



H.F. 31
(Mullery)

S.F. 31
(Metzen)

Executive Summary of Commission Staff Materials

Affected Pension Plan(s): Various plans covering public safety personnel, correctional employees, probation and parole officers, and judges

Relevant Provisions of Law: Minnesota Statutes, Sections 290.01, and 356.87

General Nature of Proposal: Federal and state income tax reduction for certain disabled or retired public safety personnel by authorizing deductions from annuities for health care and related insurance premiums

Date of Summary: March 27, 2007

Specific Proposed Changes

- Enables disabled and certain retired public safety personnel, correctional employees, probation and parole officers, and judges to obtain a \$3,000 reduction from income for federal tax purposes by authorizing health, accident, and long-term care insurance premiums to be deducted from annuities, and revises state law to provide similar treatment for state income taxes.

Policy Issues Raised by the Proposed Legislation

1. Need for change. If pension law (Section 356.87) is not revised to allow withholding of health care and related insurance premiums, individuals can not qualify for the federal tax treatment. Other provisions in the bills provide comparable treatment for state tax purposes.
2. Cost to the State General Fund due to tax law change.
3. Administrative cost implications for pension funds due to withholding and need to revise records when individuals change insurance companies.
4. Whether to revise bills to restrict eligible insurance providers to those that are licensed to do business in Minnesota and are regulated by Minnesota.

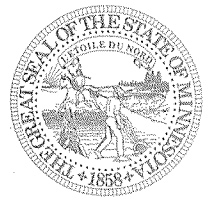
Potential Amendments

H0031-1A requires insurance companies to cover the cost of pension plan withholding, records maintenance, and transmission of insurance premiums.

H0031-2A authorizes pension administrations to recoup costs by charging the disabilitant or retiree a fee (alternative to H0031-1A).

H0031-3A authorizes pension administrations to recoup costs by charging the disabilitant or retiree a fee or by assessing the insurance company (alternative to H0031-1A or H0031-2A).

H0031-4A restricts eligible insurance companies to those that are regulated by the state and are licensed to do business in the state.



TO: Members of the Legislative Commission on Pensions and Retirement

FROM: Ed Burek, Deputy Director *EB*

RE: H.F. 31 (Mullery); S.F. 31 (Metzen): Various Public Pension Plans; Conforming to Federal Tax Rules of Public Safety Pensions; Authorizing Pension Funds to Withhold and Pay Insurance Premiums

DATE: March 24, 2007

Summary of H.F. 31 (Mullery); S.F. 31 (Metzen)

H.F. 31 (Mullery); S.F. 31 (Metzen) allows certain retired and disabled public safety officers to obtain a reduction from income for federal income tax purposes by authorizing public pension plans to deduct from the annuities (in amounts not to exceed \$3,000 annually) health, accident, and long-term care insurance premiums for direct transmission to an insurance provider, and by revising Minnesota income tax statutes to allow a comparable deduction for Minnesota income tax purposes.

Note: As of this writing, H.F. 31 (Mullery) was introduced and referred to the House Tax Committee. S.F. 31 (Metzen) was introduced and referred to the Senate State Government Operations and Oversight Committee. Because of the tax nature of this bill, it presumably would not be appropriate for inclusion in a pension omnibus bill. If the Legislative Commission on Pensions and Retirement decides to take any action on this bill because Section 3 involves administrative actions by pension plan administrations, the Commission might choose to separately refer its recommendations or comments to the House Tax and Senate State Government Operations and Oversight Committees.

Section-by-Section Summary of H.F. 31 (Mullery); S.F. 31 (Metzen)

Section 1 revises Section 290.01, Subdivision 19, the definition of "net income" for Minnesota income and franchise tax purposes, by including the impact on net income due to Section 845 of Public Law 109-28, the Pension Protection Act of 2006, for taxable years starting January 1, 2007. (Page 1, lines 6 to 22, page 2, lines 1 to 16).

Section 2 revises Section 290.01, Subdivision 31, the definition of Internal Revenue Code, to include revisions to that Code due to Pension Protection Act of 2006. (Page 2, lines 17 to 25).

Section 3 revises Section 356.87, a Public Employees Insurance Program (PEIP) withholding provision, by creating a new subdivision to allow Minnesota public pension plans to withhold health, accident, and long-term care insurance premiums from the annuities of certain retired and disabled public safety officers, and to transmit these premiums directly to the insurance provider so that those premiums, not to exceed \$3,000 annually, can be deducted from gross income for federal income tax purposes. (Page 2, lines 26 to 33, page 3, lines 1 to 36).

Interaction with Other Bills

Section 3 of H.F. 31 (Mullery); S.F. 31 (Metzen) is also included in the Public Employees Retirement Association (PERA) administrative bill, H.F. 889 (Murphy, M., by request); S.F. 296 (Betzold).

Discussion and Analysis

- a. Overview. This bill is an effort to implement a tax benefit allowed under Section 845 of Public Law 109-28, the Pension Protection Act of 2006. That provision would allow certain disabled and retired public safety officers to receive an exclusion from income for federal tax purposes of up to \$3,000 annually for amounts paid to health, accident, and long-term care insurance providers. That exclusion is only permitted if the amount is withheld from the person's annuity checks and transmitted directly by the pension fund administration to the insurance provider. Current law does not permit this withholding. The revision in Minnesota pension law (Section 3 of the bill, which is applicable to public pension plans in general) is being sought to permit Minnesota pension plans to withhold these insurance premiums. The first two sections of the bill would extend this tax treatment for these individuals to Minnesota income taxes.

- b. The Covered Group. The scope of retirees potentially covered is broad and not well defined in the federal law. Disagreements may arise regarding who is eligible for the treatment. Also, the policy justification for the scope of the eligible group is not apparent. The first requirement found in Section 845 of Public Law 109-28, the Pension Protection Act of 2006 is that the individual, while working, must meet the definition of "public safety officer" as specified in the federal law. This definition is broad. In the provision a "public safety officer" is defined as "an individual serving a public agency in an official capacity, with or without compensation, as a law enforcement officer, as a firefighter, as a chaplain, or as a member of a rescue squad or ambulance crew." In turn, "law enforcement officer" is defined as "an individual involved in crime and juvenile delinquency control or reduction, or enforcement of the laws, including, but not limited to, police, corrections, probation, parole, and judicial officers." Thus, individuals from a wide range of Minnesota public plans could be impacted, including some disabilitants and retirees from state and local plans covering police officers, ambulance personnel, firefighters (paid fire plans, and volunteer fire plans that pay monthly benefits), the Correctional State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-Correctional) and the Local Government Correctional Employees Retirement Plan of the Public Employees Retirement Association (PERA-Correctional), general employee plans providing coverage to probation and parole officers and correctional employees not covered by correctional plans (including some teachers), and plans covering judges and other court employees.

The second eligibility requirement under the Pension Protection Act of 2006 is that the public safety officer must be a disabilitant or a retiree who retired at normal retirement age. It is my understanding that MSRS and PERA administrators also interpret the federal law as requiring that there be no delay or deferral period prior to receipt of the annuity. Thus, an individual who retired from a public safety plan but initially deferred the benefit is not eligible for the favorable tax treatment. A public safety retiree who retired under early retirement provisions is not eligible because the retirement did not occur at normal retirement age. An individual who provided decades of public safety service but took an early retirement is not eligible for the treatment, but a short-service individual who retired at normal retirement age would be eligible. Also, it seems that a non-duty disabilitant who meets the public safety officer definition would be eligible for the favorable tax treatment.

It seems likely that this federal law provision will be revised in future years, both the provision's scope of coverage and the transfer requirements.

c. Policy Issues.

1. Need for Change. The issue is whether there is sufficient need for the bill. If Section 3 is not enacted, pension plans generally will not be able to withhold these insurance premium amounts, and thus the individuals will not be eligible for the favorable tax treatment authorized under federal law. Without sections 1 and 2 of the bill, comparable treatment would not occur for purposes of Minnesota income tax.
2. Cost to the State General Fund. The provisions of the bill that would extend the proposed treatment to Minnesota income taxes will reduce state tax revenues. The amount of the reduction will depend upon the number of plans and individuals deemed to be covered, the tax bracket of the individuals, and the percent of eligible individuals who actually claim the deduction on their income tax returns. Presumably, Tax Committee of Finance Committee staff, with information obtained from pension plan administrators regarding who is eligible, can provide a cost estimate.
3. Pension Plan Cost and Expenses, and Question of Reimbursement. The gross amount of an individual's annual annuity is unchanged by this proposal, but the pension funds will face some administrative expenses. Plan administrators must identify individuals who can qualify under these provisions and contact the individuals to determine if they want amounts to be withheld, determine which insurance companies are eligible to receive the premiums, alter manual and computerized procedures to make the deductions and transmit these deductions to applicable insurance companies, and maintain current data. Records must be created or revised whenever new retirees and disabilitants become eligible, and whenever individuals change insurance providers.

MSRS and PERA plan administrators have stated that these costs are not significant and they do not see a need for any bill language to require insurance companies to reimburse the plan for its administrative costs. They may also be concerned that if an insurance company had to cover the cost of withholding and transmission, the company might decline to accept the transfers. However, the existing law provision, which currently covers only the Public Employees Insurance Plan (PEIP), does include language requiring PEIP to reimburse public pension funds for the cost

of withholding and transmitting amounts to PEIP (see page 2, line 28 through page 3, line 3, particularly page 3, lines 1 to 3). As drafted, the new withholding proposed for certain public safety retirees will not have a similar reimbursement requirement.

The Commission may wish to consider that many plan administrations other than PERA and MSRS would be impacted by the proposed legislation, including local paid plans and possibly volunteer fire which pay monthly benefits. The position of the administrators of these other plans on the reimbursement question is not known.

4. Insurance Provider Issues. The issue is whether the approved insurance provider language should be more restrictive. As drafted, virtually any insurance provider can be eligible. There is no requirement that the company be licensed to do business in Minnesota or be subject to Minnesota state regulation. The MSRS and PERA administrators support the broad requirements as drafted because the retiree may not live in Minnesota or even in this country. The bill is consistent with an intention solely to create a withholding provision which enables the applicable public safety retirees to qualify for the federal tax treatment, and that the retiree should be allowed to select insurance providers to receive the premiums without any filtering or restricting of options by the state. If you conclude that some further restriction would be appropriate, to reduce the chance of retirees selecting inferior insurance products or products of less reputable companies, then you may wish to consider an amendment to require that eligible companies be regulated by the state and licensed to do business here.

Potential Amendments

a. Substantive Amendments:

Amendment H0031-1A would require insurance companies to cover the pension plan's administrative cost related to the record maintenance, withholding, and transmission of the premiums.

Amendment H0031-2A, an alternative to H0031-1A, would specifically authorize the pension plan administration to recoup the administrative costs by recovering the cost from the annuitant rather than from the insurance company.

Amendment H0031-3A, an alternative to either of the above amendments, would require the pension fund administration to covers its cost by charging either the company or the annuitant.

Amendment H0031-4A could be used separately or with one of the previous amendments. Amendment H0031-4A would require that eligible companies be regulated by the state and be licensed to do business in Minnesota.

b. Technical Amendment:

Amendment H0031-5A is a technical amendment to correct the citation to the federal law.

§ 3796b. Definitions*How Current is This?*

As used in this subchapter—

- (1) "catastrophic injury" means consequences of an injury that permanently prevent an individual from performing any gainful work;
- (2) "chaplain" includes any individual serving as an officially recognized or designated member of a legally organized volunteer fire department or legally organized police department, or an officially recognized or designated public employee of a legally organized fire or police department who was responding to a fire, rescue, or police emergency;
- (3) "child" means any natural, illegitimate, adopted, or posthumous child or stepchild of a deceased public safety officer who, at the time of the public safety officer's death, is—
- (i) 18 years of age or under;
 - (ii) over 18 years of age and a student as defined in section 8101 of title 5; or
 - (iii) over 18 years of age and incapable of self-support because of physical or mental disability;
- (4) "firefighter" includes an individual serving as an officially recognized or designated member of a legally organized volunteer fire department and an officially recognized or designated public employee member of a rescue squad or ambulance crew;
- (5) "intoxication" means a disturbance of mental or physical faculties resulting from the introduction of alcohol into the body as evidenced by—
- (i) a post-mortem blood alcohol level of .20 per centum or greater; or
 - (ii) a post-mortem blood alcohol level of at least .10 per centum but less than .20 per centum unless the Bureau receives convincing evidence that the public safety officer was not acting in an intoxicated manner immediately prior to his death;
- or resulting from drugs or other substances in the body;
- (6) "law enforcement officer" means an individual involved in crime and juvenile delinquency control or reduction, or enforcement of the laws, including, but not limited to, police, corrections, probation, parole, and judicial officers;
- (7) "public agency" means the United States, any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Commonwealth of the Northern Mariana Islands, and any territory or possession of the United States, or any unit of local government, department, agency, or instrumentality of any of the foregoing; and
- (8) "public safety officer" means—
- (A) an individual serving a public agency in an official capacity, with or without compensation, as a law enforcement officer, as a firefighter, as a chaplain, or as a member of a rescue squad or ambulance crew;
 - (B) an employee of the Federal Emergency Management Agency who is performing official duties of the Agency in an area, if those official duties—
 - (i) are related to a major disaster or emergency that has been, or is later, declared to exist with respect to the area under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.); and
 - (ii) are determined by the Director of the Federal Emergency Management Agency to be hazardous duties; or
 - (C) an employee of a State, local, or tribal emergency management or civil defense agency who is performing official duties in cooperation with the Federal Emergency Management Agency in an area, if those official duties—
 - (i) are related to a major disaster or emergency that has been, or is later, declared to exist with respect to the area under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.); and
 - (ii) are determined by the head of the agency to be hazardous duties.

H.R.4

Pension Protection Act of 2006 (Enrolled as Agreed to or Passed by Both House and Senate)

SEC. 845. DISTRIBUTIONS FROM GOVERNMENTAL RETIREMENT PLANS FOR HEALTH AND LONG-TERM CARE INSURANCE FOR PUBLIC SAFETY OFFICERS.

(a) In General- Section 402 of the Internal Revenue Code of 1986 (relating to taxability of beneficiary of employees' trust) is amended by adding at the end the following new subsection:

(l) Distributions From Governmental Plans for Health and Long-Term Care Insurance-

(1) IN GENERAL- In the case of an employee who is an eligible retired public safety officer who makes the election described in paragraph (6) with respect to any taxable year of such employee, gross income of such employee for such taxable year does not include any distribution from an eligible retirement plan to the extent that the aggregate amount of such distributions does not exceed the amount paid by such employee for qualified health insurance premiums of the employee, his spouse, or dependents (as defined in section 152) for such taxable year.

(2) LIMITATION- The amount which may be excluded from gross income for the taxable year by reason of paragraph (1) shall not exceed \$3,000.

(3) DISTRIBUTIONS MUST OTHERWISE BE INCLUDIBLE-

(A) IN GENERAL- An amount shall be treated as a distribution for purposes of paragraph (1) only to the extent that such amount would be includible in gross income without regard to paragraph (1).

(B) APPLICATION OF SECTION 72- Notwithstanding section 72, in determining the extent to which an amount is treated as a distribution for purposes of subparagraph (A), the aggregate amounts distributed from an eligible retirement plan in a taxable year (up to the amount excluded under paragraph (1)) shall be treated as includible in gross income (without regard to subparagraph (A)) to the extent that such amount does not exceed the aggregate amount which would have been so includible if all amounts distributed from all eligible retirement plans were treated as 1 contract for purposes of determining the inclusion of such distribution under section 72. Proper adjustments shall be made in applying section 72 to other distributions in such taxable year and subsequent taxable years.

(4) DEFINITIONS- For purposes of this subsection--

(A) ELIGIBLE RETIREMENT PLAN- For purposes of paragraph (1), the term 'eligible retirement plan' means a governmental plan (within the meaning of section 414(d)) which is described in clause (iii), (iv), (v), or (vi) of subsection (c)(8)(B).

(B) ELIGIBLE RETIRED PUBLIC SAFETY OFFICER- The term 'eligible retired public safety officer' means an individual who, by reason of disability or attainment of normal retirement age, is separated from service as a public safety officer with the employer who maintains the eligible retirement plan from which distributions subject to paragraph (1) are made.

(C) PUBLIC SAFETY OFFICER- The term 'public safety officer' shall have the same meaning given such term by section 1204(9)(A) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b(9)(A)).

(D) QUALIFIED HEALTH INSURANCE PREMIUMS- The term 'qualified health insurance premiums' means premiums for coverage for the eligible retired public safety officer, his spouse, and dependents, by an accident or health insurance plan or qualified long-term care insurance contract (as defined in section 7702B(b)).

(5) SPECIAL RULES- For purposes of this subsection--

(A) DIRECT PAYMENT TO INSURER REQUIRED- Paragraph (1) shall only apply to a distribution if payment of the premiums is made directly to the provider of the accident or health insurance plan or qualified long-term care insurance contract by deduction from a distribution from the eligible retirement plan.

(B) RELATED PLANS TREATED AS 1- All eligible retirement plans of an employer shall be treated as a single plan.

(6) ELECTION DESCRIBED-

(A) IN GENERAL- For purposes of paragraph (1), an election is described in this paragraph if the election is made by an employee after separation from service with respect to amounts not distributed from an eligible retirement plan to have amounts from such plan distributed in order to pay for qualified health insurance premiums.

(B) SPECIAL RULE- A plan shall not be treated as violating the requirements of section 401, or as engaging in a prohibited transaction for purposes of section 503(b), merely because it provides for an election with respect to amounts that are otherwise distributable under the plan or merely because of a distribution made pursuant to an election described in subparagraph (A).

(7) COORDINATION WITH MEDICAL EXPENSE DEDUCTION- The amounts excluded from gross income under paragraph (1) shall not be taken into account under section 213.

(8) COORDINATION WITH DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS- The amounts excluded from gross income under paragraph (1) shall not be taken into account under section 162(l).

(b) Conforming Amendments-

(1) Section 403(a) of such Code (relating to taxability of beneficiary under a qualified annuity plan) is amended by inserting after paragraph (1) the following new paragraph:

“(2) SPECIAL RULE FOR HEALTH AND LONG-TERM CARE INSURANCE- To the extent provided in section 402(l), paragraph (1) shall not apply to the amount distributed under the contract which is otherwise includible in gross income under this subsection.”.

(2) Section 403(b) of such Code (relating to taxability of beneficiary under annuity purchased by section 501(c)(3) organization or public school) is amended by inserting after paragraph (1) the following new paragraph:

“(2) SPECIAL RULE FOR HEALTH AND LONG-TERM CARE INSURANCE- To the extent provided in section 402(l), paragraph (1) shall not apply to the amount distributed under the contract which is otherwise includible in gross income under this subsection.”.

(3) Section 457(a) of such Code (relating to year of inclusion in gross income) is amended by adding at the end the following new paragraph:

“(3) SPECIAL RULE FOR HEALTH AND LONG-TERM CARE INSURANCE- In the case of a plan of an eligible employer described in subsection (e)(1)(A), to the extent provided in section 402(l), paragraph (1) shall not apply to amounts otherwise includible in gross income under this subsection.”.

(c) Effective Date- The amendments made by this section shall apply to distributions in taxable years beginning after December 31, 2006.

1.1 moves to amend H.F. No. 31; S.F. No. 31, as follows:

1.2 Page 3, after line 36, insert:

1.3 "(g) An approved insurance provider which receives premium amounts under this
1.4 section shall reimburse the applicable pension fund for administrative costs related to the
1.5 withholding and transfer."

1.1 moves to amend H.F. No. 31; S.F. No. 31, as follows:

1.2 Page 3, after line 36, insert:

1.3 "(g) The chief administrative officer of the pension fund shall assess a charge, to be
1.4 deducted from the monthly annuity, sufficient to recoup the administrative cost relating
1.5 to the withholding and transfer."

1.1 moves to amend H.F. No. 31; S.F. No. 31, as follows:

1.2 Page 3, after line 36, insert:

1.3 "(g) The chief administrative officer of the pension fund shall assess a charge, to be
1.4 deducted from the monthly annuity, sufficient to recoup the administrative cost relating to
1.5 the withholding and transfer, or to be paid by the applicable approved insurance provider."

1.1 moves to amend H.F. No. 31; S.F. No. 31, as follows:

1.2 Page 3, line 25, delete "any regulated, licensed" and insert: "an"

1.3 Page 3, line 26, delete "a regulated, licensed" and insert: "an"

1.4 Page 3, after line 29, insert:

1.5 "Any approved insurance provider under this paragraph must be licensed to
1.6 do business in Minnesota and approved for the applicable insurance product by the
1.7 commissioner of commerce."

- 1.1 moves to amend H.F. No. 31; S.F. No. 31, as follows:
- 1.2 Page 2, lines 11 and 22, delete "485" and insert "845"
- 1.3 Page 3, line 23, after "in" insert "section 845 of Public Law 109-28," and after "2006" delete ", section 845"
- 1.4

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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH
SESSION

HOUSE FILE No. 31

January 8, 2007

Authored by Mullery and Kahn

The bill was read for the first time and referred to the Committee on Taxes

1.1 A bill for an act
1.2 relating to taxation; conforming to federal tax rules for public safety retiree
1.3 pensions; authorizing pension funds to withhold and pay insurance premiums;
1.4 amending Minnesota Statutes 2006, sections 290.01, subdivisions 19, 31; 356.87.

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

1.6 Section 1. Minnesota Statutes 2006, section 290.01, subdivision 19, is amended to read:

1.7 Subd. 19. **Net income.** The term "net income" means the federal taxable income,
1.8 as defined in section 63 of the Internal Revenue Code of 1986, as amended through the
1.9 date named in this subdivision, incorporating the federal effective dates of changes to the
1.10 Internal Revenue Code and any elections made by the taxpayer in accordance with the
1.11 Internal Revenue Code in determining federal taxable income for federal income tax
1.12 purposes, and with the modifications provided in subdivisions 19a to 19f.

1.13 In the case of a regulated investment company or a fund thereof, as defined in section
1.14 851(a) or 851(g) of the Internal Revenue Code, federal taxable income means investment
1.15 company taxable income as defined in section 852(b)(2) of the Internal Revenue Code,
1.16 except that:

1.17 (1) the exclusion of net capital gain provided in section 852(b)(2)(A) of the Internal
1.18 Revenue Code does not apply;

1.19 (2) the deduction for dividends paid under section 852(b)(2)(D) of the Internal
1.20 Revenue Code must be applied by allowing a deduction for capital gain dividends and
1.21 exempt-interest dividends as defined in sections 852(b)(3)(C) and 852(b)(5) of the Internal
1.22 Revenue Code; and

2.1 (3) the deduction for dividends paid must also be applied in the amount of any
 2.2 undistributed capital gains which the regulated investment company elects to have treated
 2.3 as provided in section 852(b)(3)(D) of the Internal Revenue Code.

2.4 The net income of a real estate investment trust as defined and limited by section
 2.5 856(a), (b), and (c) of the Internal Revenue Code means the real estate investment trust
 2.6 taxable income as defined in section 857(b)(2) of the Internal Revenue Code.

2.7 The net income of a designated settlement fund as defined in section 468B(d) of
 2.8 the Internal Revenue Code means the gross income as defined in section 468B(b) of the
 2.9 Internal Revenue Code.

2.10 The Internal Revenue Code of 1986, as amended through May 18, 2006, shall be
 2.11 in effect for taxable years beginning after December 31, 1996, and section 485 of Public
 2.12 Law 109-28, the Pension Protection Act of 2006, is in effect for taxable years beginning
 2.13 after December 31, 2006.

2.14 Except as otherwise provided, references to the Internal Revenue Code in
 2.15 subdivisions 19 to 19f mean the code in effect for purposes of determining net income for
 2.16 the applicable year.

2.17 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
 2.18 December 31, 2006.

2.19 Sec. 2. Minnesota Statutes 2006, section 290.01, subdivision 31, is amended to read:

2.20 Subd. 31. **Internal Revenue Code.** Unless specifically defined otherwise, "Internal
 2.21 Revenue Code" means the Internal Revenue Code of 1986, as amended through May 18,
 2.22 2006, and as amended by section 485 of Public Law 109-28, the Pension Protection Act
 2.23 of 2006.

2.24 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
 2.25 December 31, 2006.

2.26 Sec. 3. Minnesota Statutes 2006, section 356.87, is amended to read:

2.27 **356.87 HEALTH INSURANCE WITHHOLDING.**

2.28 **Subdivision. 1. Public employees insurance program withholding.** (a) Upon
 2.29 authorization of a person entitled to receive a retirement annuity, disability benefit or
 2.30 survivor benefit, the executive director of a public pension fund enumerated in section
 2.31 356.20, subdivision 2, shall withhold health insurance premium amounts from the
 2.32 retirement annuity, disability benefit or survivor benefit, and shall pay the premium
 2.33 amounts to the public employees insurance program.

3.1 (b) The public employees insurance program shall reimburse a public pension fund
3.2 for the administrative expense of withholding the premium amounts and shall assume
3.3 liability for the failure of a public pension fund to properly withhold the premium amounts.

3.4 Subd. 2. Public safety retiree insurance withholding. (a) For purposes of this
3.5 subdivision, "governing board" means the governing board or body that has been assigned
3.6 the chief policy-making powers and management duties of the applicable pension plan.

3.7 (b) For a pension plan covered under section 356.20, subdivision 2, that provides
3.8 monthly annuity payments, the governing board may direct the plan's chief administrative
3.9 officer to withhold health, accident, and long-term care insurance premiums from the
3.10 retirement annuity or disability benefit and to transmit the amount to an approved
3.11 insurance provider specified by the eligible person. A governing board which agrees
3.12 to participate may revise or revoke that decision at a later date if the board provides
3.13 reasonable notice to the applicable parties.

3.14 (c) An eligible person is a person who:

3.15 (1) is a retiree or disabilitant from a participating plan;

3.16 (2) was a public safety officer as defined in United States Code, title 42, section
3.17 3796b;

3.18 (3) terminated service as a public safety officer due to disability or attainment
3.19 of normal retirement age and commences receipt of an annuity without any period of
3.20 deferral; and

3.21 (4) satisfies any other requirements to have all or a portion of the health, accident,
3.22 or long-term care insurance premiums excluded from income for taxation purposes, as
3.23 specified in the Pension Protection Act of 2006, section 845.

3.24 (d) An approved insurance provider is:

3.25 (1) any regulated, licensed insurance company;

3.26 (2) a fraternal or any other organization sponsoring a regulated, licensed insurance
3.27 program; or

3.28 (3) an employer-sponsored insurance program, whether directly through the
3.29 employer or a third-party administrator.

3.30 (e) An eligible person may elect to have the applicable plan administrator withhold
3.31 and transmit the insurance amounts described in paragraph (b). The eligible person
3.32 must make this election on a form prescribed by the chief administrative officer of the
3.33 applicable plan.

3.34 (f) A pension fund and the plan fiduciaries which authorize or administer
3.35 withholding of insurance premiums under this subdivision is not liable for failure to
3.36 properly withhold or transmit the premium amounts.

4.1 **EFFECTIVE DATE.** This section is effective January 1, 2007.