



TO: Members of the Legislative Commission on Pensions and Retirement  
FROM: Ed Burek, Deputy Director *EB*  
RE: H.F. 1139 (Murphy, M., by request); S.F. 629 (Betzold): MSRS Administrative Provisions  
DATE: March 1, 2007

General Summary of H.F. 1139 (Murphy, M., by request); S.F. 629 (Betzold)

H.F. 1139 (Murphy, M., by request); S.F. 629 (Betzold) makes accrual date revisions in the Legislators and Judges plans to make them consistent with other Minnesota State Retirement System (MSRS) plans; clarifies University of Minnesota employee coverage; permits General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General) coverage for incidental employment as state employees by teachers; revises interest payment requirements on authorized unpaid leaves of absence and requires full actuarial value payment if payment is not received within one year of the end of the leave; removes the death while active or deferred five-year, term-certain survivor option and removes the 75 percent of prior pay limit on those benefit amounts; clarifies applicable contribution rates on breaks in service to provide military service; clarifies the application of MSRS law to State Fire Marshal employees; adds an anti-garnishment provision to the health care savings account law; clarifies Unclassified Employees Retirement Program of the Minnesota State Retirement System (MSRS-Unclassified) coverage groups; authorizes transfers from MSRS-Unclassified to MSRS-General up to one month after termination of employment; removes all retroactivity to MSRS-Unclassified annuities; and revises the MSRS/Public Employees Retirement Association (PERA) combined payment provision.

Section-by-Section Summary and Analysis

Section 1 amends Minnesota Statutes, Section 3A.02, Subdivision 1, the Legislators Retirement Plan retirement qualification provision, by having the annuity accrue following the executive director's receipt of the application rather than beginning with the first day of the month of receipt of application; by removing obsolete language; and by clarifying that an unreduced retirement requires that the annuity commence no earlier than normal retirement age (currently age 62).

Section 1 can be considered to be the Legislators Retirement Plan normal retirement age provision. The proposed revision clarifies the provision and removes obsolete language, but one question is whether it also may slightly revise accrual dates.

Policy issues raised by Section 1 are:

1. Possible Delay in Accrual Date. While the new language seems to revise accrual dates, the change may not have any substantive impact. The existing law language (which is being stricken) states (page 2, lines 8-9) that the annuity accrues "beginning with the first day of the month" in which the application is received. That suggests that if the application is made on, for example, the 20<sup>th</sup> of the month, the annuity is retroactive to the first of the month. In contrast, the new language states that the annuity accrues "following receipt by the director." That suggests that if application is made on the 20<sup>th</sup> the annuity would now accrue on the 20<sup>th</sup> rather than retroactive to the first of the month, or possibly in practice it would commence on the first day of the following month. However, none of this may matter because of existing law language, page 2, lines 14-16, which allows annuities to be retroactive up to 180 days. Thus, under the existing law language and under the proposed language, it seems that the retiring legislator could have the annuity accrue at the beginning of the month in which the application is made, or even earlier, provided that on or before the specified accrual date the legislator had left the Legislature and satisfied applicable age and service requirements.
2. Consideration of Legislators Plan Early Retirement Provision Revision. **Amendment H1139-1A** could be used to also clarify the plan's early retirement provision, Section 3A.02, Subdivision 1b, to more clearly state the minimum early retirement age, which is age 55, and to remove obsolete language. Under existing law, that minimum early retirement age was described, but not specified, to be set by the MSRS board with a requirement that it not be earlier than the MSRS-General early retirement age. When the board implemented that provision several years ago, it set the Legislators Retirement Plan early retirement age equal to that of MSRS-General, which is age 55. This amendment can be used to insert age 55 in place of the process described in the law to set that age.

Section 2 amends Minnesota Statutes, Section 352.01, Subdivision 2a, the MSRS-General included employees provision, by removing obsolete language and by clarifying that MSRS coverage includes employees of the University of Minnesota unless excluded by action of the University Board of Regents.

MSRS proposes to remove from the included employee provision employees of the Disabled American Veterans and Veterans of Foreign Wars if employed before July 1, 1963, and employees of the Armory Building Commission. Also, MSRS would add a University of Minnesota reference. That proposed language is a mirror opposite of language currently in the MSRS excluded employee provision. That existing law language, which appears on page 4, lines 14 and 15, excludes from MSRS coverage any University of Minnesota employees excluded by the Board of Regents.

Section 3 amends Minnesota Statutes, Section 352.01, Subdivision 2b, the MSRS-General excluded employees provision, by moving language to more appropriate clauses; by clarifying that independent contractors are excluded regardless of the payment arrangement excluding interns hired for six months or less unless the individuals are eligible for an immediate appointment at the end of that period; by removing obsolete language related to the Comprehensive Employment and Training Act (CETA); and by permitting MSRS-General coverage for teachers for incidental employment as a state employee not covered by one of the teacher retirement associations.

Policy issues raised by Section 3 are:

1. Implications of Intern Language. The Commission may wish to have testimony from MSRS regarding the proposed language for interns to determine whether this is a substantive change which could create harm, or whether it amounts simply to clarification. (On page 5, lines 18 to 19, MSRS is adding a statement that formally excludes from coverage "interns hired for six months or less" unless the individuals are eligible for immediate appointment to a permanent position at the end of the intern period.) The new language may be intended as clarification that interns are another name for or are equivalent to "trainee employees" who are already excluded from coverage unless they qualify for immediate appointment at the end of that period.

**Amendment H1139-2A** would remove the proposed intern language.

2. Implications of Expanding Coverage to Include Certain Incidental Employment by Teachers. The language on page 5, lines 28 and 29, would allow certain teachers who are receiving a full year of service and salary credit in a teacher pension plan to be covered by MSRS-General for incidental employment as a state employee not covered by a teacher plan. An example provided by MSRS is that of a teacher who has a full year of coverage by the applicable teacher plan due to teaching service provided during the school year, and who is employed in the summer as a groundskeeper or maintenance worker at a state university. This secondary employment is state employment that would ordinarily qualify the individual for MSRS-General coverage, but existing law prohibits that coverage because of language (page 5, lines 25 to 27) excluding the individual due to the full year of teacher plan coverage.

The most likely justification for the existing law language is to prohibit double coverage. Under that existing language, state employees who are teachers and who are covered for that teaching employment by a teacher plan cannot also be covered for that same employment by MSRS-General. However, it is unclear the extent to which the existing law language reflects an intended legislative policy regarding incidental state employment situations by teachers.

Under existing law, a teacher who provides some additional employment beyond that necessary to qualify for a full year of service in the teacher plan will be treated differently for pension purposes depending upon the nature of the incidental employer. If the additional employment is teaching summer school for the same school district or another district covered by the plan, the additional salary would be included for pension purposes and would boost the eventual pension computation amount if it fell within the highest five salary years. However, if the supplemental employment was as a state employee in work not covered by the teacher plan, that employment would be uncovered. Under current law, MSRS is prohibited from providing coverage.

MSRS is proposing to allow MSRS-General coverage for that incidental employment situation. The outcome would be similar to having all employment covered by the teacher plan, except that the eventual total pension benefit would be the sum of benefits from two plans, the teacher plan and MSRS-General, rather than from one plan. Presumably, the Combined Service Annuity provision, Section 356.30, would be used, and the benefit would be based on the combined salary from both positions, assuming these years fell into the high-five years.

The proposed treatment seems consistent with permitted treatment under current PERA law. PERA's excluded employee provision, Section 353.01, Subdivision 2b, Clause (6), excludes from PERA coverage any individual required by law to be covered by another plan. However, that clause includes a statement that "this clause must not be construed to prevent a person from being a member of and contributing to the Public Employees Retirement Association and also belonging to and contributing to another public pension plan or fund for other service occurring during the same period of time."

The Commission may wish to consider whether to allow the MSRS proposed treatment. The proposal does seem consistent with treatment permitted under PERA law. However, the proposal will increase MSRS liabilities, and seems likely to impact teacher plans through the effect of combining salary for benefit computation purposes under the combined service annuity provision. The Commission may wish to hear testimony from TRA or other teacher plans regarding concerns they may have about this provision.

**Amendment H1139-3A** removes the proposed teacher supplemental employment provision.

Section 4 amends Minnesota Statutes, Section 352.01, Subdivision 11, the MSRS allowable service provision, by removing obsolete language related to pre-July 1, 1957, service; by moving language to new paragraphs; and by revising the authorized leave of absence clause by referencing a new payment procedure found in Section 5.

Section 5 proposes new language in the form of Minnesota Statutes, Section 352.02, the authorized leave of absence service credit purchase procedure. Members of MSRS plans covered by Chapter 352 who go on an authorized leave of absence without pay, not to exceed one year, and who want to obtain service credit, can purchase service credit for the leave period by making the contributions plus interest within one year of the end of the leave, or by paying full actuarial value thereafter.

The intention of the revised leave payment requirements in Sections 4 and 5 is to address flaws in the payment requirements for MSRS authorized leaves to better protect the pension fund. Under the leave provision as stated in current law, an individual may obtain service credit by paying the employee and employer contributions within one year of returning from the leave, without interest. If contributions are not made within that timeframe, they may be made any time prior to retirement with 8.5 percent interest (the predicted long-term investment return rate; i.e., the assumed actuarial rate of return).

The existing law arrangement harms a defined benefit pension fund. Any delay in receiving contributions shortchanges the pension fund by not receiving interest to compensate for the lost investment earnings. When contributions are delayed more than one year, the existing law provision does require interest, but the total payments can be far less than the value of the service credit received if there is a considerable delay in making payment.

To keep a pension fund whole when contributions are made shortly after returning from the leave, interest is needed. When delays are longer, it is best from the standpoint of the pension fund to not allow any service credit purchase. The next best alternative, when there is a long delay, is to require payment of full actuarial value. A full actuarial value payment is intended to equal the additional liability created in the fund by the purchase. Thus, the individual is neither penalized nor subsidized, and none of the true cost of the service credit purchase is shifted to other plan contributors. Any full actuarial value estimation method, however, must be accurate to provide the desired result. Allowing full actuarial value payments does place some risk on the pension fund – the risk that the payments will not be sufficient due to errors in the methodology and in the many assumptions used in the computation.

Although in recent decades the Commission has emphasized maintaining the financial health of the pension funds, the payment policy for leave of absence situations in pension plans is often deficient, because the Commission has not recently reviewed and revised those payment terms. Section 356B.05 requires pension plan administrators to adopt uniform proposals to address features of their defined benefit plans. One area where that law specifically requires the administrators to recommend uniform proposals to the Commission is leaves of absences. Although this administrative proposal mandate has been in the law since the mid-1990s, the administrators have yet to provide a proposal.

Attachment A provides a brief summary of payment terms for leave of absence provisions in the general employee plans, MSRS, PERA, TRA, and the first class city teacher plans. Measured against a goal of protecting the pension fund, many of the procedures are deficient, some considerably deficient. The attachment indicates that many plans have provisions allowing service credit for military leaves/breaks in

service. The federal government requires consistency of pension plan provisions with the Uniformed Services Employment and Reemployment Rights Act (USERRA). The military leaves/breaks in service provisions in Minnesota law are the result of legislation enacted in 2004 (Laws 2004, Chapter 267, Article 3) to make Minnesota plans compliant with USERRA. That federal-mandated compliance required some tradeoff against protecting to the fund. Under these provisions, individuals who went on a military leave from their Minnesota public employment or who had a break in that Minnesota public service to provide military service, can make employee contributions to the pension fund during a time period that is three times the length of the provided military service, but not less than one year or more than five years. If the employee makes the contribution, the employer is required to make the employer contributions. USERRA is generally interpreted as prohibiting charging the employee any interest. To limit the shortfall to the pension fund, the Legislature required the employer to cover the interest on the employee and employer contributions. Despite that interest requirement, because of the possible extended time periods, the actuarial value could exceed the payments made to the pension fund.

The plans also have service credit purchase for uncredited military service provisions. These are the last of the full actuarial value service credit purchase provisions enacted into law in the late 1990s and early 2000s covering various types of uncovered service. All provisions except those involving military service have expired. These provisions allow service credit purchases by individuals who performed military service before becoming public employees, or who had a break in public service but failed to take advantage in a timely manner of the more generous treatment under the military leaves/breaks in service provision discussed above. The purchase terms are full actuarial value and prior to retirement.

In non-military service situations, the PERA personal/parental/medical leave provisions protect the fund reasonably well. The provision requires payment of contributions plus interest within one year of the end of the leave, with payments not permitted after that date. An improvement might be to require interest from the midpoint of the leave. The PERA periodic/repetitive leave has similar requirements. The TRA sabbatical leave treatment is fiscally sound – the employee, who must receive a minimum of one-third salary while on the leave, will have full-time equivalent employee contributions deducted from pay, and the employer also transmits the corresponding employer contributions to the fund, so payment is received by the fund at the time that the service credit would be earned. Other TRA leave provisions are not fiscally sound, as they delay receipt of contributions until after the end of the leave and do not require interest. The TRA parental leave requires payment of contributions by the end of the fiscal year following the fiscal year in which the leave occurs, but without interest. The TRA family leave is similar. First class city teacher plan leave requirements tend to be similar to those of TRA. MSRS, rather than having several different leave provisions, has one, its general leave of absence provision. The provision is not fiscally sound – it permits payments to be made within one year of the leave without interest, or with 8.5 percent annual interest any time prior to retirement. The lack of interest in the year following the leave, and the lack of a full actuarial value requirement when payment is made many years later can harm the fund.

The last leave provision noted in Attachment A is a service credit for strike periods provision applicable to most plans, coded in Chapter 356. This provision represents the Commission's most recent work on leave of absence or similar provisions, and was enacted in 2005. To receive service credit for a strike period, the provision requires payment of employee and employer contributions plus interest within one year of the end of the strike, or a full actuarial value payment if made after one year and before five years of the end of the strike. Payments are not permitted after five years.

Policy issues raised by Sections 4 and 5 are:

1. Treatment of Current Leaves. The new payment procedure would apply to leaves commencing after the effective date. The issue is the whether the revision should apply to existing leaves.
2. Need for Change/Nature of Change. The issue is whether the revised MSRS authorized leave of absence payment procedure should be enacted. The revised procedure will better protect the pension fund by requiring interest on payments made within the year following the leave, and by requiring a full actuarial value payment thereafter.

**Amendment H1139-4A** removes the revised procedure, leaving the existing process unchanged.

**Amendment H1139-5A** keeps the proposed revised procedure but prohibits payments after five years (like the five-year requirement enacted in 2005 in the strike period service credit purchase provision) rather than allowing full actuarial value payments up to the time of retirement.

Another alternative is for the Commission to remind plan administrators of the requirement in law that they submit a uniform proposal to the Commission in an administrative bill, and to delay any

action until a future year when that more global proposal can be reviewed. An argument for not delaying is that the types of changes MSRS is proposing are likely to be part of any uniform approach that the Commission might adopt, and any delay will only prolong harm to the fund.

Section 6 revises Minnesota Statutes, Section 352.12, Subdivision 2a, the MSRS-General death while active or deferred surviving spouse term-certain provision, by striking the five-year term-certain option, and by striking the requirement that monthly payments not exceed 75 percent of the high-five monthly salary of the deceased employee.

MSRS notes that the five-year term-certain option in death while active or deferred cases is one that might be selected by a surviving spouse who is gravely ill with a very limited life expectancy. In recent years, MSRS and PERA have proposed removing the five-year term-certain annuity, in part because that option no longer qualifies for favorable tax treatment.

The proposal is to strike the five-year term-certain option and the requirement that payment not exceed 75 percent of the deceased member's high-five average salary. The Commission and the Legislature revised the comparable PERA provision in 2006 (Laws 2006, Chapter 271, Article 3, Section 24), but in a manner that differs from the MSRS proposal. PERA proposed to remove the five-year option but did not recommend removing the 75 percent cap on monthly payments. Consistent with the PERA's request, the 2006 Legislature removed the PERA five-year term-certain but left the 75 percent cap language in law. In written comments, MSRS contends that the 75 percent of high-five salary limit creates a hardship for some surviving spouses facing financial difficulty, and that the existing law language negatively impacts the survivors of a deceased long-service employee near retirement. The Commission may wish to consider that if the five-year option is removed, (which requires a large payout over a few-year period), it is less likely that the 75 percent of salary cap language will be problematic. That might be why PERA did not propose striking its 75 percent cap language in 2006.

The policy issue raised by Section 6 is:

1. Nature of the Change. The issue is whether to remove the MSRS five-year death while active or deferred term-certain survivor annuity option and the 75 percent of salary cap, or just the five-year term certain, or just the 75 percent cap, or neither. The Commission may wish to hear testimony from PERA about the 2006 legislation and from MSRS regarding why its proposal should differ from PERA law. In 2006, the Commission removed PERA's five-year term certain, but left the 75 percent cap.

**Amendment H1139-6A** removes section 6, leaving the provision unchanged.

**Amendment H1139-7A** removes the five-year term-certain option but leaves the 75 percent cap.

**Amendment H1139-8A** leaves the five-year term-certain option but removes the 75 percent cap.

Section 7 revises Minnesota Statutes, Section 352.27, the MSRS credit for break in service to provide uniformed service provision, by clarifying that the applicable contribution rates are those of the plan under Chapter 352 that provides the coverage. As discussed previously, this is a USERRA-compliant military leave/break-in-service provision enacted in 2004 and covering employees in the MSRS plans included in Chapter 352 (MSRS-General for most employees; MSRS-General with minor variations for certain Military Affairs employees, transportation pilots, and State Fire Marshal employees; and the Correctional Employees Retirement Plan of the Minnesota State Retirement System (MSRS-Correctional), all of which are defined benefit plans. The drafting is an effort to clarify that the applicable contribution rates are those in the chapter for the specific plan providing the coverage.

The policy issue raised by Section 7 is:

1. Lack of a Provision for Defined Contribution Plans. The proposed clarification of applicable contribution rates in this provision is not controversial. If there is a noticeable deficiency in military leave/break-in-service policy, it is the lack of any provision for USERRA-compliant military leave/break-in-service provisions for defined contribution plans. In 2004, the Legislature made the various defined benefit plan provisions USERRA-compliant, but did not address the question of what, if anything, should be done for defined contribution plans. The primary defined contribution plans are the Unclassified Employees Retirement Program of the Minnesota State Retirement System (MSRS-Unclassified), covering legislative employees, high-level officials in the Executive Branch, and many legislators; the PERA Defined Contribution Plan, covering local government officials, some public employee physicians, city managers, St. Paul Port Authority employees, and emergency rescue personnel; and the various individual retirement account plans (IRAP, for higher education employees, the Arts Board, Humanities Commission, and Minnesota Historical Society).

MSRS contends that it would interpret the military leave/break-in-service provision in Chapter 352 (Section 352.27) as being applicable to MSRS-Unclassified. This is based on a statement in Section 352D.09, Subdivision 1, which indicates that provisions of Chapter 352 apply not inconsistent with Chapter 352D. The problem is that the Section 352.27 military leave/break-in-service provision is intended for a defined benefit plan and does not well fit a defined contribution situation. Under Section 352.27, an individual is making contributions to obtain service credit, but service credit has little meaning in a defined contribution plan. The benefit provided by a defined contribution plan is the annuity that can be supported by the account's value at the time of retirement, which has no direct relation to service credit. The Commission may wish to consider an amendment to create a military leave/ break-in-service provision specifically for defined contribution plans.

**Amendment H1139-9A** creates a provision in Chapter 356 to be applicable to MSRS-Unclassified, the PERA Defined Contribution Plan, and the IRAP plans, specifying that when an individual returns from a break in service to provide military service, the individual can make employee equivalent contributions to the plan and, if those are made, the employer must make the corresponding employer contributions. This amendment borrows considerable structure from the approach adopted for defined benefit plans a few years ago.

**Amendment H1139-10A** is comparable to Amendment H1139-9A, except that it also requires the employer to pay imputed interest on the employee and employer contributions, with interest at a rate to be specified by the Commission. This provides some compensation for the time value of money, compensating the employee for delay in making the contributions. This amendment has two drawbacks. First, it places additional financial burden on the employers. Second, it may be difficult to set an interest rate (investment return rate) that is reasonable in all situations, since the investment return that might be earned is a function of rates available at a point in time, and is also a function of the investment vehicles selected by the individual. A reasonable rate of return for a stock portfolio might be very different from that of a portfolio devoted to bonds and cash equivalents.

**Amendment H1139-11A**, an alternative to either H1139-10A or H1139-9A, allows, but does not require, the employer to provide interest, not to exceed 8.5 percent on the employee and employer contributions. If an employer chooses to pay interest, it must provide that interest payment to all employees of that employing unit who make employee equivalent contributions under the section.

Section 8 revises Minnesota Statutes, Section 352.951, a general law application provision, by indicating that the chapter is generally applicable to State Fire Marshal employees under Section 352.87.

In 1999, State Fire Marshall employees who are covered by MSRS-General were given an age 55 normal retirement age and a 2.0 percent annuity accrual rate, and enhanced disability provisions, along with higher contribution rates. These provisions are all included in subdivision of Section 352.87. Except as specified in that section, Chapter 352 applies to this plan. The revision in Section 8 should have been made in 1999 as a conforming change.

Section 9 revises Minnesota Statutes, Section 352.98, the MSRS health care savings account provision, by adding an anti-garnishment provision.

A policy issue raised by Section 9 is:

1. Need for the Proposal. The issue is whether the anti-garnishment provision is appropriate. All Minnesota pension plans are covered by an anti-garnishment provision (Section 356.401, Subdivision 1). The MSRS Deferred Compensation Plan, which is a Section 457 deferred compensation plan rather than a tax-qualified retirement plan, has a separate non-garnishment provision, Section 352.96, Subdivision 6. MSRS contends that federal law and additional rulings from the Internal Revenue Service require that programs such as this health care savings account must be available only for reimbursement of eligible health care expenses, and that the anti-garnishment provision is therefore appropriate and necessary.

**Amendment H1139-12A** would remove section 9 from the bill.

Section 10 amends Minnesota Statutes, Section 352D.02, the MSRS-Unclassified coverage provision, by revising for clarity and by removing references to employing units that no longer exists, and by adding employees of Minnesota Technology Incorporated (MTI) and the Agricultural Utilization Research Institute (AURI), individuals employed by the Minnesota State Colleges and Universities System (MnSCU) as faculty or in an eligible unclassified administrative position who was employed by the former state university or the former community college system prior to May 1, 1995, and who elected MSRS coverage prior to May 1,



1995, and a person employed by MnSCU who was employed in state service prior to July 1, 1995, who subsequently was employed in an eligible unclassified administrative position.

The revisions do not expand coverage beyond that which is currently permitted under law. The additions to the plan's coverage provision serve to make it easier to identify coverage groups. The existing law language authorizing these groups to participate is found in Chapter 354B and uncoded law, and in Chapter 116O.

While beyond the scope of the current bill, at some point the Commission may wish to review the appropriateness of public plan coverage for MTI and AURI employees. MTI was called the Greater Minnesota Corporation prior to 1991. Legislation that created the organization in 1987 (Laws 1987, Chapter 386, Article 2) stated that the MTI is a public corporation created by the state but its employees are not state employees, although the enacting law specified that they were to have MSRS-Unclassified coverage. That same legislation also required the MTI to create the AURI, which is described in law as a Section 501(c)(3) nonprofit corporation whose employees were to have MSRS coverage. The 1987 Commission staff summary of pension legislation does not mention the MTI legislation, suggesting that Commission staff and members were not aware of provisions giving MSRS coverage to MTI and AURI employees. In more recent years, the Commission has provided a careful review of any proposals to provide public plan coverage to nonpublic employees, due to concern about a public plan losing its tax-qualified status if a public plan covers more than a de minimus percentage of nonpublic employees.

Section 11 revises Minnesota Statutes, Section 352.D.02, Subdivision 3, the MSRS-Unclassified transfer to MSRS-General provision, by reorganizing the provision and creating paragraphs, by revising references from "regular" plan to "general" plan, by revising obsolete language, and by permitting individuals to elect a transfer to MSRS-General up to one month after termination of service, rather than prior to termination of service.

A policy issue raised by Section 11 is:

1. Appropriateness of Transfer Date Change. The substantive change in this section is authorizing individuals to elect a transfer to MSRS-General up to one month after termination of service, rather than prior to termination of service. The Commission may wish to hear testimony from MSRS on this matter. MSRS contends this change is needed for individuals who are terminated with little prior notice, to give them some minimum time period to elect a transfer despite no longer being an active plan member.

There are other examples in current law of terminated employees exercising rights more typically reserved for active members. Both MSRS-General and PERA plans allow individuals to repay refunds, which reestablishes service credit lost when the refund was taken, up to six months after termination of active service (Minnesota Statutes, Sections 352.23 and 353.53, Subdivision 1). PERA law treats plan disabilitants as active employees or quasi-active employees for various plan purposes. PERA disabilitants are permitted to repay refunds up to six months after disability benefit have commenced (Section 353.33, Subdivision 1), allowing the individual to restore lost service credit and create a higher benefit.

**Amendment H1139-13A** deletes the proposed language permitting coverage transfers from MSRS-Unclassified to MSRS-General after termination of service.

Section 12 revises Minnesota Statutes, Section 352D.06, the MSRS-Unclassified accrual date provision, by removing the authorization to have the annuity accrue up to six months retroactively.

A policy issue raised by Section 12 is:

1. Need for Change. This issue is whether the change is necessary. Current MSRS law allows retroactivity on annuities in its defined benefit plans and in its defined contribution plan, MSRS-Unclassified. While in the past Commission staff has questioned the appropriateness of the retroactivity, here it is being removed from only one plan, raising a question of consistency. MSRS contends this change is needed because when an annuity commencement date is made retroactive and the annuity is paid through the Minnesota Post Retirement Investment Fund, it is necessary to pay that fund interest, and with annuities generated by MSRS-Unclassified there is no "fund" to provide that interest payment. The Commission may wish to hear testimony to determine whether there is sufficient justification for the change while comparable changes are not being proposed in the defined benefit plans.

**Amendment H1139-14A** reinstates the retroactivity provision.

Section 13 revises Minnesota Statutes, Section 356.405, the MSRS/PERA combined payment of annuities provision, by requiring that the separate payment from one of the plans would have been under \$250 per month to qualify for this treatment; by requiring the individual to select either an identical joint-and-survivor annuity from each plan or a single-life annuity from each plan; and by removing requirements that each fund must be compensated for future mortality gains or losses, that there be no net liability realized by either plan, and that the retiree must agree in writing for this treatment.

Section 14 revises Minnesota Statutes, Section 490.121, Subdivision 15a, the Judges Retirement Plan early retirement date definition, by specifying that early retirement date means any date after a judge attains age 60, rather than the last day of the month after the judge attains age 60.

Section 15 revises Minnesota Statutes, Section 490.121, Subdivision 21d, the Judges Retirement Plan mandatory retirement date definition, by specifying that mandatory retirement date means the date a judge attains age 70, rather than the last day of the month in which the judge attains age 70.

Section 16 revises Minnesota Statutes, Section 490.121, Subdivision 21f, the Judges Retirement Plan normal retirement date definition, by specifying that normal retirement date means the date a judge attains age 65, rather than the last day of the month in which the judge attains age 65.

MSRS indicates that the revisions to Sections 14, 15, and 16 make the Judges Retirement Plan conform to treatment provided in other MSRS defined benefit plans. While this may be the case, it raises a question of the impact these changes may have on benefits and plan cost. The changes appear to permit the accrual date of annuities to commence immediately upon attaining the required age, rather than commencing at the start of the following month.

A policy issue raised by Sections 14 to 16 is:

1. Possible Impact of Plan Cost. The question is whether these changes in definitions will allow earlier accrual of annuities. In material provided to Commission staff, MSRS claims there would be some cost, although it is nominal and might be offset by administrative cost savings for programming and staff training by not having requirements for Judges Retirement Plan accrual dates that depart from those of other MSRS plans. The Commission may wish to hear testimony from MSRS.

**Amendment H1139-15A** would delete sections 14, 15, and 16.

Section 17 – Revisor’s Instruction. The Revisor of Statutes is instructed to replace references to Section 356.55 wherever it appears in statutes to Section 356.551, and to make any related grammatical changes. Section 356.55 was the full actuarial value estimation procedure used whenever special law or general law permitted a full actuarial value service credit purchase, unless an alternative method was specifically mentioned in the applicable law. Section 356.55 was repealed in 2002, due to concerns that the methodology was not sufficiently accurate, causing some individuals to be undercharged while others were overcharged, and creating risk of uncovered liability for the pension fund. The repealed procedure was replaced by another full actuarial value estimation procedure specified in Section 356.551. This instruction to the Revisor will remove any remaining references to the repealed procedure and replace them with the appropriate cross-reference to Section 356.551.

Section 18 – Effective Date. Sections 1 to 17 are effective the day following final enactment. The revisions to the leaves of absence payment requirements in Sections 4 and 5 apply to leaves that commence on or after the effective date.



## Attachment A

### Pension Plan Leave of Absence/Strike Period Provisions

Plan	Statute	Nature of Provision	Treatment
MSRS-General	352.01, Subd. 11	General Leave of Absence	The length of the leave cannot exceed one year. Employee and all employer contributions; employer may pay employer contribution on behalf of employee. Payments must include 8.5% interest compounded annually if payment is not made within one year of the end of the leave. No time limit on payments.
MSRS-General	352.27	Military Leave/ Break in Service	Employee makes employee contribution; employer pays employer contribution and 8.5% annual compound interest on employee and employer contributions from the end of each fiscal year of the leave or break in service to the end of the month in which payment is received. Payment must be made in five years or less, depending upon the length of the military service.
MSRS Plans	352.275	Service Credit Purchase for Uncredited Military Service	Individuals with military service before becoming covered employees or who failed to utilize the Military Leave/Break-in-Service provision in a timely manner may purchase service credit at full actuarial value for the initial period of enlistment, induction, or call to active duty. Purchase must be made prior to retirement.
State Patrol	352B.01, Subd. 3a	Service Credit Purchase for Uncredited Military Service	Individuals with military service before becoming covered employees or who failed to utilize the Military Leave/Break-in-Service provision in a timely manner may purchase service credit at full actuarial value for the initial period of enlistment, induction, or call to active duty. Purchase must be made prior to retirement.
State Patrol	352B.01, Subd. 3b	Military Leave/ Break in Service	Employee makes employee contribution; employer pays employer contribution and 8.5% annual compound interest on employee and employer contributions from the end of each fiscal year of the leave or break in service to the end of the month in which payment is received. Payment must be made in five years or less, depending upon the length of the military service.
PERA-General PERA-P&F PERA-Corr.	353.01. Subd. 16, Clause (4)	Personal/Parental/ Medical Leave	The length of the leave cannot exceed one year. Employee, employer, and any employer additional contributions; the employer may pay the employer contributions on behalf of the employee. The contributions must include 8.5 percent interest from the end of the leave until paid. Payment must be made within one year of the end of the leave, or within 20 days following termination of employment, whichever is earlier.
PERA-General PERA-P&F PERA-Corr.	353.01. Subd. 16, Clause (5)	Periodic/Repetitive Leave	Leave not to exceed 280 hours per annual work cycle. Employee pays employee contributions plus interest; employer pays employer contributions plus interest. Interest is at 8.5 percent from the end of the normal work cycle until paid. Payment must be made within one year of the end of the work cycle or within 20 days after termination of employment, whichever is earlier.
PERA-General PERA-P&F PERA-Corr.	353.01. Subd. 16, Clause (7)	Military Leave/ Break in Service	Employee makes employee contribution; employer pays employer contribution and 8.5% annual compound interest on employee and employer contributions from the end of each fiscal year of the leave or break in service to the end of the month in which payment is received. Payment must be made in five years or less, depending upon the length of the military service.
PERA-General PERA-P&F PERA-Corr.	353.01, Subd. 16a	Service Credit Purchase for Uncredited Military Service	Individuals with military service before becoming covered employees or who failed to utilize Section 353.01. Subd. 16, Clause (7), in a timely manner may purchase service credit at full actuarial value for the initial period of enlistment, induction, or call to active duty. Purchase must be made prior to retirement.
TRA	354.092	Sabbatical Leave	Employee must receive a minimum on one-third normal salary while on the leave. The employer will deduct the full-time equivalent employee contributions from pay and will also make the full-time equivalent employer contributions. Payments are made through normal payroll process.

Plan	Statute	Nature of Provision	Treatment
TRA	354.093	Parental Leave	The length of the leave cannot exceed one year. The employee must pay the employee and all employer contributions by the end of the fiscal year following the fiscal year in which the leave ends.
TRA	354.094	Extended Leave	Employee and employer contributions required by June 30 without interest or by September 30 with interest from June 30 until paid.
TRA	354.095	Medical Leave	Employee and employer contributions required with 8.5% interest from the end of the fiscal year in which the leave terminated to the end of the month in which payment is made. Payment must be made within one year of the end of the fiscal year in which the leave terminates.
TRA	354.096	Family Leave	Employee and employer contributions without interest. Payment must be made within one year of the end of the fiscal year in which the leave terminates.
TRA	354.53	Military Leave/ Break in Service	Employee makes employee contribution; employer pays employer contribution and 8.5% annual compound interest on employee and employer contributions from the end of each fiscal year of the leave or break in service to the end of the month in which payment is received. Payment must be made in five years or less, depending upon the length of the military service.
TRA	354.533	Service Credit Purchase for Uncredited Military Service	Individuals with military service before becoming covered employees or who failed to utilize the Military Leave/Break-in-Service provision in a timely manner may purchase service credit at full actuarial value for the initial period of enlistment, induction, or call to active duty. Purchase must be made prior to retirement.
First Class City Teacher Plans	354A.091	Extended Leave	Employee and employer contributions must be made by June 30 of each year of the leave.
First Class City Teacher Plans	354A.092	Sabbatical Leave	Employee and employer contributions based on full salary in the year prior to the leave. The employee contribution is due by June 30 in the year the leave terminates. The employer pays the employer contribution upon notification from the applicable association. No interest charged.
First Class City Teacher Plans	354A.093	Military Leave/ Break in Service	Employee makes employee contribution; employer pays employer contribution and 8.5% annual compound interest on employee and employer contributions from the end of each fiscal year of the leave or break in service to the end of the month in which payment is received. Payment must be made in five years or less, depending upon the length of the military service.
First Class City Teacher Plans	354A.095	Parental and Maternity Leave	Up to one year of service credit may be purchased by making employee and employer contributions without interest by the end of the fiscal year following the fiscal year in which the leave terminates.
First Class City Teacher Plans	354A.096	Medical Leave	Up to one year of service by paying employee and employer contributions plus 8.5% interest from the end of the year in which the leave terminates until paid. Payment must be made within one year of the end of the fiscal year in which the leave terminates.
First Class City Teacher Plans	354A.097	Service Credit Purchase for Uncredited Military Service	Individuals with military service before becoming covered employees or who failed to utilize the Military Leave/Break-in-Service provision in a timely manner may purchase service credit at full actuarial value for the initial period of enlistment, induction, or call to active duty. Purchase must be made prior to retirement.
All	356.195	Service Credit for Strike Period	Employee pays employee and employer contributions plus 0.071% monthly interest (equivalent to 8.5% annual interest) within one year of the end of the strike. If paid after one year of the end of the strike, employee pays full actuarial value. Payment cannot be made more than five years after the end of the strike.

1.1 ..... moves to amend H. F. No. 1139; S. F. No. 629, as follows:

1.2 Page 2, after line 22, insert

1.3 "Sec. 2. Minnesota Statutes 2006, section 3A.02, subdivision 1b, is amended to read:

1.4 Subd. 1b. **Reduced retirement allowance.** (a) Upon separation from service ~~after~~  
1.5 ~~the beginning of the 1981 legislative session,~~ a former member of the legislature who has  
1.6 attained the age 55 ~~set by the board of directors of the Minnesota State Retirement System~~  
1.7 and who is otherwise qualified under subdivision 1 is entitled, upon making written  
1.8 application on a form prescribed by the director, to a reduced retirement allowance. The  
1.9 reduced retirement allowance is an amount equal to the retirement allowance specified  
1.10 in subdivision 1, paragraph (b), ~~that is~~ reduced so that the reduced allowance is the  
1.11 actuarial equivalent of the allowance that would be payable if the former member of the  
1.12 legislature deferred receipt of the allowance and the allowance amount was augmented  
1.13 at an annual rate of three percent compounded annually from the date the allowance  
1.14 begins to accrue until age 62.

1.15 ~~(b) The age set by the board of directors under paragraph (a) cannot be an earlier age~~  
1.16 ~~than the early retirement age under section 352.116, subdivision 1a.~~

1.17 ~~(c) If there is an actuarial cost to the plan of resetting the early retirement age under~~  
1.18 ~~paragraph (a), the retired legislator is required to pay an additional amount to cover the~~  
1.19 ~~full actuarial value. The additional amount must be paid in a lump sum within 30 days of~~  
1.20 ~~the certification of the amount by the executive director.~~

1.21 ~~(d)~~ (b) The executive director of the Minnesota State Retirement System shall report  
1.22 to the Legislative Commission on Pensions and Retirement on the utilization of this  
1.23 provision annually on or before September 1."

1.24 Page 15, line 28, delete "17" and insert "18"

1.25 Page 15, line 29, delete "4 and" and after "5" insert "and 6"

1.26 Renumber the sections in sequence and correct the internal references

1.27 Amend the title accordingly

1.1 ..... moves to amend H. F. No. 1139; S. F. No. 629, as follows:

1.2 Page 5, line 18, delete "interns hired for six months or less and"

1.1 ..... moves to amend H. F. No. 1139; S. F. No. 629, as follows:

1.2 Page 5, lines 27 to 29, delete the new language

- 1.1 ..... moves to amend H. F. No. 1139; S. F. No. 629, as follows:
- 1.2 Page 8, line 29, to page 9, line 2, reinstate the stricken language and delete the
- 1.3 new language
- 1.4 Page 9, delete section 5
- 1.5 Page 15, line 28, delete "(a)" and delete "17" and insert "16"
- 1.6 Page 15, delete lines 29 and 30
- 1.7 Renumber the sections in sequence and correct the internal references
- 1.8 Amend the title accordingly



1.1 ..... moves to amend H. F. No. 1139; S. F. No. 629, as follows:

1.2 Page 9, line 32, after the period insert "Payment cannot be made after five years from  
1.3 the end of the authorized leave of absence."

- 1.1 ..... moves to amend H. F. No. 1139; S. F. No. 629, as follows:
- 1.2 Page 9, delete section 6
- 1.3 Page 15, line 28, delete "17" and insert "16"
- 1.4 Renumber the sections in sequence and correct the internal references
- 1.5 Amend the title accordingly

- 1.1 ..... moves to amend H. F. No. 1139; S. F. No. 629, as follows:
- 1.2 Page 10, line 4, reinstate the stricken "but monthly payments must not exceed 75"
- 1.3 Page 10, lines 5 and 6, reinstate the stricken language

1.1 ..... moves to amend H. F. No. 1139; S. F. No. 629, as follows:

1.2 Page 10, line 4, reinstate the stricken "five,"

1.1 ..... moves to amend H. F. No. 1139; S. F. No. 629, as follows:

1.2 Page 15, after line 10, insert:

1.3 **"DEFINED CONTRIBUTION PLAN UNIFORMED SERVICE PROVISION**

1.4 Sec. 14. **[356.95] CREDIT FOR BREAK IN SERVICE TO PROVIDE**

1.5 **UNIFORMED SERVICE.**

1.6 Subdivision 1. **Plan application.** This section applies to the following plans:

1.7 (1) the unclassified employees retirement program, established under chapter 352D;

1.8 (2) The public employees defined contribution plan, established under chapter 353D

1.9 (3) the individual retirement account plan, established under chapter 354B;

1.10 (4) the higher education supplemental retirement plan, established under chapter

1.11 354C; and

1.12 (5) the individual retirement account plans, established under chapter 354D.

1.13 Subd. 2. **Member eligibility.** An employee who is absent from paid employment  
1.14 covered by a plan or plans specified in subdivision 1 by reason of service in the uniformed  
1.15 services, as defined in United States Code, title 38, section 4303(13), and who returns  
1.16 to covered employment under that plan or plans upon discharge from service in the  
1.17 uniformed service within the time frames required in United States Code, title 38, section  
1.18 4312(e), is authorized ot make employee equivalent payments for the period of the  
1.19 uniformed service as further specified in this section, provided that the employee did not  
1.20 separate from uniformed service with a dishonorable or bad conduct discharge or under  
1.21 other than honorable conditions.

1.22 Subd. 3. **Employee payment.** Upon returning to covered employment, an eligible  
1.23 employee under subdivision 2 is authorized to make an equivalent employee contribution  
1.24 to that employee's account or accounts based upon the contribution rate or rates in effect at  
1.25 the time that the uniformed service was performed multiplied by the full and fractional  
1.26 years of uniformed service and applied to the annual salary rate. The annual salary rate is  
1.27 the average annual salary during the period that the employee would have received if the

2.1 employee had continued to be employed in covered employment rather than to provide  
 2.2 uniformed service, or, if the determination of that rate is not reasonably certain, the annual  
 2.3 salary rate is the employee's average salary rate during the 12-month period of covered  
 2.4 employment rendered immediately preceding the period of the uniformed service.

2.5 Subd. 4. **Employer payment.** Within 30 days following the payment of an  
 2.6 equivalent employee contribution under subdivision 3, the employer shall make an  
 2.7 equivalent employer contribution using the employer contribution rate or rates in effect at  
 2.8 the time that the uniformed service was performed, applied to the same annual salary rate  
 2.9 or rates used to compute the equivalent employee contribution. The equivalent employer  
 2.10 contribution shall be deposited in the eligible employee's account or accounts.

2.11 Subd. 5. **Prorating.** (a) If the equivalent employee contribution under subdivision  
 2.12 3 is not paid in full, the employer contribution under subdivision 4 must be prorated by  
 2.13 multiplying the full equivalent employer contribution by the ratio obtained by dividing  
 2.14 the total contribution made by the employee under subdivision 3 by the total contribution  
 2.15 otherwise required under that subdivision.

2.16 (b) If a member of the program specified in subdivision 1, clause 1, does not make  
 2.17 the full equivalent employee contribution, resulting in prorating as specified in paragraph  
 2.18 (a), and the individual later transfers coverage to the general state employees retirement  
 2.19 plan of the Minnesota State Retirement System under section 352D.02, subdivision 3,  
 2.20 allowable service credit for any period for which prorating under paragraph (a) applied  
 2.21 must be similarly prorated using the ratio specified in paragraph (a).

2.22 Subd. 6. **Payment period requirements.** (a) Authority to make contributions under  
 2.23 this section is voided if the equivalent employee contribution specified in this section is  
 2.24 not made before termination of service with the applicable employing unit and during the  
 2.25 period which begins with the date on which the individual returns to covered service and  
 2.26 which has a duration of three times the length of the uniformed service period. If the  
 2.27 determined payment period is less than one year, the employee equivalent contribution  
 2.28 authorized under this section may be made within one year of the discharge date.

2.29 (b) The payment period specified in paragraph (a) may not exceed five years unless a  
 2.30 longer purchase period is required under United States Code, title 38, section 4312."

2.31 Page 15, line 28, delete "17" and insert "18"

2.32 Renumber the sections in sequence and correct the internal references

2.33 Amend the title accordingly



1.1 ..... moves to amend H. F. No. 1139; S. F. No. 629, as follows:

1.2 Page 15, after line 10, insert:

1.3 **"DEFINED CONTRIBUTION PLAN UNIFORMED SERVICE PROVISION**

1.4 Sec. 14. **[356.95] CREDIT FOR BREAK IN SERVICE TO PROVIDE**

1.5 **UNIFORMED SERVICE.**

1.6 Subdivision 1. **Plan application.** This section applies to the following plans:

1.7 (1) the unclassified employees retirement program, established under chapter 352D;

1.8 (2) The public employees defined contribution plan, established under chapter 353D

1.9 (3) the individual retirement account plan, established under chapter 354B;

1.10 (4) the higher education supplemental retirement plan, established under chapter

1.11 354C; and

1.12 (5) the individual retirement account plans, established under chapter 354D.

1.13 Subd. 2. **Member eligibility.** An employee who is absent from paid employment  
1.14 covered by a plan or plans specified in subdivision 1 by reason of service in the uniformed  
1.15 services, as defined in United States Code, title 38, section 4303(13), and who returns  
1.16 to covered employment under that plan or plans upon discharge from service in the  
1.17 uniformed service within the time frames required in United States Code, title 38, section  
1.18 4312(e), is authorized to make employee equivalent payments for the period of the  
1.19 uniformed service as further specified in this section, provided that the employee did not  
1.20 separate from uniformed service with a dishonorable or bad conduct discharge or under  
1.21 other than honorable conditions.

1.22 Subd. 3. **Employee payment.** Upon returning to covered employment, an eligible  
1.23 employee under subdivision 2 is authorized to make an equivalent employee contribution  
1.24 to that employee's account or accounts based upon the contribution rate or rates in effect at  
1.25 the time that the uniformed service was performed multiplied by the full and fractional  
1.26 years of uniformed service and applied to the annual salary rate. The annual salary rate is  
1.27 the average annual salary during the period that the employee would have received if the

2.1 employee had continued to be employed in covered employment rather than to provide  
2.2 uniformed service, or, if the determination of that rate is not reasonably certain, the annual  
2.3 salary rate is the employee's average salary rate during the 12-month period of covered  
2.4 employment rendered immediately preceding the period of the uniformed service.

2.5 Subd. 4. **Employer payment.** Within 30 days following the payment of an  
2.6 equivalent employee contribution under subdivision 3, the employer shall make an  
2.7 equivalent employer contribution using the employer contribution rate or rates in effect at  
2.8 the time that the uniformed service was performed, applied to the same annual salary rate  
2.9 or rates used to compute the equivalent employee contribution. The equivalent employer  
2.10 contribution shall be deposited in the eligible employee's account or accounts.

2.11 Subd. 5. **Prorating.** (a) If the equivalent employee contribution under subdivision  
2.12 3 is not paid in full, the employer contribution under subdivision 4 must be prorated by  
2.13 multiplying the full equivalent employer contribution by the ratio obtained by dividing  
2.14 the total contribution made by the employee under subdivision 3 by the total contribution  
2.15 otherwise required under that subdivision.

2.16 (b) If a member of the program specified in subdivision 1, clause 1, does not make  
2.17 the full equivalent employee contribution, resulting in prorating as specified in paragraph  
2.18 (a), and the individual later transfers coverage to the general state employees retirement  
2.19 plan of the Minnesota State Retirement System under section 352D.02, subdivision 3,  
2.20 allowable service credit for any period for which prorating under paragraph (a) applied  
2.21 must be similarly prorated using the ratio specified in paragraph (a).

2.22 Subd. 6. **Payment period requirements.** (a) Authority to make contributions under  
2.23 this section is voided if the equivalent employee contribution specified in this section is  
2.24 not made before termination of service with the applicable employing unit and during the  
2.25 period which begins with the date on which the individual returns to covered service and  
2.26 which has a duration of three times the length of the uniformed service period. If the  
2.27 determined payment period is less than one year, the employee equivalent contribution  
2.28 authorized under this section may be made within one year of the discharge date.

2.29 (b) The payment period specified in paragraph (a) may not exceed five years unless a  
2.30 longer purchase period is required under United States Code, title 38, section 4312.

2.31 Subd. 7. **Employer interest requirement.** The employing unit shall pay interest on  
2.32 all equivalent employee and employer contribution amounts payable under this section.  
2.33 Interest must be computed at a rate of ... percent compounded annually from the end of  
2.34 each fiscal year of the leave or the break in service to the end of the month in which  
2.35 the payment is received."

- 3.1 Page 15, line 28, delete "17" and insert "18"
- 3.2 Renumber the sections in sequence and correct the internal references
- 3.3 Amend the title accordingly

1.1 ..... moves to amend H. F. No. 1139; S. F. No. 629, as follows:

1.2 Page 15, after line 10, insert:

1.3 **"DEFINED CONTRIBUTION PLAN UNIFORMED SERVICE PROVISION**

1.4 Sec. 14. **[356.95] CREDIT FOR BREAK IN SERVICE TO PROVIDE**  
1.5 **UNIFORMED SERVICE.**

1.6 Subdivision 1. **Plan application.** This section applies to the following plans:

1.7 (1) the unclassified employees retirement program, established under chapter 352D;

1.8 (2) The public employees defined contribution plan, established under chapter 353D

1.9 (3) the individual retirement account plan, established under chapter 354B;

1.10 (4) the higher education supplemental retirement plan, established under chapter  
1.11 354C; and

1.12 (5) the individual retirement account plans, established under chapter 354D.

1.13 Subd. 2. **Member eligibility.** An employee who is absent from paid employment  
1.14 covered by a plan or plans specified in subdivision 1 by reason of service in the uniformed  
1.15 services, as defined in United States Code, title 38, section 4303(13), and who returns  
1.16 to covered employment under that plan or plans upon discharge from service in the  
1.17 uniformed service within the time frames required in United States Code, title 38, section  
1.18 4312(e), is authorized ot make employee equivalent payments for the period of the  
1.19 uniformed service as further specified in this section, provided that the employee did not  
1.20 separate from uniformed service with a dishonorable or bad conduct discharge or under  
1.21 other than honorable conditions.

1.22 Subd. 3. **Employee payment.** Upon returning to covered employment, an eligible  
1.23 employee under subdivision 2 is authorized to make an equivalent employee contribution  
1.24 to that employee's account or accounts based upon the contribution rate or rates in effect at  
1.25 the time that the uniformed service was performed multiplied by the full and fractional  
1.26 years of uniformed service and applied to the annual salary rate. The annual salary rate is  
1.27 the average annual salary during the period that the employee would have received if the

2.1 employee had continued to be employed in covered employment rather than to provide  
2.2 uniformed service, or, if the determination of that rate is not reasonably certain, the annual  
2.3 salary rate is the employee's average salary rate during the 12-month period of covered  
2.4 employment rendered immediately preceding the period of the uniformed service.

2.5 Subd. 4. **Employer payment.** Within 30 days following the payment of an  
2.6 equivalent employee contribution under subdivision 3, the employer shall make an  
2.7 equivalent employer contribution using the employer contribution rate or rates in effect at  
2.8 the time that the uniformed service was performed, applied to the same annual salary rate  
2.9 or rates used to compute the equivalent employee contribution. The equivalent employer  
2.10 contribution shall be deposited in the eligible employee's account or accounts.

2.11 Subd. 5. **Prorating.** (a) If the equivalent employee contribution under subdivision  
2.12 3 is not paid in full, the employer contribution under subdivision 4 must be prorated by  
2.13 multiplying the full equivalent employer contribution by the ratio obtained by dividing  
2.14 the total contribution made by the employee under subdivision 3 by the total contribution  
2.15 otherwise required under that subdivision.

2.16 (b) If a member of the program specified in subdivision 1, clause 1, does not make  
2.17 the full equivalent employee contribution, resulting in prorating as specified in paragraph  
2.18 (a), and the individual later transfers coverage to the general state employees retirement  
2.19 plan of the Minnesota State Retirement System under section 352D.02, subdivision 3,  
2.20 allowable service credit for any period for which prorating under paragraph (a) applied  
2.21 must be similarly prorated using the ratio specified in paragraph (a).

2.22 Subd. 6. **Payment period requirements.** (a) Authority to make contributions under  
2.23 this section is voided if the equivalent employee contribution specified in this section is  
2.24 not made before termination of service with the applicable employing unit and during the  
2.25 period which begins with the date on which the individual returns to covered service and  
2.26 which has a duration of three times the length of the uniformed service period. If the  
2.27 determined payment period is less than one year, the employee equivalent contribution  
2.28 authorized under this section may be made within one year of the discharge date.

2.29 (b) The payment period specified in paragraph (a) may not exceed five years unless a  
2.30 longer purchase period is required under United States Code, title 38, section 4312.

2.31 Subd. 7. **Employer interest authorization.** (a) The employing unit may pay  
2.32 interest, not to exceed 8.5 percent, on all equivalent employee and employer contribution  
2.33 amounts payable under this section. If interest is paid, it must be paid at a uniform rate  
2.34 to all employees of that employing unit who make payments under this section. The  
2.35 employing unit is authorized to revise the interest rate no more than annually.

3.1           (b) If interest is paid, it must be compounded annually from the end of each fiscal  
3.2 year of the leave or break in service to the end of the month in which the payment is  
3.3 received."

3.4           Page 15, line 28, delete "17" and insert "18"

3.5           Renumber the sections in sequence and correct the internal references

3.6           Amend the title accordingly



- 1.1 ..... moves to amend H. F. No. 1139; S. F. No. 629, as follows:
- 1.2 Page 11, delete section 9
- 1.3 Page 15, line 28, delete "17" and insert "16"
- 1.4 Renumber the sections in sequence and correct the internal references
- 1.5 Amend the title accordingly

- 1.1 ..... moves to amend H. F. No. 1139; S. F. No. 629, as follows:
- 1.2 Page 14, line 1, reinstate the stricken language and delete the new language

1.1 ..... moves to amend H. F. No. 1139; S. F. No. 629, as follows:

1.2 Page 14, lines 22 to 25, reinstate the stricken language

- 1.1 ..... moves to amend H. F. No. 1139; S. F. No. 629, as follows:
- 1.2 Page 15, delete sections 14, 15, and 16
- 1.3 Renumber the sections in sequence and correct the internal references
- 1.4 Amend the title accordingly

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State of Minnesota  
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH  
SESSION

HOUSE FILE No. **1139**

February 19, 2007

Authored by Murphy, M., by request,

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

1.1 A bill for an act  
1.2 relating to retirement; Minnesota State Retirement System; making changes of  
1.3 an administrative nature; amending Minnesota Statutes 2006, sections 3A.02,  
1.4 subdivision 1; 352.01, subdivisions 2a, 2b, 11; 352.12, subdivision 2a; 352.27;  
1.5 352.951; 352.98, by adding a subdivision; 352D.02, subdivisions 1, 3; 352D.06,  
1.6 subdivision 3; 356.405; 490.121, subdivisions 15a, 21d, 21f; proposing coding  
1.7 for new law in Minnesota Statutes, chapter 352.

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

1.9 Section 1. Minnesota Statutes 2006, section 3A.02, subdivision 1, is amended to read:

1.10 Subdivision 1. **Qualifications.** (a) A former legislator is entitled, upon written  
1.11 application to the director, to receive a retirement allowance monthly, if the person:

1.12 (1) has either served at least six full years, without regard to the application of  
1.13 section 3A.10, subdivision 2, or has served during all or part of four regular sessions as a  
1.14 member of the legislature, which service need not be continuous;

1.15 (2) has attained the normal retirement age;

1.16 (3) has retired as a member of the legislature; and

1.17 (4) has made all contributions provided for in section 3A.03, has made payments  
1.18 for past service under subdivision 2, or has made payments in lieu of contributions under  
1.19 Minnesota Statutes 1992, section 3A.031, before July 1, 1994.

1.20 (b) Unless the former legislator has legislative service before January 1, 1979,  
1.21 the retirement allowance is an amount equal to 2-1/2 percent per year of service of that  
1.22 member's average monthly salary and adjusted for that person on an actuarial equivalent  
1.23 basis to reflect the change in the postretirement interest rate actuarial assumption under  
1.24 section 356.215, subdivision 8, from five percent to six percent. The adjustment must be  
1.25 calculated by or, alternatively, the adjustment procedure must be specified by, the actuary

2.1 retained under section 356.214. The purpose of this adjustment is to ensure that the total  
 2.2 amount of benefits that the actuary predicts an individual member will receive over the  
 2.3 member's lifetime under this paragraph will be the same as the total amount of benefits the  
 2.4 actuary predicts the individual member would receive over the member's lifetime under  
 2.5 the law in effect before enactment of this paragraph. If the former legislator has legislative  
 2.6 service before January 1, 1979, the person's benefit must include the additional benefit  
 2.7 amount in effect on January 1, 1979, and adjusted as otherwise provided in this paragraph.

2.8 (c) The retirement allowance accrues ~~beginning with the first day of the month of~~  
 2.9 ~~receipt of the application; following receipt by the director of a retirement application on~~  
 2.10 a form prescribed by the director, but not before normal retirement age 60, and, except  
 2.11 as specified in subdivision 1b. The annuity is payable for the remainder of the former  
 2.12 legislator's life, if the former legislator is not serving as a member of the legislature or as a  
 2.13 constitutional officer as defined in section 3A.01, subdivision 1c. The annuity does not  
 2.14 begin to accrue before the person's retirement as a legislator. No annuity payment may  
 2.15 be made retroactive for more than 180 days before the date that the annuity application  
 2.16 is filed with the director.

2.17 (d) Any member who has served during all or part of four regular sessions is  
 2.18 considered to have served eight years as a member of the legislature.

2.19 (e) The retirement allowance ceases with the last payment that accrued to the retired  
 2.20 legislator during the retired legislator's lifetime, except that the surviving spouse, if any,  
 2.21 is entitled to receive the retirement allowance of the retired legislator for the calendar  
 2.22 month in which the retired legislator died.

2.23 Sec. 2. Minnesota Statutes 2006, section 352.01, subdivision 2a, is amended to read:

2.24 Subd. 2a. **Included employees.** (a) "State employee" includes:

2.25 (1) employees of the Minnesota Historical Society;

2.26 (2) employees of the State Horticultural Society;

2.27 ~~(3) employees of the Disabled American Veterans, Department of Minnesota;~~  
 2.28 ~~Veterans of Foreign Wars, Department of Minnesota, if employed before July 1, 1963;~~

2.29 ~~(4)~~ (3) employees of the Minnesota Crop Improvement Association;

2.30 ~~(5)~~ (4) employees of the adjutant general who are paid from federal funds and who  
 2.31 are not covered by any federal civilian employees retirement system;

2.32 ~~(6)~~ (5) employees of the Minnesota State Colleges and Universities employed under  
 2.33 the university or college activities program;



3.1 ~~(7)~~ (6) currently contributing employees covered by the system who are temporarily  
 3.2 employed by the legislature during a legislative session or any currently contributing  
 3.3 employee employed for any special service as defined in subdivision 2b, clause (8);

3.4 ~~(8)~~ employees of the Armory Building Commission;

3.5 ~~(9)~~ (7) employees of the legislature appointed without a limit on the duration of their  
 3.6 employment and persons employed or designated by the legislature or by a legislative  
 3.7 committee or commission or other competent authority to conduct a special inquiry,  
 3.8 investigation, examination, or installation;

3.9 ~~(10)~~ (8) trainees who are employed on a full-time established training program  
 3.10 performing the duties of the classified position for which they will be eligible to receive  
 3.11 immediate appointment at the completion of the training period;

3.12 ~~(11)~~ (9) employees of the Minnesota Safety Council;

3.13 ~~(12)~~ (10) any employees on authorized leave of absence from the Transit Operating  
 3.14 Division of the former Metropolitan Transit Commission who are employed by the  
 3.15 labor organization which is the exclusive bargaining agent representing employees of  
 3.16 the Transit Operating Division;

3.17 ~~(13)~~ (11) employees of the Metropolitan Council, Metropolitan Parks and Open  
 3.18 Space Commission, Metropolitan Sports Facilities Commission, Metropolitan Mosquito  
 3.19 Control Commission, or Metropolitan Radio Board unless excluded or covered by another  
 3.20 public pension fund or plan under section 473.415, subdivision 3;

3.21 ~~(14)~~ (12) judges of the Tax Court;

3.22 ~~(15)~~ (13) personnel employed on June 30, 1992, by the University of Minnesota  
 3.23 in the management, operation, or maintenance of its heating plant facilities, whose  
 3.24 employment transfers to an employer assuming operation of the heating plant facilities,  
 3.25 so long as the person is employed at the University of Minnesota heating plant by that  
 3.26 employer or by its successor organization;

3.27 ~~(16)~~ (14) seasonal help in the classified service employed by the Department of  
 3.28 Revenue; ~~and~~

3.29 ~~(17)~~ (15) persons employed by the Department of Commerce as a peace officer in  
 3.30 the Insurance Fraud Prevention Division under section 45.0135 who have attained the  
 3.31 mandatory retirement age specified in section 43A.34, subdivision 4; and

3.32 (16) employees of the University of Minnesota unless excluded under subdivision  
 3.33 2b, clause (3).

3.34 (b) Employees specified in paragraph (a), clause ~~(15)~~ (13), are included employees  
 3.35 under paragraph (a) if employer and employee contributions are made in a timely manner  
 3.36 in the amounts required by section 352.04. Employee contributions must be deducted from

4.1 salary. Employer contributions are the sole obligation of the employer assuming operation  
4.2 of the University of Minnesota heating plant facilities or any successor organizations to  
4.3 that employer.

4.4 Sec. 3. Minnesota Statutes 2006, section 352.01, subdivision 2b, is amended to read:

4.5 Subd. 2b. **Excluded employees.** "State employee" does not include:

4.6 (1) students employed by the University of Minnesota, or the state colleges and  
4.7 universities, unless approved for coverage by the Board of Regents of the University of  
4.8 Minnesota or the Board of Trustees of the Minnesota State Colleges and Universities, ~~as~~  
4.9 ~~the case may be~~ whichever is applicable;

4.10 (2) employees who are eligible for membership in the state Teachers Retirement  
4.11 Association, except employees of the Department of Education who have chosen or may  
4.12 choose to be covered by the general state employees retirement plan of the Minnesota  
4.13 State Retirement System instead of the Teachers Retirement Association;

4.14 (3) employees of the University of Minnesota who are excluded from coverage by  
4.15 action of the Board of Regents;

4.16 (4) officers and enlisted personnel in the National Guard and the naval militia who  
4.17 are assigned to permanent peacetime duty and who under federal law are or are required to  
4.18 be members of a federal retirement system;

4.19 (5) election officers;

4.20 (6) persons who are engaged in public work for the state but who are employed  
4.21 by contractors when the performance of the contract is authorized by the legislature or  
4.22 other competent authority;

4.23 (7) officers and employees of the senate, or of the house of representatives, or of a  
4.24 legislative committee or commission who are temporarily employed;

4.25 (8) receivers, jurors, notaries public, and court employees who are not in the judicial  
4.26 branch as defined in section 43A.02, subdivision 25, except referees and adjusters  
4.27 employed by the Department of Labor and Industry;

4.28 (9) patient and inmate help in state charitable, penal, and correctional institutions  
4.29 including the Minnesota Veterans Home;

4.30 (10) persons who are employed for professional services where the service is  
4.31 incidental to their regular professional duties and whose compensation is paid on a per  
4.32 diem basis;

4.33 (11) employees of the Sibley House Association;

4.34 (12) the members of any state board or commission who serve the state intermittently  
4.35 and are paid on a per diem basis; the secretary, secretary-treasurer, and treasurer of those

5.1 boards if their compensation is \$5,000 or less per year, or, if they are legally prohibited  
5.2 from serving more than three years; and the board of managers of the State Agricultural  
5.3 Society and its treasurer unless the treasurer is also its full-time secretary;

5.4 ~~(13) state troopers and persons who are described in section 352B.01, subdivision 2,~~  
5.5 ~~clauses (2) to (6);~~

5.6 (14) temporary employees of the Minnesota State Fair who are employed on or  
5.7 after July 1 for a period not to extend beyond October 15 of that year; and persons who  
5.8 are employed at any time by the state fair administration for special events held on the  
5.9 fairgrounds;

5.10 (15) emergency employees who are in the classified service; except that if an  
5.11 emergency employee, within the same pay period, becomes a provisional or probationary  
5.12 employee on other than a temporary basis, the employee shall be considered a "state  
5.13 employee" retroactively to the beginning of the pay period;

5.14 ~~(16) persons who are described in section 352B.01, subdivision 2, clauses (2) to (6);~~

5.15 ~~(17)~~ (16) temporary employees in the classified service, and temporary employees  
5.16 in the unclassified service who are appointed for a definite period of not more than six  
5.17 months and who are employed less than six months in any one-year period;

5.18 ~~(18)~~ (17) interns hired for six months or less and trainee employees, except those  
5.19 listed in subdivision 2a, clause ~~(10)~~ (8);

5.20 ~~(19)~~ (18) persons whose compensation is paid on a fee basis or as an independent  
5.21 contractor;

5.22 ~~(20)~~ (19) state employees who are employed by the Board of Trustees of the  
5.23 Minnesota State Colleges and Universities in unclassified positions enumerated in section  
5.24 43A.08, subdivision 1, clause (9);

5.25 ~~(21)~~ (20) state employees who in any year have credit for 12 months service as  
5.26 teachers in the public schools of the state and as teachers are members of the Teachers  
5.27 Retirement Association or a retirement system in St. Paul, Minneapolis, or Duluth,  
5.28 except for incidental employment as a state employee not covered by one of the teacher  
5.29 retirement associations or systems;

5.30 ~~(22)~~ (21) employees of the adjutant general who are employed on an unlimited  
5.31 intermittent or temporary basis in the classified or unclassified service for the support of  
5.32 Army and Air National Guard training facilities;

5.33 ~~(23)~~ (22) chaplains and nuns who are excluded from coverage under the federal  
5.34 Old Age, Survivors, Disability, and Health Insurance Program for the performance of  
5.35 service as specified in United States Code, title 42, section 410(a)(8)(A), as amended, if

6.1 no irrevocable election of coverage has been made under section 3121(r) of the Internal  
6.2 Revenue Code of 1986, as amended through December 31, 1992;

6.3 ~~(24)~~ (23) examination monitors who are employed by departments, agencies,  
6.4 commissions, and boards to conduct examinations required by law;

6.5 ~~(25)~~ (24) persons who are appointed to serve as members of fact-finding  
6.6 commissions or adjustment panels, arbitrators, or labor referees under chapter 179;

6.7 ~~(26)~~ (25) temporary employees who are employed for limited periods under any state  
6.8 or federal program for training or rehabilitation, including persons who are employed for  
6.9 limited periods from areas of economic distress, but not including skilled and supervisory  
6.10 personnel and persons having civil service status covered by the system;

6.11 ~~(27)~~ (26) full-time students who are employed by the Minnesota Historical Society  
6.12 intermittently during part of the year and full-time during the summer months;

6.13 ~~(28)~~ (27) temporary employees who are appointed for not more than six months,  
6.14 of the Metropolitan Council and of any of its statutory boards, if the board members are  
6.15 appointed by the Metropolitan Council;

6.16 ~~(29)~~ (28) persons who are employed in positions designated by the Department of  
6.17 Employee Relations as student workers;

6.18 ~~(30)~~ (29) members of trades who are employed by the successor to the Metropolitan  
6.19 Waste Control Commission, who have trade union pension plan coverage under a  
6.20 collective bargaining agreement, and who are first employed after June 1, 1977;

6.21 ~~(31) persons who are employed in subsidized on-the-job training, work experience,  
6.22 or public service employment as enrollees under the federal Comprehensive Employment  
6.23 and Training Act after March 30, 1978, unless the person has as of the later of March 30,  
6.24 1978, or the date of employment sufficient service credit in the retirement system to meet  
6.25 the minimum vesting requirements for a deferred annuity, or the employer agrees in  
6.26 writing on forms prescribed by the director to make the required employer contributions,  
6.27 including any employer additional contributions, on account of that person from revenue  
6.28 sources other than funds provided under the federal Comprehensive Employment and  
6.29 Training Act, or the person agrees in writing on forms prescribed by the director to make  
6.30 the required employer contribution in addition to the required employee contribution;~~

6.31 ~~(32)~~ (30) off-duty peace officers while employed by the Metropolitan Council;

6.32 ~~(33)~~ (31) persons who are employed as full-time police officers by the Metropolitan  
6.33 Council and as police officers are members of the public employees police and fire fund;

6.34 ~~(34)~~ (32) persons who are employed as full-time firefighters by the Department  
6.35 of Military Affairs and as firefighters are members of the public employees police and  
6.36 fire fund;

7.1 ~~(35)~~ (33) foreign citizens with a work permit of less than three years, or an H-1b/JV  
 7.2 visa valid for less than three years of employment, unless notice of extension is supplied  
 7.3 which allows them to work for three or more years as of the date the extension is granted,  
 7.4 in which case they are eligible for coverage from the date extended; and

7.5 ~~(36)~~ (34) persons who are employed by the Board of Trustees of the Minnesota State  
 7.6 Colleges and Universities and who elect to remain members of the Public Employees  
 7.7 Retirement Association or the Minneapolis Employees Retirement Fund, whichever  
 7.8 applies, under section 136C.75.

7.9 Sec. 4. Minnesota Statutes 2006, section 352.01, subdivision 11, is amended to read:

7.10 Subd. 11. **Allowable service.** (a) "Allowable service" means:

7.11 ~~(1) Service by an employee for which on or before July 1, 1957, the employee was~~  
 7.12 ~~entitled to allowable service credit on the records of the system by reason of employee~~  
 7.13 ~~contributions in the form of salary deductions, payments in lieu of salary deductions, or in~~  
 7.14 ~~any other manner authorized by Minnesota Statutes 1953, chapter 352, as amended by~~  
 7.15 ~~Laws 1955, chapter 239.~~

7.16 ~~(2)~~ (1) service by an employee for which on or before July 1, 1961, the employee  
 7.17 chose to obtain credit for service by making payments to the fund under Minnesota  
 7.18 Statutes 1961, section 352.24;:

7.19 ~~(3) Except as provided in clauses (8) and (9),~~ (2) service by an employee after July 1,  
 7.20 1957, for any calendar month in which the employee is paid salary from which deductions  
 7.21 are made, deposited, and credited in the fund, including deductions made, deposited, and  
 7.22 credited as provided in section 352.041;:

7.23 ~~(4) Except as provided in clauses (8) and (9),~~ (3) service by an employee after July  
 7.24 1, 1957, for any calendar month for which payments in lieu of salary deductions are  
 7.25 made, deposited, and credited in the fund, as provided in section 352.27 and Minnesota  
 7.26 Statutes 1957, section 352.021, subdivision 4;:

7.27 ~~For purposes of clauses (3) and (4), except as provided in clauses (8) and (9), any~~  
 7.28 ~~salary paid for a fractional part of any calendar month, including the month of separation~~  
 7.29 ~~from state service, is deemed the compensation for the entire calendar month.~~

7.30 ~~(5)~~ (4) the period of absence from their duties by employees who are temporarily  
 7.31 disabled because of injuries incurred in the performance of duties and for which disability  
 7.32 the state is liable under the workers' compensation law until the date authorized by the  
 7.33 director for the commencement of payments of a total and permanent disability benefit  
 7.34 from the retirement fund;:

8.1 ~~(6)~~ (5) service covered by a refund repaid as provided in section 352.23 or 352D.05,  
8.2 subdivision 4, except service rendered as an employee of the adjutant general for which  
8.3 the person has credit with the federal civil service retirement system;

8.4 ~~(7)~~ (6) service before July 1, 1978, by an employee of the Transit Operating Division  
8.5 of the Metropolitan Transit Commission or by an employee on an authorized leave of  
8.6 absence from the Transit Operating Division of the Metropolitan Transit Commission who  
8.7 is employed by the labor organization which is the exclusive bargaining agent representing  
8.8 employees of the Transit Operating Division, which was credited by the Metropolitan  
8.9 Transit Commission-Transit Operating Division employees retirement fund or any of its  
8.10 predecessor plans or funds as past, intermediate, future, continuous, or allowable service  
8.11 as defined in the Metropolitan Transit Commission-Transit Operating Division employees  
8.12 retirement fund plan document in effect on December 31, 1977;

8.13 ~~(8)~~ (7) service after July 1, 1983, by an employee who is employed on a part-time  
8.14 basis for less than 50 percent of full time, for which the employee is paid salary from  
8.15 which deductions are made, deposited, and credited in the fund, including deductions  
8.16 made, deposited, and credited as provided in section 352.041 or for which payments in  
8.17 lieu of salary deductions are made, deposited, and credited in the fund as provided in  
8.18 section 352.27 shall be credited on a fractional basis either by pay period, monthly, or  
8.19 annually based on the relationship that the percentage of salary earned bears to a full-time  
8.20 salary, with any salary paid for the fractional service credited on the basis of the rate of  
8.21 salary applicable for a full-time pay period, month, or a full-time year. For periods of  
8.22 part-time service that is duplicated service credit, section 356.30, subdivision 1, clauses  
8.23 (i) and (j), govern; and

8.24 ~~Allowable service determined and credited on a fractional basis shall be used in~~  
8.25 ~~calculating the amount of benefits payable, but service as determined on a fractional basis~~  
8.26 ~~must not be used in determining the length of service required for eligibility for benefits.~~

8.27 ~~(9)~~ (8) any period of authorized leave of absence without pay that does not  
8.28 exceed one year and for which the employee obtained credit by payment to the fund  
8.29 in lieu of salary deductions. ~~To obtain credit, the employee shall pay an amount equal~~  
8.30 ~~to the employee and employer contribution rate in section 352.04, subdivisions 2 and 3,~~  
8.31 ~~multiplied by the employee's hourly rate of salary on the date of return from leave of~~  
8.32 ~~absence and by the days and months of the leave of absence without pay for which the~~  
8.33 ~~employee wants allowable service credit. The employing department, at its option, may~~  
8.34 ~~pay the employer amount on behalf of its employees. Payments made under this clause~~  
8.35 ~~must include interest at an annual rate of 8.5 percent compounded annually from the date~~

9.1 ~~of termination of the leave of absence to the date payment is made unless payment is~~  
 9.2 ~~completed within one year of the return from leave of absence under section 352.017.~~

9.3 ~~(10) (9) MS 2002 [Expired]~~

9.4 ~~(11) (10) [Expired, 2002 c 392 art 2 s 4]~~

9.5 (b) For purposes of paragraph (a), clauses (2) and (3), any salary paid for a fractional  
 9.6 part of any calendar month, including the month of separation from state service, is  
 9.7 deemed the compensation for the entire calendar month.

9.8 (c) Allowable service determined and credited on a fractional basis shall be used in  
 9.9 calculating the amount of benefits payable, but service as determined on a fractional basis  
 9.10 must not be used in determining the length of service required for eligibility for benefits.

9.11 Sec. 5. **[352.017] AUTHORIZED LEAVE OF ABSENCE SERVICE CREDIT**  
 9.12 **PURCHASE PROCEDURE.**

9.13 Subdivision 1. **Application.** Except for leaves or breaks in service covered by  
 9.14 section 352.27 or 352.275, this section applies to all plans specified in this chapter for  
 9.15 any period of authorized leave of absence without pay that does not exceed one year  
 9.16 and for which the employee obtains credit for allowable service by making payment as  
 9.17 specified in this section to the applicable fund.

9.18 Subd. 2. **Purchase procedure.** (a) An employee covered by a plan specified in  
 9.19 this chapter may purchase credit for allowable service in that plan for a period specified  
 9.20 in subdivision 1 if the employee makes a payment as specified in paragraph (b) or (c),  
 9.21 whichever applies. The employing unit, at its option, may pay the employer portion of the  
 9.22 amount specified in paragraph (b) on behalf of its employees.

9.23 (b) If payment is received by the executive director within one year from the end  
 9.24 of the authorized leave, the payment amount is equal to the employee and employer  
 9.25 contribution rates specified in law for the applicable plan at the end of the leave period  
 9.26 multiplied by the employee's hourly rate of salary on the date of return from the leave of  
 9.27 absence and by the days and months of the leave of absence for which the employee wants  
 9.28 allowable service credit. Payments made under this paragraph must include compound  
 9.29 interest at a monthly rate of 0.71 percent from the last day of the leave period until the last  
 9.30 day of the month in which payment is received.

9.31 (c) If payment is received by the executive director after one year, the payment  
 9.32 amount is the amount determined under section 356.551.

9.33 Sec. 6. Minnesota Statutes 2006, section 352.12, subdivision 2a, is amended to read:

10.1 Subd. 2a. **Surviving spouse coverage term certain.** (a) In lieu of the 100 percent  
 10.2 optional annuity under subdivision 2, or refund under subdivision 1, the surviving spouse  
 10.3 of a deceased employee or former employee may elect to receive survivor coverage in  
 10.4 a term certain of five, ten, 15, or 20 years, but monthly payments must not exceed 75  
 10.5 percent of the average high-five monthly salary of the deceased employee or former  
 10.6 employee. The monthly term certain annuity must be actuarially equivalent to the 100  
 10.7 percent optional annuity under subdivision 2.

10.8 (b) If a survivor elects a term certain annuity and dies before the expiration of the  
 10.9 specified term certain period, the commuted value of the remaining annuity payments  
 10.10 must be paid in a lump sum to the survivor's estate.

10.11 Sec. 7. Minnesota Statutes 2006, section 352.27, is amended to read:

10.12 **352.27 CREDIT FOR BREAK IN SERVICE TO PROVIDE UNIFORMED**  
 10.13 **SERVICE.**

10.14 (a) An employee who is absent from employment by reason of service in the  
 10.15 uniformed services, as defined in United States Code, title 38, section 4303(13), and who  
 10.16 returns to state service upon discharge from service in the uniformed service within the  
 10.17 time frames required in United States Code, title 38, section 4312(e), may obtain service  
 10.18 credit for the period of the uniformed service as further specified in this section, provided  
 10.19 that the employee did not separate from uniformed service with a dishonorable or bad  
 10.20 conduct discharge or under other than honorable conditions.

10.21 (b) The employee may obtain credit by paying into the fund an equivalent employee  
 10.22 contribution based upon the contribution rate or rates in effect at the time that the  
 10.23 uniformed service was performed multiplied by the full and fractional years being  
 10.24 purchased and applied to the annual salary rate. The annual salary rate is the average  
 10.25 annual salary during the purchase period that the employee would have received if the  
 10.26 employee had continued to be employed in covered employment rather than to provide  
 10.27 uniformed service, or, if the determination of that rate is not reasonably certain, the annual  
 10.28 salary rate is the employee's average salary rate during the 12-month period of covered  
 10.29 employment rendered immediately preceding the period of the uniformed service.

10.30 (c) The equivalent employer contribution and, if applicable, the equivalent  
 10.31 additional employer contribution provided in ~~section 352.04~~ chapter 352 must be paid by  
 10.32 the department employing the employee from funds available to the department at the  
 10.33 time and in the manner provided in ~~section 352.04~~ chapter 352, using the employer and  
 10.34 additional employer contribution rate or rates in effect at the time that the uniformed



11.1 service was performed, applied to the same annual salary rate or rates used to compute the  
11.2 equivalent employee contribution.

11.3 (d) If the employee equivalent contributions provided in this section are not paid in  
11.4 full, the employee's allowable service credit must be prorated by multiplying the full and  
11.5 fractional number of years of uniformed service eligible for purchase by the ratio obtained  
11.6 by dividing the total employee contribution received by the total employee contribution  
11.7 otherwise required under this section.

11.8 (e) To receive service credit under this section, the contributions specified in this  
11.9 section must be transmitted to the Minnesota State Retirement System during the period  
11.10 which begins with the date on which the individual returns to state service and which has a  
11.11 duration of three times the length of the uniformed service period, but not to exceed five  
11.12 years. If the determined payment period is less than one year, the contributions required  
11.13 under this section to receive service credit may be made within one year of the discharge  
11.14 date.

11.15 (f) The amount of service credit obtainable under this section may not exceed five  
11.16 years unless a longer purchase period is required under United States Code, title 38,  
11.17 section 4312.

11.18 (g) The employing unit shall pay interest on all equivalent employee and employer  
11.19 contribution amounts payable under this section. Interest must be computed at a rate of  
11.20 8.5 percent compounded annually from the end of each fiscal year of the leave or the break  
11.21 in service to the end of the month in which the payment is received.

11.22 Sec. 8. Minnesota Statutes 2006, section 352.951, is amended to read:

11.23 **352.951 APPLICABILITY OF GENERAL LAW.**

11.24 Except as otherwise provided, this chapter applies to covered correctional  
11.25 employees, military affairs personnel covered under section 352.85, ~~and~~ Transportation  
11.26 Department pilots covered under section 352.86, and state fire marshal employees under  
11.27 section 352.87.

11.28 Sec. 9. Minnesota Statutes 2006, section 352.98, is amended by adding a subdivision  
11.29 to read:

11.30 Subd. 8. Exemption from process. Assets in a health care savings plan account  
11.31 described in this section must be used for reimbursement of healthcare expenses and  
11.32 are not assignable or subject to execution, levy, attachment, garnishment, or other legal  
11.33 process, except as provided in section 518.58, 518.581, or 518A.53.

12.1 Sec. 10. Minnesota Statutes 2006, section 352D.02, subdivision 1, is amended to read:

12.2 Subdivision 1. **Coverage.** (a) Employees enumerated in paragraph (c), clauses (2),  
12.3 (3), (4), ~~and (6) to (14), and (16) to (18)~~, if they are in the unclassified service of the state  
12.4 or Metropolitan Council and are eligible for coverage under the general state employees  
12.5 retirement plan under chapter 352, are participants in the unclassified ~~plan~~ program under  
12.6 this chapter unless the employee gives notice to the executive director of the Minnesota  
12.7 State Retirement System within one year following the commencement of employment  
12.8 in the unclassified service that the employee desires coverage under the general state  
12.9 employees retirement plan. For the purposes of this chapter, an employee who does not  
12.10 file notice with the executive director is deemed to have exercised the option to participate  
12.11 in the unclassified ~~plan~~ program.

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

12.18 (c) Enumerated employees and referenced persons are:

12.19 (1) the governor, the lieutenant governor, the secretary of state, the state auditor,  
12.20 and the attorney general;

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

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

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

12.27 (5) a member of the legislature;

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

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

- 13.1 (8) the regional administrator, or executive director of the Metropolitan Council,  
 13.2 general counsel, division directors, operations managers, and other positions as designated  
 13.3 by the council, all of which may not exceed 27 positions at the council and the chair;
- 13.4 (9) the executive director, associate executive director, and not to exceed nine  
 13.5 positions of the Minnesota Office of Higher Education in the unclassified service, as  
 13.6 designated by the Minnesota Office of Higher Education before January 1, 1992, or  
 13.7 subsequently redesignated with the approval of the board of directors of the Minnesota  
 13.8 State Retirement System, unless the person has elected coverage by the individual  
 13.9 retirement account plan under chapter 354B;
- 13.10 (10) the clerk of the appellate courts appointed under article VI, section 2, of the  
 13.11 Constitution of the state of Minnesota;
- 13.12 (11) the chief executive officers of correctional facilities operated by the Department  
 13.13 of Corrections and of hospitals and nursing homes operated by the Department of Human  
 13.14 Services;
- 13.15 (12) an employee whose principal employment is at the state ceremonial house;
- 13.16 (13) an employee of the ~~Minnesota Educational Computing Corporation~~ Agricultural  
 13.17 Utilization Research Institute;
- 13.18 (14) an employee of the State Lottery who is covered by the managerial plan  
 13.19 established under section 43A.18, subdivision 3; ~~and~~
- 13.20 (15) a judge who has exceeded the service credit limit in section 490.121,  
 13.21 subdivision 22-;
- 13.22 (16) an employee of Minnesota Technology Incorporated;
- 13.23 (17) a person employed by the Minnesota State Colleges and Universities as faculty  
 13.24 or in an eligible unclassified administrative position as defined in section 354B.20,  
 13.25 subdivision 6, who was employed by the former state university or the former community  
 13.26 college system prior to May 1, 1995, and elected unclassified program coverage prior to  
 13.27 May 1, 1995; and
- 13.28 (18) a person employed by the Minnesota State Colleges and Universities who was  
 13.29 employed in state service prior to July 1, 1995, who subsequently is employed in an  
 13.30 eligible unclassified administrative position as defined in section 354B.20, subdivision  
 13.31 6, and who elects coverage by the unclassified program.

13.32 Sec. 11. Minnesota Statutes 2006, section 352D.02, subdivision 3, is amended to read:

13.33 Subd. 3. ~~Election irrevocable~~ Transfer to general plan. ~~An election to not~~  
 13.34 ~~participate is irrevocable during any period of covered employment.~~ (a) An employee  
 13.35 credited with employee shares in the unclassified program, after acquiring credit for ten

14.1 years of allowable service ~~but prior to~~ and not later than one month following termination  
 14.2 of covered employment, may, ~~notwithstanding other provisions of this subdivision,~~ elect  
 14.3 to terminate participation in the unclassified ~~plan program~~ and be covered by the regular  
 14.4 general plan by filing ~~such a written~~ election with the executive director. The executive  
 14.5 director shall ~~thereupon then~~ redeem the employee's total shares and shall credit to the  
 14.6 employee's account in the ~~regular general plan~~ the amount of contributions that would  
 14.7 have been so credited had the employee been covered by the regular general plan during  
 14.8 the employee's entire covered employment. The balance of money so redeemed and not  
 14.9 credited to the employee's account shall be transferred to the state contribution reserve of  
 14.10 the state employees general plan retirement fund, except that (1) the employee contribution  
 14.11 paid to the unclassified plan program must be compared to (2) the employee contributions  
 14.12 that would have been paid to the general plan for the comparable period, if the individual  
 14.13 had been covered by that plan. If clause (1) is greater than clause (2), the difference must  
 14.14 be refunded to the employee as provided in section 352.22. If clause (2) is greater than  
 14.15 clause (1), the difference must be paid by the employee within six months of electing  
 14.16 general plan coverage or before the effective date of the annuity, whichever is sooner.

14.17 (b) An election under paragraph (a) to transfer coverage to the general plan is  
 14.18 irrevocable during any period of covered employment.

14.19 Sec. 12. Minnesota Statutes 2006, section 352D.06, subdivision 3, is amended to read:

14.20 Subd. 3. **Accrual date.** An annuity under this section accrues the first day of the first  
 14.21 full month after an application is received or after the day following termination of state  
 14.22 service, whichever is later. ~~Upon the former employee's request, the annuity may begin~~  
 14.23 ~~to accrue up to six months before redemption of shares, but not prior to the termination~~  
 14.24 ~~date from covered service, and must be based on the account value at redemption and~~  
 14.25 ~~upon the age of the former employee at the date annuity accrual starts.~~ The account must  
 14.26 be valued and redeemed on the later of the end of the month of termination of covered  
 14.27 employment, or the end of the month of receipt of the annuity application for the purpose  
 14.28 of computing the annuity.

14.29 Sec. 13. Minnesota Statutes 2006, section 356.405, is amended to read:

14.30 **356.405 COMBINED PAYMENT OF RETIREMENT ANNUITIES.**

14.31 (a) The Public Employees Retirement Association and the Minnesota State  
 14.32 Retirement System are permitted to combine payments to retirees if one of the payments  
 14.33 is less than \$250 per month and the same joint and survivor annuity was taken, or if  
 14.34 the individual elects straight life annuities from both systems. The total payment must

15.1 be equal to the amount that is payable if payments were kept separate. ~~The retiree must~~  
 15.2 ~~agree, in writing, to have the payment combined.~~

15.3 (b) Each plan must calculate the benefit amounts under the laws governing the plan  
 15.4 and the required reserves ~~and future mortality losses or gains~~ must be paid ~~or accrued~~ to  
 15.5 the plan making the combined payment from which the plan where the service was earned.  
 15.6 ~~Each plan must account for its portion of the payment separately, and there may be no~~  
 15.7 ~~additional actuarial liabilities realized by either plan.~~

15.8 (c) The plan making the payment would be responsible for issuing one payment and  
 15.9 making address changes, tax withholding changes, and other administrative functions  
 15.10 needed to process the payment.

15.11 Sec. 14. Minnesota Statutes 2006, section 490.121, subdivision 15a, is amended to  
 15.12 read:

15.13 Subd. 15a. **Early retirement date.** "Early retirement date" means ~~the last day of~~  
 15.14 ~~the month~~ any date after a judge attains the age of 60 but before the judge reaches the  
 15.15 normal retirement date.

15.16 Sec. 15. Minnesota Statutes 2006, section 490.121, subdivision 21d, is amended to  
 15.17 read:

15.18 Subd. 21d. **Mandatory retirement date.** "Mandatory retirement date" means the  
 15.19 ~~last day of the month in which~~ date a judge has attained 70 years of age.

15.20 Sec. 16. Minnesota Statutes 2006, section 490.121, subdivision 21f, is amended to read:

15.21 Subd. 21f. **Normal retirement date.** "Normal retirement date" means the ~~last day~~  
 15.22 ~~of the month in which~~ date a judge attains the age of 65.

15.23 Sec. 17. **REVISOR INSTRUCTION.**

15.24 The revisor of statutes shall replace references to section 356.55, which was repealed  
 15.25 in 2002, with references to section 356.551, wherever they appear in Minnesota Statutes  
 15.26 or Minnesota Rules. The revisor shall also make related grammatical changes.

15.27 Sec. 18. **EFFECTIVE DATE.**

15.28 (a) Sections 1 to 17 are effective the day following final enactment.

15.29 (b) The revisions to authorized leave purchase authority in sections 4 and 5 apply to  
 15.30 authorized leaves of absence that commence on or after the effective date.