 24.34 of the first class, the employing unit shall make an additional employer contribution to

25.1 the respective fund in an amount equal to the applicable percentage of the coordinated
25.2 member's salary, as provided below:

25.3	Duluth Teachers Retirement	
25.4	Fund Association	1.29 percent
25.5	St. Paul Teachers Retirement	
25.6	Fund Association	<u>3.84 percent</u>
25.7	July 1, 1993 - June 30, 1994	0.50 percent
25.8	July 1, 1994 - June 30, 1995	1.50 percent
25.9	July 1, 1997, and thereafter	3.84 percent

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

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

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

25.17 Sec. 36. Minnesota Statutes 2008, section 354A.12, is amended by adding a
25.18 subdivision to read:

25.19 **Subd. 6. Erroneous salary deductions or direct payments.** (a) Deductions taken
25.20 from the salary of an employee for the retirement fund in error must be refunded to the
25.21 employee upon the discovery of the error and after the verification of the error by the
25.22 employing unit making the deduction. The corresponding employer contribution and
25.23 additional employer contribution amounts attributable to the erroneous salary deduction
25.24 must be refunded to the employing unit.

25.25 (b) If salary deductions and employer contributions were erroneously transmitted
25.26 to the retirement fund and should have been transmitted to another Minnesota public
25.27 pension plan, the executive director must transfer these salary deductions and employer
25.28 contributions to the appropriate public pension fund without interest. For purposes of this
25.29 paragraph, a "Minnesota public pension plan" means a plan specified in section 356.30,
25.30 subdivision 3, or the plan governed by chapter 354B.

25.31 (c) A potential transfer under paragraph (b) that would cause the plan to fail to be a
25.32 qualified plan under section 401(a) of the Internal Revenue Code, as amended, must not
25.33 be made by the executive director. Within 30 days after being notified by the executive
25.34 director of the appropriate teachers retirement fund association of an unmade potential
25.35 transfer under this paragraph, the employer of the affected person must transmit an
25.36 amount representing the applicable salary deductions and employer contributions, without

26.1 interest, to the retirement fund of the appropriate Minnesota public pension plan fund.
 26.2 The retirement association must provide a credit for the amount of the erroneous salary
 26.3 deductions and employer contributions against future contributions from the employer.

26.4 (d) Erroneous direct payments of member-paid contributions or erroneous salary
 26.5 deductions that were not refunded during the regular payroll cycle processing must be
 26.6 refunded to the member, plus interest computed using the rate and method specified in
 26.7 section 354A.37, subdivision 3.

26.8 (e) Any refund under this subdivision that would cause the plan to fail to be a
 26.9 qualified plan under section 401(a) of the Internal Revenue Code, as amended, may not
 26.10 be refunded and instead must be credited against future contributions payable by the
 26.11 employer. The employer is responsible for refunding to the applicable employee any
 26.12 amount that was erroneously deducted from the salary of the employee, with interest as
 26.13 specified in paragraph (d).

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

26.15 Sec. 37. Minnesota Statutes 2008, section 354A.36, subdivision 6, is amended to read:

26.16 Subd. 6. **Requirement for regular physical examinations.** At least once each year
 26.17 during the first five years following the granting of a disability benefit to a coordinated
 26.18 member by the board and at least once in every three year period thereafter, the board ~~shall~~
 26.19 may require the disability benefit recipient to undergo an expert examination as a condition
 26.20 for continued entitlement of the benefit recipient to receive a disability benefit. If the board
 26.21 requires an examination, the expert examination must be made at the place of residence of
 26.22 the disability benefit recipient or at any other place mutually agreeable to the disability
 26.23 benefit recipient and the board. The expert examination must be made by a physician or
 26.24 physicians, by a chiropractor or chiropractors, or by one or more psychologists engaged
 26.25 by the board. The physician or physicians, the chiropractor or chiropractors, or the
 26.26 psychologist or psychologists with respect to a mental impairment, conducting the expert
 26.27 examination shall make a written report to the board concerning the disability benefit
 26.28 recipient and the recipient's disability, including a statement of the expert opinion of
 26.29 the physician, chiropractor, or psychologist as to whether or not the member remains
 26.30 permanently and totally disabled within the meaning of section 354A.011, subdivision
 26.31 14. If the board determines from consideration of the written expert examination report
 26.32 of the physician, of the chiropractor, or of the psychologist, with respect to a mental
 26.33 impairment, that the disability benefit recipient is no longer permanently and totally
 26.34 disabled or if the board determines that the benefit recipient is engaged or is able to
 26.35 engage in a gainful occupation, unless the disability benefit recipient is partially employed

27.1 under subdivision 7, then further disability benefit payments from the fund must be
 27.2 discontinued. The discontinuation of disability benefits must occur immediately if the
 27.3 disability recipient is reinstated to the district payroll following sick leave and within 60
 27.4 days of the determination by the board following the expert examination and report of the
 27.5 physician or physicians, chiropractor or chiropractors, or psychologist or psychologists
 27.6 engaged by the board that the disability benefit recipient is no longer permanently and
 27.7 totally disabled within the meaning of section 354A.011, subdivision 14.

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

27.9 Sec. 38. Minnesota Statutes 2008, section 356.401, subdivision 2, is amended to read:

27.10 Subd. 2. **Automatic deposits.** (a) The chief administrative officer of a covered
 27.11 retirement plan may remit, through an automatic deposit system, annuity, benefit, or
 27.12 refund payments only to a financial institution associated with the National Automated
 27.13 Clearinghouse Association or a comparable successor organization that is trustee for a
 27.14 person who is eligible to receive the annuity, benefit, or refund.

27.15 (b) Upon the request of a retiree, disabilitant, survivor, or former member, the chief
 27.16 administrative officer of a covered retirement plan may remit the annuity, benefit, or
 27.17 refund ~~check payment~~ payment to the applicable financial institution for deposit in the person's
 27.18 individual account or the person's joint account. If an overpayment of benefits is paid
 27.19 after the death of the annuitant or benefit recipient, the chief administrative officer of
 27.20 the pension plan is authorized to issue an administrative subpoena consistent with the
 27.21 requirements of section 13A.02, requiring the applicable financial institution to disclose
 27.22 the names of all joint and co-owners of the account and a description of all deposits to,
 27.23 and withdrawals from, the account which take place on or after the death of the annuitant
 27.24 or benefit recipient. An overpayment to a joint account after the death of the annuitant or
 27.25 benefit recipient must be repaid to the fund of the applicable covered retirement plan by
 27.26 the joint tenant if the overpayment is not repaid to that fund by the financial institution
 27.27 associated with the National Automated Clearinghouse Association or its successor. The
 27.28 governing board of the covered retirement plan may prescribe the conditions under which
 27.29 these payments may be made.

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

27.31 Sec. 39. Minnesota Statutes 2008, section 356.465, subdivision 1, is amended to read:

27.32 Subdivision 1. **Inclusion as recipient.** ~~Notwithstanding any provision to the~~
 27.33 ~~contrary of the laws, articles of incorporation, or bylaws governing a covered retirement~~

28.1 ~~plan specified in subdivision 3~~, A retiring member may designate a qualified supplemental
 28.2 needs trust under subdivision 2 as the remainder recipient on an optional retirement
 28.3 annuity form for a period not to exceed the lifetime of the beneficiary of the supplemental
 28.4 needs trust.

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

28.6 Sec. 40. Minnesota Statutes 2008, section 356.465, is amended by adding a subdivision
 28.7 to read:

28.8 Subd. 4. **Expanded eligibility.** (a) Notwithstanding subdivision 1, for a retirement
 28.9 plan specified in paragraph (b), a designation under subdivision 1 may be made by an
 28.10 active, disabled, deferred, or retiring member.

28.11 (b) The applicable plan is the Teachers Retirement Association.

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

28.13 Sec. 41. Minnesota Statutes 2008, section 356.611, subdivision 3, is amended to read:

28.14 Subd. 3. **Maximum benefit limitations.** A member's annual benefit, if necessary,
 28.15 must be reduced to the extent required by section 415(b) of the Internal Revenue Code,
 28.16 as adjusted by the United States secretary of the treasury under section 415(d) of the
 28.17 Internal Revenue Code for any applicable increases in the cost of living after the member's
 28.18 termination of employment. For purposes of section 415 of the Internal Revenue Code, the
 28.19 limitation year of a pension plan covered by this section must be the fiscal year or calendar
 28.20 year of that plan, whichever is applicable. ~~The accrued benefit limitation described in~~
 28.21 ~~section 415(e) of the Internal Revenue Code must cease to be effective for limitation~~
 28.22 ~~years beginning after December 31, 1999.~~

28.23 **EFFECTIVE DATE.** This section is effective July 1, 2009.

28.24 Sec. 42. Minnesota Statutes 2008, section 356.611, subdivision 4, is amended to read:

28.25 Subd. 4. **Compensation.** (a) For purposes of this section, compensation means a
 28.26 member's compensation actually paid or made available for any limitation year ~~determined~~
 28.27 ~~as provided by~~ including items described in treasury regulation section 1.415-2(d)(10)
 28.28 1.415-2(d)(2) and excluding items described in treasury regulation section 1.415-2(d)(3).

28.29 (b) Compensation for any period includes:

- 28.30 (1) any elective deferral as defined in section 402(g)(3) of the Internal Revenue Code;
- 28.31 (2) any elective amounts that are not includable in a member's gross income by
- 28.32 reason of sections 125 or 457 of the Internal Revenue Code; and

29.1 (3) any elective amounts that are not includable in a member's gross income by
 29.2 reason of section 132(f)(4) of the Internal Revenue Code.

29.3 **EFFECTIVE DATE.** This section is effective July 1, 2009.

29.4 Sec. 43. Minnesota Statutes 2008, section 356.635, subdivision 6, is amended to read:

29.5 Subd. 6. **Eligible retirement plan.** (a) An "eligible retirement plan" is:

29.6 (1) an individual retirement account under section 408(a) of the Internal Revenue
 29.7 Code;

29.8 (2) an individual retirement annuity plan under section 408(b) of the Internal
 29.9 Revenue Code;

29.10 (3) an annuity plan under section 403(a) of the Internal Revenue Code;

29.11 (4) a qualified trust plan under section 401(a) of the Internal Revenue Code that
 29.12 accepts the distributee's eligible rollover distribution;

29.13 (5) an annuity contract under section 403(b) of the Internal Revenue Code; ~~or~~

29.14 (6) an eligible deferred compensation plan under section 457(b) of the Internal
 29.15 Revenue Code, which is maintained by a state or local government and which agrees to
 29.16 separately account for the amounts transferred into the plan; or

29.17 (7) in the case of an eligible rollover distribution to a nonspousal beneficiary, an
 29.18 individual account or annuity treated as an inherited individual retirement account under
 29.19 section 402(c)(11) of the Internal Revenue Code.

29.20 (b) For distributions of after-tax contributions which are not includable in gross
 29.21 income, the after-tax portion may be transferred only to an individual retirement account
 29.22 or annuity described in section 408(a) or (b) of the Internal Revenue Code, or to a qualified
 29.23 defined contribution plan described in either section 401(a) or 403(a) of the Internal
 29.24 Revenue Code, that agrees to separately account for the amounts transferred, including
 29.25 separately accounting for the portion of the distribution which is includable in gross
 29.26 income and the portion of the distribution which is not includable.

29.27 **EFFECTIVE DATE.** This section is effective July 1, 2009.

29.28 Sec. 44. Minnesota Statutes 2008, section 356.635, subdivision 7, is amended to read:

29.29 Subd. 7. **Distributee.** A "distributee" is:

29.30 (1) an employee or a former employee;

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

29.32 (3) the former spouse of the employee or former employee who is the alternate payee
 29.33 under a qualified domestic relations order as defined in section 414(p) of the Internal

30.1 Revenue Code, or who is a recipient of a court-ordered equitable distribution of marital
30.2 property, as provided in section 518.58; or

30.3 (4) a nonspousal beneficiary of an employee or former employee who qualifies
30.4 for a distribution under the plan and is a designated beneficiary as defined in section
30.5 401(a)(9)(E) of the Internal Revenue Code.

30.6 **EFFECTIVE DATE.** This section is effective July 1, 2009.

30.7 Sec. 45. Minnesota Statutes 2008, section 356.96, subdivision 5, is amended to read:

30.8 Subd. 5. **Petition for review.** (a) A person who claims a right under subdivision 2
30.9 may petition for a review of that decision by the governing board of the covered pension
30.10 plan.

30.11 (b) A petition under this section must be sent to the chief administrative officer by
30.12 mail and must be postmarked no later than 60 days after the person received the notice
30.13 required by subdivision 3. The petition must include the person's statement of the reason
30.14 or reasons that the person believes the decision of the chief administrative officer should
30.15 be reversed or modified. The petition may include all documentation and written materials
30.16 that the petitioner deems to be relevant. In developing a record for review by the board
30.17 when a decision is appealed, the executive director may direct that the applicant participate
30.18 in a fact-finding session conducted by an administrative law judge assigned by the Office
30.19 of Administrative Hearings and, as applicable, a vocational assessment conducted by a
30.20 qualified rehabilitation counselor on contract with the applicable retirement system.

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

30.22 Sec. 46. **REPEALER.**

30.23 Minnesota Statutes 2008, sections 354.06, subdivision 6; and 354.55, subdivision
30.24 14, are repealed.

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

APPENDIX
Repealed Minnesota Statutes: 09-1814

354.06 BOARD OF TRUSTEES; MEMBERSHIP; DUTIES.

Subd. 6. **Fiscal year.** The fiscal year of the association shall begin on the first day of July of each year and end on the 30th day of June of the following year.

354.55 OPTIONS TO CERTAIN MEMBERS.

Subd. 14. **Annuity increases.** All annuities payable from the Minnesota postretirement investment fund which are in effect on June 30, 1973 shall be increased in the same ratio that the actuarially computed reserve for such annuities determined by using an interest assumption of 3-1/2 percent bears to the actuarially computed reserve for such annuities determined by using an interest assumption of five percent. The reserves upon which such increases shall be based shall be the actuarially determined reserves for all Minnesota postretirement investment fund annuities which were in effect on June 30, 1972, in accordance with the mortality assumptions then in effect and at interest assumptions of 3-1/2 percent and five percent. Such ratio of increase computed to the last full 1/100 of one percent shall be applied to all annuities payable from the Minnesota postretirement investment fund which are in effect on June 30, 1973. Increases in annuity payments pursuant to this subdivision will be made automatically unless written notice is filed by the annuitant with the Teachers Retirement Association board requesting that the increase shall not be made.