



TO: Members of the Legislative Commission on Pensions and Retirement  
FROM: Lawrence A. Martin, Executive Director *LA Martin*  
RE: H.F. xxxx; S.F. 424 (Betzold): MTRFA; Obsolete References Corrections  
DATE: March 1, 2007

#### General Summary of H.F. xxxx; S.F. 424 (Betzold)

H.F. xxxx; S.F. 424 (Betzold) amends various provisions in Minnesota Statutes, Chapter 13, the data privacy statutes; Chapter 126C, the education funding statutes; Chapter 353, the Public Employees Retirement Association statutes; Chapter 354A, the first class city teacher retirement fund associations' statutes; Chapter 354B, the Individual Retirement Account Plan of the Minnesota State Colleges and Universities System (MnSCU) provisions; Chapter 355, the public employee Social Security coverage provisions; and Chapter 423A, the local police and paid firefighter relief association state aid and benefit provisions, by eliminating references to the former Minneapolis Teachers Retirement Fund Association (MTRFA) and by correcting other provisions previously applicable to the former MTRFA.

A section-by-section summary of H.F. xxxx; S.F. 424 (Betzold) is attached as Attachment A.

#### Background Information

1. MTRFA/TRA Consolidation. Background information on the consolidation of the Minneapolis Teachers Retirement Fund Association (MTRFA) into the Teachers Retirement Association (TRA) enacted in 2006 and the consolidation impact on the TRA funded condition and funding costs is set forth in Attachment B.
2. MTRFA Liquidating Trust. Background information on the liquidating trust established by the Minneapolis Teachers Retirement Fund Association (MTRFA) and its transfer of assets to the liquidating trust in advance of the consolidation is set forth in Attachment C.

#### Discussion and Analysis

H.F. xxxx; S.F. 424 (Betzold) eliminates or clarifies references to the former Minneapolis Teachers Retirement Fund Association (MTRFA), following its 2006 consolidation into the Teachers Retirement Association (TRA), and corrects a typographical error regarding the amount of the local property tax levy that the City of Minneapolis and Special School District No. 1 must implement and pay to TRA as the successor to MTRFA.

The proposed legislation raises or presents an opportunity to raise several pension and related public policy issues that may merit Commission consider and discussion, as follows:

1. Appropriateness of the Proposed MTRFA Reference Corrections. The policy issue is the appropriateness of the proposed correction of remaining references to the former Minneapolis Teachers Retirement Fund Association (MTRFA) proposed in sections 1, 2, 3, 5, 6, 7, and 8. The corrections are either the elimination of the MTRFA reference where the statutory provision applies to the MTRFA as an entity (sections 1, 3, and 8) or the replacement of the MTRFA reference with a reference to the Teachers Retirement Association (TRA) in its capacity as the replacement of the former MTRFA (sections 2, 5, 6, and 7). An opportunity should be afforded to a TRA representative or any other interested party to address the issue of appropriateness.
2. Appropriateness of the Proposed Correction of the Minneapolis City and Special School District No. 1 Mandatory Levies (Section 4). The policy issue is the appropriateness of the proposed correction of the mandatory local levies from the City of Minneapolis and from Special School District No. 1 to be matched by special direct state aid to the Teachers Retirement Association (TRA) in Section 4. As part of the 2006 legislation that consolidated the former Minneapolis Teachers Retirement Fund Association (MTRFA) into TRA, the matching local tax levy amounts associated with the \$2.5 million direct state aid redirected to TRA was recast as \$1,125,000 from each, rather than the actual full matching amount of \$1,250,000 from each. The pre-2006 provision was a voluntary provision for the City of Minneapolis and Special School District No. 1, with each \$1,000 of local contribution matched by the state up to a maximum of \$2.5 million. In recasting the provision in 2006 as a mandatory contribution at the full state direct aid matching amount, a typographical error appears to have occurred somewhere in the development of S.F. xxxx; H.F. 2847 (Ozment). It is the understanding of the Commission staff that the Department of

Education has interpreted this portion of the 2006 MTRFA/TRA consolidation legislation as an error and has mandated a full \$1.25 million local contribution for each local government entity in Fiscal Year 2007. Representatives of the City of Minneapolis and of Special School District No. 1 should be afforded an opportunity to dispute the contention that the reduced local levy amount for each in the 2006 consolidation legislation was a typographical error and to suggest why the amount should not be increased.

3. Appropriate Legislative Response to the MTRFA Liquidating Trust. The policy issue is the appropriate response by the Commission and the Legislature to the Minneapolis Teachers Retirement Fund Association (MTRFA) liquidating trust. Although there have been more than 50 public pension plan consolidations in Minnesota before 2006, the 2006 MTRFA/Teachers Retirement Association (TRA) consolidation is the first time that the device of a liquidating trust was used in a consolidation. The MTRFA liquidating trust was not contemplated by the 2006 consolidation legislation and the State Auditor's Office concluded in its special review that the creation of the MTRFA liquidating trust was "concocted . . . in a unilateral attempt to manage the consolidation according to the preferences of the former MTRFA Board and Executive Director, in defiance of the Legislature's mandated consolidation process," was an "attempt to coerce [a] release of claims and bad faith indemnification from the state," and was "in effect holding the \$1.5 million hostage until the former MTRFA's ransom demands are met." If the Commission and the Legislature are concerned about the MTRFA liquidating trust and seek to resolve the issue, few options exist since the issue was initially litigated and then settled in Hennepin County District Court and the MTRFA liquidating trust has ended after paying considerable attorney fees and some trustee fees. An additional consideration is whether it is appropriate or not either to curb the use of liquidating trusts as part of any future public pension plan consolidations in Minnesota or to regulate their use.
  - Amendment S0424-1A explicitly prohibits the creation of a liquidating trust by any Minnesota public pension plan as part of any consolidation or otherwise. Since liquidating trusts are generally utilized for federal and state tax considerations by failing businesses, the loss of this potential tool does not appear to threaten to impair future Minnesota public pension plan consolidations or operations.
  - Amendment S0424-2A permits Minnesota public pension plans to create liquidating trusts, but limits the purposes for which liquidating trusts can be established, limits the amount of assets that can be transferred to a liquidating trust, and requires that the Commissioner of Finance or the commissioner's designee be the liquidating trust trustee for any liquidating trust. Regulating future liquidating trusts created by Minnesota public pension plans provides the Legislature with the opportunity to eliminate some of the perceived abuses that arose in connection with the recent MTRFA liquidating trust.
4. Appropriate Legislative Response to the Failure of the Hennepin County District Court to Observe the TRA Venue Provision. The policy issue is the appropriate response of the Commission or the Legislature to the failure of the Hennepin County District Court to transfer venue of the Minneapolis Teachers Retirement Fund Association (MTRFA) liquidating trust litigation to the Ramsey County District Court as required by Minnesota Statutes, Section 354.07, Subdivision 3. The Minnesota State Retirement System (MSRS), the Public Employees Retirement Association (PERA), and the Teachers Retirement Association (TRA) all have provisions that specify that the venue for all legal actions involving the respective retirement system are in the Ramsey County District Court. The venue provisions are of relatively recent origin, with the venue provision applicable to MSRS having first been added in 1975 (Laws 1975, Chapter 368, Section 16) and extended to the two other systems shortly thereafter. The venue provisions came at the request of the retirement plans and not at the request of the practicing bar or of the Ramsey County District Court. The venue provisions also were not opposed by the practicing bar, the Attorney General's Office, the Ramsey County District Court, or any other interested party to the best understanding of the Commission staff. Concentrating pension litigation in one district court provides convenience to the retirement system involved and provides greater potential institutional understanding of and capability in resolving these specialized and complicated issues. The venue provisions, however, do cause some potential inconvenience to some potential petitioners located in greater Minnesota. With internal appeals processes in each system and the availability of special legislation to resolve pension member complaints, there is relatively little pension plan litigation.
  - Amendment S0424-3A. If the Commission wishes to further buttress its view about the proper venue for pension litigation, potential amendment S0424-3A adds a venue provision to Minnesota Statutes, Chapter 356A, the public pension plan fiduciary responsibility law, with a clear specification of venue in litigation involving a statewide retirement plan in the Ramsey County District Court and a clear specification of venue for all local retirement plans, which is an extension of the logic behind the three current venue provisions.

**Attachment A**  
**Section-by-Section Summary**

<u>Sec.</u>	<u>Pg.Ln – Pg.Ln</u>	<u>Retirement Plan</u>	<u>Stat. Provision</u>	<u>Summary</u>
1	1.7 – 1.12	MTRFA	13.632, Subd. 1	The specific first class city teacher retirement fund association data privacy provision is amended to eliminate a reference to the former MTRFA.
2	1.13 – 2.17	MTRFA	126C.41, Subd. 4	The Special School District No. 1, Minneapolis, additional property tax levy provision related to health insurance subsidies for certain Medicare-ineligible former Minneapolis teachers is amended to update a reference to the former MTRFA.
3	2.18 – 5.26	PERA-General/ MTRFA	353.01, Subd. 2b	The membership eligibility provision of the defined benefit retirement plans administered by PERA is amended to eliminate a reference to the former MTRFA in the exclusion for individuals covered by another Minnesota public pension plan.
4	5.27 – 6.16	TRA/MTRFA	354A.12, Subd. 3b	The City of Minneapolis and the Special School District No. 1 mandatory employer contribution transferred from the former MTRFA to the TRA is corrected from \$1.125 million each annually to \$1.25 million each annually to match the \$2.5 million annual state contribution.
5	6.17 – 7.7	IRAP/MTRFA	354B.21, Subd. 3	The defined benefit plan coverage option for Minnesota State Colleges and Universities System (MnSCU) technical college faculty members is corrected to eliminate a reference to the former MTRFA.
6	7.8 – 7.12	Social Security/ MTRFA	355.01, Subd. 3h	The definition of “Minneapolis teacher” for purposes of Social Security coverage is corrected to eliminate a reference to the former MTRFA and replace it with a TRA reference.
7	7.13 – 8.35	TRA/MTRFA	423A.02, Subd. 3	The portion of local police and paid fire relief association amortization aid previously redirected to the former MTRFA is reassigned to the TRA and the St. Paul Teachers Retirement Fund Association (SPTRFA) eligibility termination provision is appropriately revised.
8	8.36 – 9.5	TRA/MTRFA	423A.02, Subd. 5	The amortization state aid termination provision is revised to eliminate a reference to the former MTRFA.
9	9.6 – 9.8	--	Effective date	Most provisions are effective upon final enactment. The former MTRFA state aid and amortization state aid revisions are made effective retroactive to the effective date of the MTRFA consolidation into TRA.

## Attachment B

### Background Information on the 2006 MTRFA/TRA Consolidation

In 2006 (Laws 2006, Chapter 277, Article 3), the former Minneapolis Teachers Retirement Fund Association (MTRFA) was consolidated into the Teachers Retirement Association (TRA).

- The TRA definition of “teacher” for pension plan purposes was revised to include Minneapolis public school teachers and the TRA definition of allowable service credit was revised to include service provided by Minneapolis teachers which was credited as allowable MTRFA service prior to the merger of the MTRFA into TRA on July 1, 2006.
- Starting July 1, 2006, the employee contribution rate for coordinated TRA members was increased to 5.5 percent of pay. Any MTRFA basic members who became a TRA member had their member contribution rate increased to 9.0 percent of pay. For Special School District No. 1, Minneapolis, after July 1, 2007, the employer contribution rates increased to 5.5 percent for coordinated members and 9.5 percent for basic members. In addition, Special School District No. 1, Minneapolis, was required to continue to pay an employer additional contribution of 3.64 percent of pay on behalf of both coordinated and basic members. For employing units other than Special School District No. 1, after June 30, 2007, the employer contribution rate increases from 5.0 percent of pay to 5.5 percent of pay on behalf of coordinated members and from 9.0 to 9.5 percent on behalf of basic members.
- For coordinated TRA members, including those transferred into TRA from MTRFA, the accrual rate used to compute the high-five annuity was increased for service rendered after June 30, 2006, from 1.2 percent to 1.4 percent for each of the first ten years of service and from 1.7 to 1.9 percent for each year thereafter. If a level benefit tier computation is applicable for a coordinated member, the rate used for post June 30, 2006 service was increased from 1.7 percent to 1.9 percent. There was no change in the formula for computing basic member benefits. Any basic member who was an MTRFA basic member on June 30, 2006 will have the person’s annuity computed under the annuity formula specified in the MTRFA Articles of Incorporation.
- All active, inactive, and retired MTRFA members were transferred to TRA as of July 1, 2006, along with all records, service credit, and liabilities. Any newly hired Minneapolis teacher after June 30, 2006, also became a TRA member.
- On or before June 30, 2006, all MTRFA retirement fund assets were to be transferred to TRA and invested by the State Board of Investment, and the MTRFA ceased to exist. On behalf of MTRFA retired members or other benefit recipients of that organization, the TRA transferred to the Minnesota Post Retirement Investment Fund assets consistent with the funding ratio of the Post Fund, leaving the funding ratio of Post Fund assets to be unchanged by the transfer. The benefits of all retired, disabled, deferred or inactive members of the former MTRFA must be computed as specified under applicable law, bylaw, or articles of incorporation in effect when the former MTRFA member terminated service.
- All post-retirement adjustments paid to former MTRFA members after December 31, 2006, are those under the Minnesota Post Retirement Investment Fund rather than under any prior MTRFA procedure.
- TRA became the successor in interest to all claims against the MTRFA, except that TRA is not liable for any breach of fiduciary duty where the acts constituting the claimed breach were not done in good faith.
- A special audit of the MTRFA as of June 30, 2006, was performed by the State Auditor. TRA’s full funding date was reset to June 30, 2037.
- MTRFA employees were made TRA employees until December 31, 2007, and were appointed without a civil service examination at their current hourly rate and have employment benefits comparable to other TRA employees.
- Because of the merger of MTRFA into TRA, the provisions in the first class city teacher plan chapter and elsewhere relating to the normal retirement age definition, the teacher definition, the pension plan establishment provision, the sabbatical leave provision, the military leave/break in service, the parental and maternity leave provision, the medical leave, the employee contribution rate provision, the retirement contribution levy prohibition, the employer contribution rate provision, the supplemental administrative expense assessment, the coordinated program establishment provision, the coordinated program annuity computation provision, the optional annuity forms provision, the service in more than one fund provision, the annuity computation for combined coordinated/basic service provision, the coordinated program administration provision, the financial reporting provision governing Minnesota public plans, the joint actuary retention provision, the economic actuarial assumption provision, the combined service annuity provision, the combined service disability provision, the combined service survivor provision, the pre-1973 retiree increase provision, and the supplemental needs trust provision were revised to remove any reference to the MTRFA.
- The MTRFA bylaws were repealed, except that they must be used for computing the benefits applicable to grandparented basic MTRFA members. The MTRFA union business agent provision, the MTRFA purchase of out-of-state teaching service, the MTRFA basic program establishment provision, and the MTRFA post-retirement adjustment provision, were repealed.

From the actuarial estimates prepared by the jointly retained consulting actuary, the Segal Company, the consolidation of the Minneapolis Teachers Retirement Fund Association (MTRFA) into the Teachers Retirement Association (TRA), the increase in the TRA benefit accrual rate, the increase in the TRA amortization period, and the contribution rate increases were expected to have had the following actuarial impact on TRA, based on the July 1, 2005, TRA actuarial valuation and those expected results are compared with the July 1, 2006, TRA actuarial valuation results:

	2005 Actuarial Condition of TRA		MTRFA Consolidation		MTRFA Under TRA Actuarial Assumptions*	TRA Benefit Increase*	Shift to 30-Year Amortization Period	Expected 2006 Resulting Condition of TRA		Actual 2006 Actuarial Condition of TRA	
<b>Membership</b>											
Active Members		74,552		4,756	--	--	--		79,308		79,200
Service Retirees		35,779		3,537	--	--	--		39,316		40,973
Disabilitants		581		25	--	--	--		606		630
Survivors		2,597		277	--	--	--		2,874		3044
Deferred Retirees		9,880		1,377	--	--	--		11,257		11,773
Nonvested Former		19,151		3,604	--	--	--		22,755		21,956
<b>Total Membership</b>		<b>142,540</b>		<b>13,576</b>	<b>--</b>	<b>--</b>	<b>--</b>		<b>156,116</b>		<b>157,576</b>
<b>Funded Status</b>	(%)	(\$)	(%)	(\$)	(\$)	(\$)	(\$)	(%)	(\$)	(%)	(\$)
Accrued Liability		18,021,410,061		1,755,912,975	90,507,852	82,359,973	--		19,950,190,861		20,679,110,879
Current Assets		<u>17,752,917,313</u>		<u>783,354,138</u>	<u>0</u>	<u>0</u>	--		<u>18,536,271,451</u>		<u>19,035,611,839</u>
Unfund. Accr. Liability		268,492,748		972,558,837	90,507,852	82,359,973	--		1,413,919,410		1,643,499,040
<b>Funding Ratio</b>	<b>98.51</b>		<b>44.61</b>					<b>92.91</b>		<b>92.05</b>	
<b>Financing Requirements</b>											
Covered Payroll		3,389,066,754		231,208,456	--	--	--		3,620,275,210		3,707,900,584
Benefits Payable		1,048,440,524		123,031,355	--	--	--		1,171,471,879		1,224,212,024
Normal Cost	8.02	271,801,325	9.51	21,981,273	--	42,902,997	--	9.30	336,685,595	9.43	349,678,399
Administrative Expense	0.34	11,522,827	0.29	670,505	--	--	--	0.34	12,193,332	0.33	12,236,072
<b>Normal Cost &amp; Exp.</b>	<b>8.36</b>	<b>283,324,152</b>	<b>9.80</b>	<b>22,651,778</b>	<b>--</b>	<b>42,902,997</b>	<b>--</b>	<b>9.64</b>	<b>348,878,927</b>	<b>9.76</b>	<b>361,914,471</b>
Normal Cost & Exp.	8.36	283,324,152	9.80	22,651,778		42,902,997		9.64	348,878,927	9.76	361,914,471
Amortization	0.69	23,384,561	36.50	84,391,086	7,853,547	7,173,200	(43,518,367)	2.19	79,284,027	2.34	86,764,874
<b>Total Requirements</b>	<b>9.05</b>	<b>306,708,713</b>	<b>46.30</b>	<b>107,042,864</b>	<b>7,853,547</b>	<b>50,076,197</b>	<b>(43,518,367)</b>	<b>11.83</b>	<b>428,162,954</b>	<b>12.11</b>	<b>448,679,345</b>
Employee Contrib.	5.00	169,453,338	5.74	13,266,140	--	18,101,376	--	5.52	199,839,191	5.51	204,456,479
Employer Contrib.	5.00	169,453,338	8.46	19,553,269	--	19,257,148	--	5.72	207,079,742	5.23	193,832,020
Employer Add'l Cont.	0.00	0	0.00	0	--	--	--	0.00	0	0.00	0
Direct State Funding	0.00	0	7.70	17,814,000	--	--	--	0.49	17,814,000	0.51	18,819,110
Other Govt. Funding	0.00	0	1.08	2,500,000	--	--	--	0.07	2,500,000	0.07	2,500,000
Admin. Assessment	0.00	0	0.00	0	--	--	--	0.00	0	0.00	0
<b>Total Contributions</b>	<b>10.00</b>	<b>338,906,676</b>	<b>22.99</b>	<b>53,133,409</b>	<b>--</b>	<b>37,358,524</b>	<b>--</b>	<b>11.80</b>	<b>427,232,933</b>	<b>11.31</b>	<b>419,607,609</b>
Total Requirements	9.05	306,708,713	46.30	107,042,864	7,853,547	50,076,197	(43,518,367)	11.83	428,162,954	12.11	448,679,345
Total Contributions	10.00	338,906,676	22.99	53,133,409	--	37,358,524	--	11.80	427,232,933	11.31	419,607,609
Deficiency (Surplus)	(0.95)	(32,197,963)	23.31	53,909,455	7,853,547	87,434,721	(43,518,367)	0.03	930,021	0.80	29,071,736

\* The Segal actuarial cost estimate did not allocate the impact of the benefit increase or the actuarial assumption change clearly, so the allocation was estimated by the Commission staff. The allocation is an approximation, but the total combined impact reflects the Segal estimate.

## Attachment C

### Background Information on the MTRFA Liquidating Trust

Although not provided for in Laws 2006, Chapter 277, Article 3, the Minneapolis Teachers Retirement Fund Association (MTRFA)/Teachers Retirement Association (TRA) consolidation legislation, on May 8, 2006, the MTRFA board authorized the creation of a liquidating trust at a special meeting held for that purpose, with the liquidating trust agreement executed on behalf of MTRFA as grantor on May 18, 2006, and with the liquidating trust agreement executed on behalf of the trust by its trustee, Harry Haynesworth IV, on May 22, 2006. On May 26, 2006, MTRFA transferred \$1.532 million to the liquidating trust, based on an estimate of the trust requirements prepared by a third party advisor.

Liquidating trusts are primarily created for the purpose of liquidating and distributing the assets of a failing or troubled corporation, partnership, or other business entity by holding title to some of the entity's assets while waiting for some business-related contingency to be resolved. The contingencies that frequently give rise to the creation of a liquidating trust would be the settlement of third party contract or tort claims or the disposition of hard to sell property or assets. Liquidating trusts are a staple tool of federal and state tax practice in corporate dissolution and are used by a troubled business to avoid the tax burden that would otherwise be borne by the business.

The MTRFA liquidating trust was funded from the MTRFA special retirement fund and had three sets of beneficiaries, with the initial beneficiaries being the MTRFA board of trustees and the MTRFA executive director, with the secondary beneficiaries being any MTRFA creditors, and with the tertiary beneficiary being TRA. The MTRFA liquidating trust agreement specified potential liabilities and obligations that MTRFA may lack assets to cover, which were:

- contracts and expenses to conduct a membership election to authorize MTRFA's transfer of assets to TRA;
- indemnification of the fiduciaries for past, present, and future obligations;
- premiums for fiduciary liability "tail coverage";
- any contracts, debts, obligations, or liabilities to third parties;
- general and administrative operating expenses and costs of the liquidating trust;
- severance obligations to employees;
- amounts due to the executive director under her employment contract;
- liquidating trust trustee fees and costs;
- professional fees and costs incurred prior to, and subsequent to, consolidation; and
- a reasonable additional amount for unanticipated fees, costs, and expenses.

The MTRFA liquidating trust trustee was empowered with sole and absolute discretion in deciding which claims and obligations may be paid and what indemnification against claims would be provided to the MTRFA board of trustee members and the MTRFA executive director.

On June 19, 2006, MTRFA, the MTRFA board of trustees, the MTRFA executive director, the MTRFA liquidating trust, and the MTRFA liquidating trust trustee initiated a declaratory judgment action in Hennepin County District Court against TRA and the State Attorney General for a ruling that the liquidating trust was lawfully established, that MTRFA took lawful actions under the Minnesota Nonprofit Corporation Act, and that TRA must indemnify the MTRFA board of trustees and the MTRFA executive director under the Minnesota Nonprofit Corporation Act. The TRA counterclaimed and sought a temporary restraining order against the MTRFA liquidating trust, which was denied by district court judge Harry Crump on June 26, 2006. TRA's motion that the venue of the action be transferred to the Ramsey County District Court under Minnesota Statutes, Section 354.07, Subdivision 3, was also denied by Judge Crump.

In a special accounting report required by the MTRFA/TRA consolidation law, the State Auditor's Office determined seven items of legal noncompliance with respect to the MTRFA liquidating trust, which were:

1. The creation of the MTRFA liquidating trust constituted an illegal diversion of money from the MTRFA special retirement fund;
2. The placement of MTRFA pension plan assets with a third-party trustee violated the applicable legal title to assets provision of the Minnesota Public Pension Plan Fiduciary Responsibility law;
3. The creation of the MTRFA liquidating trust constituted a violation of the Minnesota public pension plan exclusive membership benefit law;
4. The transfer of MTRFA assets to the liquidating trust constituted a violation of the prohibited transaction under the Minnesota Public Pension Plan Fiduciary Responsibility law;
5. The failure to transfer full MTRFA assets to TRA violated the MTRFA/TRA consolidation law;

6. The MTRFA liquidating trust agreement was an illegal attempt to perpetuate the MTRFA beyond its consolidation into TRA; and
7. The empowerment of the MTRFA liquidating trust trustee to pay lawful obligations of MTRFA as he determines them contravenes TRA's status as the successor in interest of MTRFA under the MTRFA/TRA consolidation law.

The State Auditor's Office also determined that 90.2 percent of the assets transferred by MTRFA to the MTRFA liquidating trust were administrative expenses that had been paid by MTRFA prior to the creation of the MTRFA liquidating trust, that had been specifically assumed by TRA or that had been paid by TRA. The only administrative expenses payable by the MTRFA liquidating trust not previously paid or assumed by TRA as determined by the office of the State Auditor were the MTRFA liquidating trust attorney fees and trustee fees.

1.1 ..... moves to amend H.F. No. xxxx; S.F. No. 424, as follows:

1.2 Page 7, after line 12, insert:

1.3 "Sec. 7. **[356.493] PROHIBITION ON LIQUIDATING TRUST CREATION.**

1.4 A Minnesota public retirement plan governed by section 356.20 may not create a  
1.5 liquidating trust for any purpose and may not deposit any of its assets in a liquidating trust."

1.6 Renumber the sections in sequence and correct the internal references

1.7 Amend the title accordingly



1.1 ..... moves to amend H.F. No. xxx; S.F. No. 424. as follows:

1.2 Page 7, after line 12, insert:

1.3 "Sec. 7. **[356.494] AUTHORIZATION FOR THE CREATION OF**  
1.4 **LIQUIDATING TRUST.**

1.5 Subdivision 1. Authorization. (a) A Minnesota public retirement plan governed  
1.6 by section 356.20 that is scheduled to be consolidated into another Minnesota public  
1.7 retirement plan under law or otherwise may establish a liquidating trust under this section.

1.8 (b) Any liquidating trust established by any Minnesota public retirement plan after  
1.9 May 1, 2007, is governed by this section.

1.10 Subd. 2. Permitted purposes for a liquidating trust. A liquidating trust may be  
1.11 established solely for one or more of the following purposes:

1.12 (1) to dispose of assets if the applicable retirement plan has an asset or a class of  
1.13 assets which has an uncertain fair market value and which is not readily liquidated;

1.14 (2) to resolve liability issues if the applicable retirement plan has an actual liability  
1.15 or a contingent liability that is a reasonable and necessary expense of the plan or is an  
1.16 authorized benefit of the plan and that has been specified in proposed legislation or in  
1.17 other applicable documentation as unpayable by the successor retirement plan following  
1.18 consolidation;

1.19 (3) to reduce the amount of accounts payable if the applicable retirement plan has  
1.20 a large amount of accounts payable that are disputed administratively or are the subject  
1.21 of pending litigation; or

1.22 (4) to resolve the accounts receivable portfolio if the applicable retirement plan  
1.23 has a large amount of accounts receivable that are disputed administratively or are the  
1.24 subject of pending litigation.

