



H.F. 2179
(Kiffmeyer)

S.F. xxxx
(xxx)

Executive Summary of Commission Staff Materials

Affected Pension Plan(s): Statewide and Major Local Defined Benefit Retirement Plans
Relevant Provisions of Law: Minnesota Statutes, Chapters 352, 352D, 353, 354, 354A, and 490
General Nature of Proposal: Defined Contribution Plan Coverage for Irregular Compensation Amounts
Date of Summary: February 13, 2012

Specific Proposed Changes

- Excludes from general employee defined benefit retirement plan coverage amounts of irregular compensation
- Requires the member and employer contributions on irregular compensation be deposited in MSRS-Unclassified.
- Excludes irregular compensation-related contribution MSRS-Unclassified account accumulations from transfer to MSRS-General.

Policy Issues Raised by the Proposed Legislation

1. Reduction in opportunities for the manipulation of defined benefit retirement plan final average salary amounts.
2. Provision of retirement benefit value for compensation outside the final salary averaging period.
3. Potential precedent for the creation of broader hybrid retirement plan coverage.
4. Impact on the ability to perform traditional retirement plan functions.
5. Impact on governmental budgets of the addition of defined contribution plan coverage to supplement defined benefit plan coverage.
6. Actuarial impact of defined contribution plan addition.
7. Provision of post-retirement benefit flexibility in accessing defined contribution retirement plan account accumulations.
8. Transition period issues in establishing general employee defined contribution plan coverage.
9. Reaction of affected employee groups.
10. Reaction of pension plan administrators.

Potential Amendments

None.



TO: Members of the Legislative Commission on Pensions and Retirement
FROM: Lawrence A. Martin, Executive Director *LA Martin*
RE: H.F. 2179 (Kiffmeyer); S.F. xxxx: General Employee Defined Benefit Plans;
Defined Contribution Plan Coverage for Irregular Compensation Amounts
DATE: February 13, 2012

General Summary of H.F. 2179 (Kiffmeyer); S.F. xxxx

H.F. 2179 (Kiffmeyer); S.F. xxxx amends portions of Minnesota Statutes, Chapters 352, 352D, 353, 354, 354A, and 490, by defining irregular compensation as overtime pay and non-base pay amounts, by excluding from general employee defined benefit retirement plan coverage amounts of irregular compensation, by requiring the member and employer contributions on irregular compensation be deposited in the Unclassified State Employees Retirement Program of the Minnesota State Retirement System (MSRS-Unclassified), and by excluding irregular compensation-related contribution MSRS-Unclassified account accumulations from transfer to the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General).

Section-by-Section Summary

A section-by-section summary of H.F. 2179 (Kiffmeyer); S.F. xxxx is attached.

Discussion and Analysis

H.F. 2179 (Kiffmeyer); S.F. xxxx removes any salary beyond base salary amounts from statewide and major local general defined benefit retirement plan coverage for payrolls after June 30, 2012, and creates defined contribution retirement plan coverage for the compensation amounts in excess of base salary through an expanded (and renamed) MSRS-Unclassified Retirement Program.

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

1. Reduction in Opportunities for the Manipulation of Defined Benefit Retirement Plan Final Average Salary Amounts. The policy issue is the potential advantage for the proposed legislation in reducing or eliminating opportunities for public pension plan members to manipulate the current defined benefit retirement plans by enhancing their final average salaries. Current Minnesota defined benefit retirement plans utilize a calculated highest five successive years' average salary figure as the basis for determining their formula retirement annuities or benefits. The highest five successive years' average salary figure is intended to function as a reliable indicator of the plan member's pre-retirement standard of living in determining retirement annuities or benefits. While less accessible for manipulation than shorter final salary averaging periods, because Minnesota public pension plans include overtime compensation, extracurricular teaching or coaching compensation, shift differential payments, dog handler compensation, non-duty day service compensation, court appearance compensation, and other compensation in excess of the person's base salary, plan members approaching retirement have a potential incentive to engage in employment activities that bring compensation beyond any base salary and to gain a larger retirement annuity. By shifting retirement coverage for compensation in excess of base salary from defined benefit retirement plan coverage to defined contribution retirement plan coverage, new public pension plan members will retain pension coverage for all compensation received by virtue of public employment, but will not be able to manipulatively enhance their future retirement annuities or benefits. For public employees who engage in extensive overtime or other compensation in excess of base salary activities throughout their career, with that compensation representing the person's standard of living, the shift to defined contribution coverage for compensation in excess of base salary, especially in periods of declining investment market returns, could provide a more modest annuity or benefit than under the current arrangement.
2. Provision of Retirement Benefit Value for Compensation Outside the Final Salary Averaging Period. The policy issue is the potential advantage in the potential legislation in providing post-2012 public employees with eventual pension value for compensation in excess of base salary that was earned during periods before the final salary averaging period and not regularly rendered during the final salary averaging period. Currently, public employees who engage in extensive overtime or extracurricular teaching or coaching activities during the early or middle portions of their public employment careers, but not at the end of their public employment careers, will have made member

contributions on periods of compensation in excess of base salary, but will have no recognition of those contributions or that compensation in excess of base salary in their eventual retirement annuities or benefits. Requiring members and regular employer contributions on compensation in excess of base salary that occurs outside of the highest five successive years' salary averaging period, as the potential legislation does, will gain pension benefit recognition for this irregular compensation trend and will reduce complaints that have periodically arisen in the past. The pension benefit recognition for these early or mid-career periods of compensation in excess of base salary, however, will reduce what is actually an actuarial gain item for the applicable pension fund currently.

3. Potential Precedent for the Creation of Broader Hybrid Retirement Plan Coverage. The policy issue is the potential function of the draft legislation as precedent for the future creation of broader hybrid retirement plan coverage. While Minnesota has authorized supplemental retirement savings options for public employees under Minnesota Statutes, Section 356.24, using deferred compensation (Internal Revenue Code, Section 457) arrangements or tax-sheltered annuity (Internal Revenue Code, Section 403(b)) arrangements with capped employer-matching contributions, Minnesota has not mandated supplementary defined contribution retirement plan coverage broadly, as the potential legislation does. The potential legislation utilizes an existing retirement program, MSRS-Unclassified, as the defined contribution vehicle for the supplemental retirement plan coverage. If broader defined contribution retirement plan coverage in the form of a stacked (i.e. initial defined benefit retirement plan coverage with additional defined contribution retirement plan coverage) hybrid retirement arrangement is desired by policymakers, the supplementary retirement coverage provided for in this proposed legislation could be the initial building block for making that change.
4. Impact on the Ability to Perform Traditional Retirement Plan Functions. The policy issue is the appropriateness of the potential legislation in light of the effect that the proposal would have on the ability of public retirement coverage to perform traditional retirement plan functions. The traditional functions are the recruitment of new employees, the retention of existing employees, and the systematic out-transitioning of employees ending their careers. The addition of defined contribution plan coverage to supplement defined benefit plan coverage could assist in the situation of employees as employment circumstances change, with greater numbers of employees engaging in part-time employment. The potential legislation, however, makes the amount of future retirement benefits less certain, thereby making out-transitioning by senior employees potentially less systematic.
5. Budgetary Impacts. The policy issue is the impact on governmental budgets of the addition of defined contribution plan coverage to supplement defined benefit plan coverage. By its very nature, defined contribution plans emphasize relative expenditure concerns over relative benefit generosity or relative benefit adequacy concerns. Thus, the addition of defined contribution plan coverage rather than future defined benefit plan improvements will tend to avoid any future unplanned additional employer retirement contributions such as the precipitous increases experienced in the actuarial requirements in the former Minneapolis Teachers Retirement Fund Association (MTRFA) or the Minneapolis Employees Retirement Fund (MERF) in the past decade. However, for well-funded plans that better weathered the recent investment declines, the addition of a supplemental defined contribution plan will not likely produce any budgetary savings over the current employer contribution.
6. Actuarial Impact of Defined Contribution Plan Addition. The policy issue is the actuarial impact of the creation of substitute defined contribution plan coverage on existing defined benefit plans. In the main, the addition of supplemental defined contribution plan coverage is unlikely to have any actuarial impact on the existing defined benefit plans, unless they reduce available funding resources needed to correct existing underfunding situations, such as the inadequate funding of the former MTRFA or of the MERF. The addition of a supplemental defined contribution retirement plan as proposed, dropping coverage for compensation in excess of base salary, will likely reduce the defined benefit retirement plan actuarial accrued liability based on that extra compensation element during the immediate pre-retirement years, but also redirects the member and regular employer contribution stream on compensation in excess of base salary for the full post-2012 employment career, which could easily have a greater financial impact on the defined benefit retirement plan than the actuarial accrued liability release.
7. Provision of Post-Retirement Benefit Flexibility in Accessing Defined Contribution Retirement Plan Account Accumulations. The policy issue is whether or not the potential proposed addition of supplemental defined contribution retirement plan coverage will provide a better match to a retiree's pattern of drawing out retirement financial resources. The potential legislation would permit former public employees to take their defined contribution retirement plan benefit at a different time than their defined benefit retirement plan benefit. If post-retirement economic patterns are not static, but reflect extra travel or other pursuit expenditures early in retirement compared to mid-retirement and late-retirement, the defined contribution retirement plan account could be redeemed early in retirement to match those financial requirements better than the current static defined benefit retirement plan benefit stream.

8. Transition Issues. The policy issue is the need for any transition period in the establishment of general employee defined contribution plan coverage. The creation of supplemental defined contribution plan coverage would occur for payrolls that start after June 30, 2012. The immediate implementation of the creation of a stacked hybrid retirement plan with supplemental defined contribution retirement plan coverage could cause significant retirement planning disruptions for employees who are at or are nearing retirement age. The loss of defined benefit retirement plan coverage on the irregular compensation, for employees who receive periodic irregular compensation, is likely to be greater than the additional defined contribution benefit to be derived from the redesignated contribution stream.
9. Reaction of Employee Groups. The policy issue is the likely reaction of affected employee groups to the potential changes. Based on a Commission discussion of the appropriateness of defined contribution plans compared to defined benefit plans in the mid-1990s, the representatives of general employee groups predominantly support defined benefit coverage and oppose defined contribution plan coverage. The contrary result seems to be limited to higher education faculty representatives. The import of that likely reaction is moderated some if an assessment is made about the most benefited groups of employees under a defined benefit plan (i.e., higher paid, senior members) and if conjecture is made about the similarity of that group and the composition of the governing entities of employee groups.
10. Reaction of Plan Administrators. The policy issue is the likely reaction of pension plan administrators to the potential changes. The plan administrators in the Teachers Retirement Fund Association (TRA) have been adamantly opposed to defined contribution coverage for decades, based on their experiences before TRA added defined benefit plan retirement coverage in 1969. The plan administrators of the MSRS and the Public Employees Retirement Association (PERA) resisted attempts in 1969 to add a variable annuity defined contribution program to those programs, but acceded to the creation of the MSRS-Unclassified Program in 1971 and the creation of the PERA-Defined Contribution Plan in 1987.

Section-by-Section Summary of H.F. 2179 (Kiffmeyer); S.F. xxxx

Sec.	Pg.Ln	Retirement Plan	Stat. Provision	Summary
1	1.11	MSRS-General	352.01, Subd. 13	Modifies the "salary" definition to exclude the amounts of irregular compensation as defined in New Sec. 356.307.
2	2.12	MSRS-General	352.04, Subd. 4	Revises the payroll deduction to require specific reporting of contributions on irregular compensation amounts.
3	2.28	MSRS-Unclassified	352D.02, Subd. 1	Adds to coverage for the purpose of irregular compensation-based contributions members of the various general employee and correctional employee retirement plans.
4	4.29	MSRS-Unclassified	352D.02, New Subd. 7	Requires the transfer of contributions on irregular compensation amounts by the various retirement plan administrators and excludes participants for irregular compensation from any transfer to MSRS-General.
5	5.10	MSRS-Unclassified	352D.04, Subd. 2	Specifies the member and employer contribution rates for irregular compensation as the applicable contribution rates for the primary defined benefit retirement plan coverage.
6	5.34	PERA-General	353.01, Subd. 10	Modifies the "salary" definition to exclude the amounts of irregular compensation as defined in New Sec. 356.307.
7	7.24	PERA-General	353.27, Subd. 4	Revises the payroll deduction to require specific reporting of contributions on irregular compensation amounts.
8	9.19	TRA	354.05, Subd. 35	Modifies the "salary" definition to exclude the amounts of irregular compensation as defined in New Sec. 356.307.
9	10.18	TRA	354.52, Subd. 4b	Revises the payroll deduction to require specific reporting of contributions on irregular compensation amounts.
10	11.5	First class city teacher plans	354A.011, Subd. 24	Modifies the "salary" definition to exclude the amounts of irregular compensation as defined in New Sec. 356.307.
11	12.8	First class city teacher plans	354A.012, Subd. 5	Revises the payroll deduction to require specific reporting of contributions on irregular compensation amounts.
12	13.27	Retirement, generally	New 356.307	Defines irregular compensation amounts as overtime pay, shift differential pay, extra-curricular services pay, extra duty services pay, uniform allowances, employment incentive pay, bonus pay, in-lieu of leave pay, non-duty day service pay, recognition reward pay, or payments in lieu of insurance coverage.
13	14.16	Judges	490.121, New Subd. 21g	Modifies the "salary" definition to exclude the amounts of irregular compensation as defined in New Sec. 356.307.
14	14.20	Judges	490.124, New Subd. 15	Revises the payroll deduction to require specific reporting of contributions on irregular compensation amounts.
15	14.25	–	Effective Date	Effective for irregular compensation for the first full payroll period after June 30, 2012.

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State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH SESSION

H. F. No. 2179

02/09/2012 Authored by Kiffmeyer and Lanning

The bill was read for the first time and referred to the Committee on Government Operations and Elections

A bill for an act

1.1 relating to retirement; statewide and major local defined benefit retirement plans;
1.2 requiring unclassified state employees retirement program coverage for overtime
1.3 salary; amending Minnesota Statutes 2010, sections 352.01, subdivision 13;
1.4 352.04, subdivision 4; 352D.02, subdivision 1, by adding a subdivision; 352D.04,
1.5 subdivision 2; 353.01, subdivision 10; 353.27, subdivision 4; 354.05, subdivision
1.6 35; 354.52, subdivision 4b; 354A.011, subdivision 24; 354A.12, subdivision 5;
1.7 490.121, by adding a subdivision; 490.124, by adding a subdivision; proposing
1.8 coding for new law in Minnesota Statutes, chapter 356.
1.9

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

1.11 Section 1. Minnesota Statutes 2010, section 352.01, subdivision 13, is amended to read:

1.12 Subd. 13. Salary. (a) Subject to the limitations of section 356.611, "salary" means
1.13 wages, or other periodic compensation, paid to an employee before deductions for
1.14 deferred compensation, supplemental retirement plans, or other voluntary salary reduction
1.15 programs.

1.16 (b) "Salary" does not include:

1.17 (1) lump-sum sick leave payments;

1.18 (2) severance payments;

1.19 (3) lump-sum annual leave payments and overtime payments made at the time
1.20 of separation from state service;

1.21 (4) payments in lieu of any employer-paid group insurance coverage, including the
1.22 difference between single and family rates that may be paid to an employee with single
1.23 coverage;

1.24 (5) payments made as an employer-paid fringe benefit;

1.25 (6) workers' compensation payments;

2.1 (7) employer contributions to a deferred compensation or tax-sheltered annuity
 2.2 program; ~~and~~

2.3 (8) amounts contributed under a benevolent vacation and sick leave donation
 2.4 program; and

2.5 (9) amounts of irregular compensation as defined in section 356.307 on which
 2.6 employee and employer contributions were transmitted to the unclassified state employees
 2.7 retirement program as provided in section 352D.02, subdivision 7.

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

2.12 Sec. 2. Minnesota Statutes 2010, section 352.04, subdivision 4, is amended to read:

2.13 Subd. 4. **Payroll deductions.** (a) The head of each department shall have employee
 2.14 contributions deducted from the salary of each employee covered by the system on
 2.15 every payroll abstract and shall approve one voucher payable to the commissioner of
 2.16 management and budget for the aggregate amount deducted on the payroll abstract.

2.17 (b) Deductions from salaries of employees paid direct by any department, institution,
 2.18 or agency of the state must be made by the officer or employee authorized by law to
 2.19 pay the salaries. The head of any department or agency having authority to appoint any
 2.20 employee who receives fees as compensation or who receives compensation on federal
 2.21 payrolls shall collect as the required employee contribution the applicable amounts
 2.22 required in subdivision 2.

2.23 (c) Deductions from salary and amounts collected must be remitted to the director
 2.24 with a statement showing the total amount of earnings or fees, the amount of irregular
 2.25 compensation, and in the case of fees, the number of transactions, and the amount of each
 2.26 of the deductions and collections and the names of the employees on whose account
 2.27 they have been made.

2.28 Sec. 3. Minnesota Statutes 2010, section 352D.02, subdivision 1, is amended to read:

2.29 Subdivision 1. **Coverage.** (a) Employees enumerated in paragraph (c), clauses (2),
 2.30 (3), (4), (6) to (14), and (16) to (18), if they are in the unclassified service of the state or
 2.31 Metropolitan Council and are eligible for coverage under the general state employees
 2.32 retirement plan under chapter 352, are participants in the unclassified program under this
 2.33 chapter unless the employee gives notice to the executive director of the Minnesota State
 2.34 Retirement System within one year following the commencement of employment in the

3.1 unclassified service that the employee desires coverage under the general state employees
3.2 retirement plan. For the purposes of this chapter, an employee who does not file notice
3.3 with the executive director is deemed to have exercised the option to participate in the
3.4 unclassified program.

3.5 (b) Persons referenced in paragraph (c), clause (5), are participants in the unclassified
3.6 program under this chapter unless the person was eligible to elect different coverage under
3.7 section 3A.07 and elected retirement coverage by the applicable alternative retirement
3.8 plan. Persons referenced in paragraph (c), clause (15), are participants in the unclassified
3.9 program under this chapter for judicial employment in excess of the service credit limit in
3.10 section 490.121, subdivision 22.

3.11 (c) Enumerated employees and referenced persons are:

3.12 (1) the governor, the lieutenant governor, the secretary of state, the state auditor,
3.13 and the attorney general;

3.14 (2) an employee in the Office of the Governor; Lieutenant Governor, Secretary
3.15 of State, State Auditor, Attorney General;

3.16 (3) an employee of the State Board of Investment;

3.17 (4) the head of a department, division, or agency created by statute in the unclassified
3.18 service, an acting department head subsequently appointed to the position, or an employee
3.19 enumerated in section 15A.0815 or 15A.083, subdivision 4;

3.20 (5) a member of the legislature;

3.21 (6) a full-time unclassified employee of the legislature or a commission or agency of
3.22 the legislature who is appointed without a limit on the duration of the employment or a
3.23 temporary legislative employee having shares in the supplemental retirement fund as a
3.24 result of former employment covered by this chapter, whether or not eligible for coverage
3.25 under the Minnesota State Retirement System;

3.26 (7) a person who is employed in a position established under section 43A.08,
3.27 subdivision 1, clause (3), or in a position authorized under a statute creating or establishing
3.28 a department or agency of the state, which is at the deputy or assistant head of department
3.29 or agency or director level;

3.30 (8) the regional administrator, or executive director of the Metropolitan Council,
3.31 general counsel, division directors, operations managers, and other positions as designated
3.32 by the council, all of which may not exceed 27 positions at the council and the chair;

3.33 (9) the executive director, associate executive director, and not to exceed nine
3.34 positions of the Minnesota Office of Higher Education in the unclassified service, as
3.35 designated by the Minnesota Office of Higher Education before January 1, 1992, or
3.36 subsequently redesignated with the approval of the board of directors of the Minnesota

4.1 State Retirement System, unless the person has elected coverage by the individual
4.2 retirement account plan under chapter 354B;

4.3 (10) the clerk of the appellate courts appointed under article VI, section 2, of the
4.4 Constitution of the state of Minnesota, the state court administrator and judicial district
4.5 administrators;

4.6 (11) the chief executive officers of correctional facilities operated by the Department
4.7 of Corrections and of hospitals and nursing homes operated by the Department of Human
4.8 Services;

4.9 (12) an employee whose principal employment is at the state ceremonial house;

4.10 (13) an employee of the Agricultural Utilization Research Institute;

4.11 (14) an employee of the State Lottery who is covered by the managerial plan
4.12 established under section 43A.18, subdivision 3;

4.13 (15) a judge who has exceeded the service credit limit in section 490.121,
4.14 subdivision 22;

4.15 (16) an employee of Enterprise Minnesota, Inc.;

4.16 (17) a person employed by the Minnesota State Colleges and Universities as faculty
4.17 or in an eligible unclassified administrative position as defined in section 354B.20,
4.18 subdivision 6, who was employed by the former state university or the former community
4.19 college system before May 1, 1995, and elected unclassified program coverage prior to
4.20 May 1, 1995; ~~and~~

4.21 (18) a person employed by the Minnesota State Colleges and Universities who
4.22 was employed in state service before July 1, 1995, who subsequently is employed in an
4.23 eligible unclassified administrative position as defined in section 354B.20, subdivision 6,
4.24 and who elects coverage by the unclassified program; and

4.25 (19) a person with regular retirement coverage by a defined benefit retirement
4.26 plan who receives irregular compensation as defined in section 356.307 with respect
4.27 to the employee or member contribution and employer contribution on that irregular
4.28 compensation.

4.29 Sec. 4. Minnesota Statutes 2010, section 352D.02, is amended by adding a subdivision
4.30 to read:

4.31 Subd. 7. Coverage for irregular compensation. (a) A person referenced in
4.32 subdivision 1, paragraph (c), clause (19), is a participant in the unclassified program by
4.33 virtue of the receipt of irregular compensation as defined in section 356.307 and the
4.34 transmission of employee or member contributions and employer contributions with

5.1 respect to that irregular compensation to the program for the purchase of shares in the
 5.2 Minnesota supplemental investment fund.

5.3 (b) The chief administrative officer of the defined benefit retirement plan that
 5.4 provides the primary defined benefit retirement coverage shall transmit the employee or
 5.5 member and employer contributions associated with the irregular compensation within
 5.6 five business days of receipt.

5.7 (c) A person covered by the unclassified program under subdivision 1, paragraph
 5.8 (c), clause (19), and this subdivision is not eligible for a transfer of unclassified program
 5.9 coverage to the general state employees retirement plan under subdivision 3.

5.10 Sec. 5. Minnesota Statutes 2010, section 352D.04, subdivision 2, is amended to read:

5.11 Subd. 2. **Contribution rates.** (a) The money used to purchase shares under this
 5.12 section is the employee and employer contributions provided in this subdivision.

5.13 (b) The employee contribution is an amount equal to the percent of salary specified
 5.14 in section 352.04, subdivision 2, or 352.045, subdivision 3.

5.15 (c) The employer contribution is an amount equal to six percent of salary.

5.16 (d) For members of the legislature, the contributions under this subdivision also must
 5.17 be made on per diem payments received during a regular or special legislative session, but
 5.18 may not be made on per diem payments received outside of a regular or special legislative
 5.19 session, on the additional compensation attributable to a leadership position under section
 5.20 3.099, subdivision 3, living expense payments under section 3.101, or special session
 5.21 living expense payments under section 3.103.

5.22 (e) For a judge who is a member of the unclassified plan under section 352D.02,
 5.23 subdivision 1, paragraph (c), clause (16), the employee contribution rate is eight percent
 5.24 of salary, and there is no employer contribution.

5.25 (f) For a person covered by the unclassified program under section 352D.02,
 5.26 subdivision 1, paragraph (c), clause (19), the employee contribution is an amount equal
 5.27 to the percent of the irregular compensation as defined in section 356.307 that is the
 5.28 employee or member contribution rate applicable to the person's defined benefit retirement
 5.29 plan coverage, and the employer contribution is an amount equal to the percent of the
 5.30 irregular compensation as defined in section 356.307 that is the employer contribution rate
 5.31 applicable to the person's defined benefit retirement plan coverage.

5.32 (g) These contributions must be made in the manner provided in section 352.04,
 5.33 subdivisions 4, 5, and 6.

5.34 Sec. 6. Minnesota Statutes 2010, section 353.01, subdivision 10, is amended to read:

6.1 Subd. 10. **Salary.** (a) Subject to the limitations of section 356.611, "salary" means:

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

6.5 (2) for a public employee who is covered by a supplemental retirement plan under
6.6 section 356.24, subdivision 1, clause (8), (9), or (10), which require all plan contributions
6.7 be made by the employer, the contribution to the applicable supplemental retirement plan
6.8 when an agreement between the parties establishes that the contribution will either result
6.9 in a mandatory reduction of employees' wages through payroll withholdings, or be made
6.10 in lieu of an amount that would otherwise be paid as wages; and

6.11 (3) for a public employee who has prior service covered by a local police or
6.12 firefighters relief association that has consolidated with the Public Employees Retirement
6.13 Association or to which section 353.665 applies and who has elected coverage either
6.14 under the public employees police and fire fund benefit plan under section 353A.08
6.15 following the consolidation or under section 353.665, subdivision 4, the rate of salary
6.16 upon which member contributions to the special fund of the relief association were made
6.17 prior to the effective date of the consolidation as specified by law and by bylaw provisions
6.18 governing the relief association on the date of the initiation of the consolidation procedure
6.19 and the actual periodic compensation of the public employee after the effective date of
6.20 consolidation.

6.21 (b) Salary does not mean:

6.22 (1) the fees paid to district court reporters, unused annual vacation or sick leave
6.23 payments, in lump-sum or periodic payments, severance payments, reimbursement of
6.24 expenses, lump-sum settlements not attached to a specific earnings period, or workers'
6.25 compensation payments;

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

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

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

7.1 (ii) makes the employee solely responsible for all contributions toward the cost of
 7.2 the employee's selected insurance coverages under a group plan offered by the employer,
 7.3 including any amount the employer makes toward other employees' selected insurance
 7.4 coverages under a group plan offered by the employer; and

7.5 (iii) provides increased salary rates for employees who do not have any
 7.6 employer-paid group insurance coverages;

7.7 (4) except as provided in section 353.86 or 353.87, compensation of any kind paid to
 7.8 volunteer ambulance service personnel or volunteer firefighters, as defined in subdivision
 7.9 35 or 36;

7.10 (5) the amount of compensation that exceeds the limitation provided in section
 7.11 356.611; ~~and~~

7.12 (6) amounts paid by a federal or state grant for which the grant specifically
 7.13 prohibits grant proceeds from being used to make pension plan contributions, unless the
 7.14 contributions to the plan are made from sources other than the federal or state grant; and

7.15 (7) for members of the general employees retirement plan and the local government
 7.16 correctional retirement plan, the amount of irregular compensation as defined in
 7.17 section 356.307 on which employee and employer contributions were transmitted to
 7.18 the unclassified state employees retirement program as provided in section 352D.02,
 7.19 subdivision 7.

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

7.24 Sec. 7. Minnesota Statutes 2010, section 353.27, subdivision 4, is amended to read:

7.25 Subd. 4. **Employer reporting requirements; contributions; member status.**

7.26 (a) A representative authorized by the head of each department shall deduct employee
 7.27 contributions from the salary of each public employee who qualifies for membership in
 7.28 the general employees retirement plan of the Public Employees Retirement Association
 7.29 or in the public employees police and fire retirement plan under this chapter or chapter
 7.30 353D or 353E at the rate under section 353.27, 353.65, 353D.03, or 353E.03, whichever
 7.31 is applicable, that is in effect on the date the salary is paid. The employer representative
 7.32 must also remit payment in a manner prescribed by the executive director for the
 7.33 aggregate amount of the employee contributions and the required employer contributions
 7.34 to be received by the association within 14 calendar days after each pay date. If the
 7.35 payment is less than the amount required, the employer must pay the shortage amount to

8.1 the association and collect reimbursement of any employee contribution shortage paid
 8.2 on behalf of a member through subsequent payroll withholdings from the wages of the
 8.3 employee. Payment of shortages in employee contributions and associated employer
 8.4 contributions, if applicable, must include interest at the rate specified in section 353.28,
 8.5 subdivision 5, if not received within 30 days following the date the amount was initially
 8.6 due under this section.

8.7 (b) The head of each department or the person's designee shall submit for each
 8.8 pay period to the association a salary deduction report in the format prescribed by the
 8.9 executive director. The report must be received by the association within 14 calendar
 8.10 days after each pay date or the employer may be assessed a fine of \$5 per calendar day
 8.11 until the association receives the required data. Data required as part of salary deduction
 8.12 reporting must include, but are not limited to:

8.13 (1) the legal names and Social Security numbers of employees who are members;

8.14 (2) the amount of each employee's salary deduction;

8.15 (3) the total amount of compensation;

8.16 (4) the amount of salary defined in section 353.01, subdivision 10, earned in the
 8.17 pay period from which each deduction was made and the salary amount earned by a
 8.18 reemployed annuitant under section 353.37, subdivision 1, or 353.371, subdivision 1, or
 8.19 by a disabled member under section 353.33, subdivision 7 or 7a;

8.20 (5) the amount of irregular compensation;

8.21 ~~(4)~~ (6) the beginning and ending dates of the payroll period covered and the date of
 8.22 actual payment; and

8.23 ~~(5)~~ (7) adjustments or corrections covering past pay periods as authorized by the
 8.24 executive director.

8.25 (c) Employers must furnish the data required for enrollment for each new or
 8.26 reinstated employee who qualifies for membership in the general employees retirement
 8.27 plan of the Public Employees Retirement Association or in the public employees police
 8.28 and fire retirement plan in the format prescribed by the executive director. The required
 8.29 enrollment data on new members must be submitted to the association prior to or
 8.30 concurrent with the submission of the initial employee salary deduction. Also, the
 8.31 employer shall report to the association all member employment status changes, such as
 8.32 leaves of absence, terminations, and death, and shall report the effective dates of those
 8.33 changes, on an ongoing basis for the payroll cycle in which they occur. If an employer
 8.34 fails to comply with the reporting requirements under this paragraph, the executive
 8.35 director may assess a fine of \$25 for each failure if the association staff has notified the

9.1 employer of the noncompliance and attempted to obtain the missing data or form from the
 9.2 employer for a period of more than three months.

9.3 (d) The employer shall furnish data, forms, and reports as may be required by
 9.4 the executive director for proper administration of the retirement system. Before
 9.5 implementing new or different computerized reporting requirements, the executive
 9.6 director shall give appropriate advance notice to governmental subdivisions to allow time
 9.7 for system modifications.

9.8 (e) Notwithstanding paragraph (a), the executive director may provide for less
 9.9 frequent reporting and payments for small employers.

9.10 (f) The executive director may establish reporting procedures and methods as
 9.11 required to review compliance by employers with the salary and contribution reporting
 9.12 requirements in this chapter. A review of the payroll records of a participating employer
 9.13 may be conducted by the association on a periodic basis or as a result of concerns known
 9.14 to exist within a governmental subdivision. An employer under review must extract
 9.15 requested data and provide records to the association after receiving reasonable advanced
 9.16 notice. Failure to provide requested information or materials will result in the employer
 9.17 being liable to the association for any expenses associated with a field audit, which may
 9.18 include staff salaries, administrative expenses, and travel expenses.

9.19 Sec. 8. Minnesota Statutes 2010, section 354.05, subdivision 35, is amended to read:

9.20 Subd. 35. **Salary.** (a) Subject to the limitations of section 356.611, "salary"
 9.21 means the periodic compensation, upon which member contributions are required before
 9.22 deductions for deferred compensation, supplemental retirement plans, or other voluntary
 9.23 salary reduction programs.

9.24 (b) "Salary" does not mean:

9.25 (1) lump-sum annual leave payments;

9.26 (2) lump-sum wellness and sick leave payments;

9.27 (3) employer-paid amounts used by an employee toward the cost of insurance
 9.28 coverage, employer-paid fringe benefits, flexible spending accounts, cafeteria plans, health
 9.29 care expense accounts, day care expenses, or any payments in lieu of any employer-paid
 9.30 group insurance coverage, including the difference between single and family rates that
 9.31 may be paid to a member with single coverage and certain amounts determined by the
 9.32 executive director to be ineligible;

9.33 (4) any form of payment made in lieu of any other employer-paid fringe benefit or
 9.34 expense;

9.35 (5) any form of severance payments;

- 10.1 (6) workers' compensation payments;
- 10.2 (7) disability insurance payments, including self-insured disability payments;
- 10.3 (8) payments to school principals and all other administrators for services that are
- 10.4 in addition to the normal work year contract if these additional services are performed
- 10.5 on an extended duty day, Saturday, Sunday, holiday, annual leave day, sick leave day, or
- 10.6 any other nonduty day;
- 10.7 (9) payments under section 356.24, subdivision 1, clause (4); ~~and~~
- 10.8 (10) payments made under section 122A.40, subdivision 12, except for payments for
- 10.9 sick leave that are accumulated under the provisions of a uniform school district policy
- 10.10 that applies equally to all similarly situated persons in the district; and
- 10.11 (11) amounts of irregular compensation as defined in section 356.307 on which
- 10.12 employee and employer contributions were transmitted to the unclassified state employees
- 10.13 retirement program as provided in section 352D.02, subdivision 7.
- 10.14 (c) Amounts provided to an employee by the employer through a grievance
- 10.15 proceeding or a legal settlement are salary only if the settlement is reviewed by the
- 10.16 executive director and the amounts are determined by the executive director to be
- 10.17 consistent with paragraph (a) and prior determinations.

10.18 Sec. 9. Minnesota Statutes 2010, section 354.52, subdivision 4b, is amended to read:

10.19 Subd. 4b. **Payroll cycle reporting requirements.** An employing unit shall provide

10.20 the following data to the association for payroll warrants on an ongoing basis within 14

10.21 calendar days after the date of the payroll warrant in a format prescribed by the executive

10.22 director:

- 10.23 (1) association member number;
- 10.24 (2) employer-assigned employee number;
- 10.25 (3) Social Security number;
- 10.26 (4) amount of each salary deduction;
- 10.27 (5) amount of total compensation;
- 10.28 (6) amount of salary as defined in section 354.05, subdivision 35, from which each
- 10.29 deduction was made;
- 10.30 (7) amount of irregular compensation;
- 10.31 ~~(6)~~ (8) reason for payment;
- 10.32 ~~(7)~~ (9) service credit;
- 10.33 ~~(8)~~ (10) the beginning and ending dates of the payroll period covered and the date
- 10.34 of actual payment;
- 10.35 ~~(9)~~ (11) fiscal year of salary earnings;

- 11.1 ~~(10)~~ (12) total remittance amount including employee, employer, and additional
 11.2 employer contributions;
 11.3 ~~(11)~~ (13) reemployed annuitant salary under section 354.44, subdivision 5; and
 11.4 ~~(12)~~ (14) other information as may be required by the executive director.

11.5 Sec. 10. Minnesota Statutes 2010, section 354A.011, subdivision 24, is amended to
 11.6 read:

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

11.12 (b) "Salary" does not mean:

- 11.13 (1) lump-sum annual leave payments;
 11.14 (2) lump-sum wellness and sick leave payments;
 11.15 (3) employer-paid amounts used by an employee toward the cost of insurance
 11.16 coverage, employer-paid fringe benefits, flexible spending accounts, cafeteria plans, health
 11.17 care expense accounts, day care expenses, or any payments in lieu of any employer-paid
 11.18 group insurance coverage, including the difference between single and family rates that
 11.19 may be paid to a member with single coverage, and certain amounts determined by the
 11.20 executive secretary or director to be ineligible;
 11.21 (4) any form of payment that is made in lieu of any other employer-paid fringe
 11.22 benefit or expense;
 11.23 (5) any form of severance payments;
 11.24 (6) workers' compensation payments;
 11.25 (7) disability insurance payments, including self-insured disability payments;
 11.26 (8) payments to school principals and all other administrators for services that are
 11.27 in addition to the normal work year contract if these additional services are performed
 11.28 on an extended duty day, Saturday, Sunday, holiday, annual leave day, sick leave day, or
 11.29 any other nonduty day;
 11.30 (9) payments under section 356.24, subdivision 1, clause (4)(ii); ~~and~~
 11.31 (10) payments made under section 122A.40, subdivision 12, except for payments for
 11.32 sick leave that are accumulated under the provisions of a uniform school district policy
 11.33 that applies equally to all similarly situated persons in the district; and

12.1 (11) amounts of irregular compensation as defined in section 356.307 on which
 12.2 employee and employer contributions were transmitted to the unclassified state employees
 12.3 retirement program as provided in section 352D.02, subdivision 7.

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

12.8 Sec. 11. Minnesota Statutes 2010, section 354A.12, subdivision 5, is amended to read:

12.9 Subd. 5. **Reporting and remittance requirements.** (a) Each employing unit shall
 12.10 provide to the appropriate teachers retirement fund association the following member
 12.11 data regarding all new or returning employees before the employee's first payroll date in
 12.12 a format approved by the executive secretary or director. Data changes and the dates of
 12.13 those changes must be reported to the association on an ongoing basis for the payroll cycle
 12.14 in which they occur. Data on the member includes:

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

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

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

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

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

12.26 (6) leaves of absence; and

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

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

12.31 (1) an association member number;

12.32 (2) employer-assigned employee number;

12.33 (3) Social Security number;

12.34 (4) amount of each salary deduction;

12.35 (5) amount of total compensation;

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

13.3 (7) amount of irregular compensation;

13.4 ~~(6)~~ (8) reason for payment;

13.5 ~~(7)~~ (9) service credit;

13.6 ~~(8)~~ (10) the beginning and ending dates of the payroll period covered and the date
 13.7 of actual payment;

13.8 ~~(9)~~ (11) fiscal year of salary earnings;

13.9 ~~(10)~~ (12) total remittance amount including employee, employer, and employer
 13.10 additional contributions; and

13.11 ~~(11)~~ (13) other information as may be required by the association.

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

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

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

13.27 Sec. 12. [356.307] IRREGULAR COMPENSATION.

13.28 Subdivision 1. Definition. For purposes of the defined benefit retirement plans
 13.29 listed in subdivision 2, "irregular compensation" means compensation paid for overtime
 13.30 services, shift differential, extracurricular services, extra duty services, uniform
 13.31 allowances, employment incentives, bonuses, payments in lieu of leave time, nonduty day
 13.32 services, recognition rewards, and payments in lieu of insurance coverage.

13.33 Subd. 2. Applicable retirement plans. The definition in subdivision 1 is applicable
 13.34 to the following defined benefit retirement plans:

14.1 (1) general state employees retirement plan of the Minnesota State Retirement

14.2 System;

14.3 (2) correctional state employees retirement plan of the Minnesota State Retirement

14.4 System;

14.5 (3) transportation department pilots retirement plan;

14.6 (4) military affairs department personnel retirement plan;

14.7 (5) state fire marshal division fire/arson investigator retirement plan;

14.8 (6) general employees retirement plan of the Public Employees Retirement

14.9 Association;

14.10 (7) local government correctional service retirement plan of the Public Employees

14.11 Retirement Association;

14.12 (8) Teachers Retirement Association;

14.13 (9) Duluth Teachers Retirement Fund Association;

14.14 (10) St. Paul Teachers Retirement Fund Association; and

14.15 (11) judges retirement plan.

14.16 Sec. 13. Minnesota Statutes 2010, section 490.121, is amended by adding a subdivision
14.17 to read:

14.18 Subd. 21g. **Salary.** "Salary" has the same meaning as the definition of the term in
14.19 section 352.01, subdivision 13.

14.20 Sec. 14. Minnesota Statutes 2010, section 490.124, is amended by adding a subdivision
14.21 to read:

14.22 Subd. 15. **Compensation and deduction amount requirements.** The state court
14.23 administrator shall comply with the compensation and deduction reporting requirements
14.24 of section 352.04, subdivision 4, paragraph (c).

14.25 Sec. 15. **EFFECTIVE DATE.**

14.26 Sections 1 to 14 are effective July 1, 2012, and apply to compensation paid and
14.27 deductions made beginning with the first full payroll period beginning after June 30, 2012.