



TO: Members of the Legislative Commission on Pensions and Retirement

FROM: Lawrence A. Martin, Executive Director *LA Martin*

RE: Designated Commission Interim Study: Review of the Commission's Principles of Pension Policy (First Consideration)

DATE: August 15, 2007

### Introduction

As an interim topic for consideration, the Commission chair, Representative Mary Murphy, has designated a review of the Commission's Principles of Pension Policy.

The interim topic is not a direct outgrowth of any pension legislation during the 2007 Legislative Session, but represents an opportunity for the Legislative Commission on Pensions and Retirement to provide guidance to interested parties and to future Commissions by reviewing its principles of pension policy in light of pension legislation enacted since the last review of the principles in 1995-1996.

This Commission meeting is the initial consideration of the topic by the Commission. The Commission staff expects Commission consideration on the topic to require two or three additional meetings to complete if the Commission desires to continue with project.

This Commission staff issue memorandum is the initial memorandum on the commission interim study. This memorandum will summarize the history of the Legislative Commission on Pensions and Retirement, will summarize the initial development of the Commission's principles of pension policy, will summarize the 1995 reformulation of the pension policy principles, will identify the pension legislation enacted during the period 1997-2007 that appears to be at variance with the 1995-1996 reformulated pension policy principles, and will identify the 1997-2007 pension legislation that raised issues that are not addressed specifically by the current version of the principles of pension policy. This Commission staff issue memorandum is intended to provide a context for additional consideration by the Commission of potential modifications in the principles of pension policy. Subsequent Commission issue memoranda, if the project proceeds, will provide a more detailed policy discussion of the current pension policy principles that Commission members conclude may need revision or restating in light of recent pension legislation and of the policy items that are not currently addressed by the principles of pension policy and that Commission members believe should be addressed.

### History of the Legislative Commission on Pensions and Retirement

- a. Predecessor Commission. The initial special legislative body to review public pension issues was the Interim Commission to Study Minneapolis Pension Systems, created by Laws 1943, Chapter 449. The 1943 Interim Commission was comprised of three members of the Senate and three members of the House of Representatives. All members of this interim commission were from Minneapolis. The 1943 Interim Commission issued a report to the 1945 Legislature, which dealt with the soundness of the various Minneapolis public pension plans, the fairness of the benefits and cost, their comparative position relative to pension plans of other similarly sized cities, and the possibility for consolidating the various plans. From the concurrent resolution of the Legislature reprinted in the report of the 1943 Interim Commission, the commission was created as a means to handle persistent demands for retirement benefit increases in a time other than a busy legislative session and as a means to assemble sufficient actuarial or other experts to investigate the costs of proposed benefit increases. No significant legislation enacted by the 1945 Legislature appears to have resulted from the work of the 1943 Interim Commission.
- b. Interim Pension Commissions. Until 1955, there was no special legislative body with specific jurisdiction over Minnesota public pension plans. In 1955 (Laws 1955, Chapter 829), the Legislature created a legislative commission to report on retirement benefit plans available to government employees. In addition to the Legislative Research Committee, established in 1947, which dealt with various studies and topics, the 1955 Legislature created 24 interim commissions, including the 1955 Public Retirement Interim Commission. According to O. M. Ousdigian, the late retired Executive Director of the Public Employees Retirement Association (PERA), the motivation for the creation of the 1955 Public Retirement Interim Commission was the likelihood of a near term default on benefit

payments by PERA and the need to provide PERA and the other major public pension plans with a regularized source of employer funding. The Legislature reportedly modeled the 1955 Public Retirement Interim Commission on the Wisconsin Retirement Laws Commission.

The Public Retirement Interim Commission was reestablished four times over the next five bienniums, in 1957 (Extra Session Laws 1957, Chapter 13), in 1959 (Extra Session Laws 1959, Chapter 82), in 1963 (Laws 1963, Chapter 888, Section 9), and in 1965 (Laws 1965, Chapter 888, Section 5). The various public retirement interim commissions functioned during the interims between the biennial legislative sessions primarily to study pending pension problems, to formulate recommendations on those problems, and to produce a biennial report that contained the recommendations of the Commission as to future legislative enactments relating to the State's various public pension plans. No public retirement interim commission was established by the 1961 Legislature.

- c. Permanent Pension Commission. The 1965 Public Retirement Systems Interim Commission recommended to the Legislature the creation of a permanent Legislative Commission on Pensions, and the 1967 Legislature created the Legislative Retirement Study Commission as a permanent legislative commission (Laws 1967, Chapter 549, coded as Minnesota Statutes, Section 3.85). That Pension Commission was scheduled to terminate its duties on June 30, 1973, under terms of the 1967 legislation. In 1971 (Laws 1971, Chapter 818), the 1973 expiration date for the Pension Commission was eliminated. In 1975, the name of the Pension Commission was changed from the Legislative Retirement Study Commission to the Legislative Commission on Pensions and Retirement (Laws 1975, Chapter 271, Section 3). In 1984, the duties of the Pension Commission were expanded with the addition of authority to issue standards for public pension actuarial work, the addition of the requirement of hiring a major actuarial consulting firm to prepare the regular actuarial valuations of the largest Minnesota public pension plans, and an increase in the Commission budget (Laws 1984, Chapter 564, Sections 1 and 2).
- d. Mid-1990s Reviews of the Pension Commission Role and Function and Their Aftermath. In 1994, largely in response to complaints from former Representative Wayne Simoneau and from a former PERA Executive Director, James Hacking, the Legislative Audit Commission undertook a review of the adequacy of the oversight of local public employee pension plans. The Office of the Legislative Auditor retained an independent consultant, Allan Baumgarten, to conduct the review and prepare a report for the Legislative Audit Commission.

In 1995 (Laws 1995, Chapter 248, Article 2, Section 6) virtually every legislative commission, including the Legislative Commission on Pensions and Retirement, were scheduled to sunset on July 1, 1996, unless the Legislative Coordinating Commission affirmatively elected to continue the operation of the particular commission by January 1, 1996. The Legislative Coordinating Commission elected to continue the operation of the Legislative Commission on Pensions and Retirement in December 1995, after conducting review hearings. The 1997 Legislature (Laws 1997, Chapter 202, Article 2, Section 5) increased the membership of the Legislative Commission on Pensions and Retirement from ten (five House of Representative members and five Senate members) to 12 (six House of Representative members and six Senate members). In 1999 (Laws 1999, Chapter 222, Article 20), the membership of the Legislative Commission on Pensions and Retirement was reduced back to ten members.

In 2004 (Laws 2004, Chapter 223, Section 6), the duty previously assigned to the Commission to select and retain the consulting actuary to prepare the regular actuarial work for the statewide and major local Minnesota public pension plans was reassigned to the various pension plan administrators acting collectively. The reassignment of the consulting actuary retention duty was accompanied by a reduction in the Commission budget.

- e. Institutional Position within the Legislature and Nationally. Within Minnesota, the Legislative Commission on Pensions and Retirement is the second oldest joint legislative agency created by the Minnesota Legislature that is still in operation. The oldest operating Minnesota joint legislative agency is the Office of the Revisor of Statutes, which was established as a temporary entity in 1851, was established as a permanent entity in 1939, initially in the judicial branch, and was transferred to the legislative branch in 1973 (Laws 1973, Chapter 598, Section 2, Subdivision 6).

Nationally, the Minnesota Pension Commission is the second oldest public employee retirement commission. The predecessor to the current Wisconsin Joint Survey Committee on Retirement Systems was created in 1945 and is the oldest pension commission of general jurisdiction. The Massachusetts Commission, established in 1958, and the Nebraska Commission, established in 1959, are the third and fourth oldest public employee retirement commissions.

- f. Changes in Pension Commission Emphasis. During the early period of the operation of the Pension Commission as a permanent legislative entity, largely 1967 through 1971, the Pension Commission slowly made the transition from an interim commission, with its primary work product focus being the production of a biennial report with policy recommendations, to a legislative policy making body, with its primary work product focus being the processing of proposed pension legislation. The Commission continued to issue a biennial report, prepared during the interim until the early 1980s, but the report evolved to become less of a collection of Commission recommendations about pension law changes, with a supporting policy argument, and to become more of a summary of the actuarial and financial information routinely collected by the Commission. During the period after 1967, proposed pension legislation also began to be handled by the respective legislative bodies on a less fragmented basis, with the jurisdiction over proposed pension legislation assigned typically to a single standing committee rather than the previous practice, where proposed legislation was assigned based on the nature of the employee group (i.e., judicial pensions assigned to the Judiciary Committee, teachers pensions assigned to the Education Committee, or municipal employee pensions assigned to the Local Government Committee). After 1971, during the legislative session, the Commission began to function as a joint meeting of the pension committees or pension subcommittees of the respective legislative bodies. Since the 1980s, the appointment of specific pension subcommittees has become more episodic.

Over the last two decades, the Pension Commission has evolved into its current manner of operation, processing proposed pension legislation during the legislative session in advance of the applicable standing committee bill hearing deadline and undertaking a schedule of study topics during the interim between legislative sessions. By longstanding agreement, the standing committees with jurisdiction over pensions, currently the House Committee on Governmental Operations, Reform, Technology and Elections and the Senate Committee on State and Local Government Operations, do not typically schedule proposed pension legislation for a hearing until it has been reviewed and recommended by the Pension Commission. The Pension Commission regularly schedules hearings on proposed pension legislation prior to the established initial bill hearing deadline and processes a considerable portion of the proposed pension legislation that is introduced annually. The Pension Commission generally reviews about 85 percent of the proposed pension legislation introduced during a legislative session and recommends for forwarding to the relevant standing committees about one-half of proposed pension legislation introduced. During the interim between legislative sessions, the Commission selects an agenda of public pension topics for study and considers those topics at regular or periodic Commission meetings during the interim. The public pension topics for interim study largely arise out of proposed pension legislation from the prior legislative session, where the proposed legislation did not receive final Commission action because it required additional technical work, required additional actuarial work, or required more extensive debate and consideration than would be possible during the legislative session. Pension Commission consideration of proposed legislation typically includes the preparation of a Commission staff policy issue memorandum based significantly on the Commission's Principles of Pension Policy.

#### Principles of Pension Policy

The Principles of Pension Policy document, as reformulated by the Commission during the 1995 and 1996 Interims, and adopted in December 1996, is attached as Appendix A.

#### 1997-2007 Pension Legislation Potentially at Variance with the Commission's Principles of Pension Policy

- a. In General. As last reformulated in 1995-1996 by the Commission, the Principles of Pension Policy have 39 substantive principles and five procedural principles. Of those 39 substantive principles, pension legislation during the 1997-2007 sessions directly touched upon at least 21 principles. With respect to 16 substantive principles, this recent pension legislation suggests a potential departure from or a potential need for a modification in the applicable principle.
- b. Principles for Potential Review.
1. Principle II.B.1. Creation of New Pension Plans indicates a general disfavor for the creation of new public employee pension plans, indicating that public employers should not be permitted to create new plans on their own initiative without legislative authorization and that new volunteer firefighter pension plans should be created on a county or comparable regional basis.

Two items of 1997-2007 pension legislation are potentially at variance with the thrust of the principle, even if they are not directly at variance with the language of the specific principle. Both changes occurred in 1999, with the creation of the Special Deputy State Fire Marshal – Fire/Arson Investigator Retirement Plan within the Minnesota State Retirement System (Laws 1999, Chapter

222, Article 15) and the creation of the Local Government Correctional Employees Retirement Plan within the Public Employees Retirement Association (Laws 1989, Chapter 222, Article 2). The MSRS Arson Investigator Plan provides a larger retirement benefit (2.0 percent benefit accrual rate) at an earlier age (age 55) than the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General), with a 70 percent increase in member contributions and with a 105 percent increase in employer contributions. The Local Government Correctional Employees Retirement Plan of the Public Employees Retirement Association (PERA-Correctional) provides a larger retirement benefit (1.9 percent benefit accrual rate) at an earlier age (age 55) than the General Employee Retirement Plan of the Public Employees Retirement Association (PERA-General), with a 23 percent increase in member contributions and with a 70 percent increase in employer contributions.

2. Principle II.B.3. Consolidation of Public Pension Plans indicates a broad goal of creating a more rational public pension plan structure, given the large number of plans within the State, and suggests that voluntary consolidations of smaller pension plans should be encouraged, with county or regional consolidated plans developed if a statewide plan is deemed to be inappropriate.

There were three items of 1997-2007 pension legislation that are potentially at variance with the principle to some degree. One relates to volunteer firefighter relief association consolidations and two deal with the phase-out of local police and paid firefighter relief associations:

- 1) In 1999, the Minneapolis Firefighters Relief Association was permitted to continue in existence until it has fewer than 100 retirees rather than phasing out into a municipal trust fund upon having fewer than 100 active members (Laws 1999, Chapter 222, Article 6, Section 2).
- 2) In 2000, authority was granted for any two or more volunteer firefighter relief associations to consolidate, building off of the 1996 New Hope-Crystal Volunteer Firefighter Relief Association consolidation legislation (Laws 2000, Chapter 461, Article 16, Section 2).
- 3) In 2005, the Minneapolis Police Relief Association was permitted to continue in existence until there are fewer than 2006 total members (active, retired or survivor) rather than fewer than 100 (Laws 2005, First Special Session, Chapter 8, Article 11, Section 9).

The Minneapolis Firefighters Relief Association legislation and the Minneapolis Police Relief Association legislation departed from the eventual elimination of the local pension plan that had been previously mandated. The general volunteer firefighter relief association consolidation authority does not result in county or regional consolidated pension plans.

3. Principle II.C.1. General Preference for Defined Benefit Plans over Defined Contribution Plans reflects the current development of Minnesota public pension plans, with defined benefit pension plans predominating and with defined contribution pension plans limited to situations to provide portability, to reflect politically vulnerable public employment, or to implement supplemental plan coverage.

There were two items of 1997-2007 pension legislation that are potentially at variance with the principle to some degree. One relates to replacement pension coverage for a group of public officials previously having public pension coverage while the other relates to pension coverage for a group of public sector individuals without prior pension coverage:

- 1) In 1997, newly elected legislators and constitutional officers and incumbent legislators and constitutional officers who elected Social Security coverage were made members of the Unclassified State Employees Retirement Program of the Minnesota State Retirement System (MSRS-Unclassified), a defined contribution plan (Laws 1997, Chapter 233, Article 2).
- 2) In 1999, the Kandiyohi County and Litchfield City Volunteer Rescue Squad members were made eligible for the PERA Defined Contribution Plan (Laws 1999, Chapter 222, Article 20).

The legislator and constitutional officer change was not clearly motivated by the employment factors cited in the principle, but appears to be a reaction to a perception about the nature of the pre-1997 coverage. The Kandiyohi-Litchfield Rescue Squad personnel situation also appears to lack any of the factors specified in the principle, but appears to be a function of financial considerations and a desire to avoid the creation of unfunded actuarial accrued liabilities.

4. Principle II.C.4. Appropriate Normal Retirement Ages suggests that the normal (unreduced for early retirement) retirement ages should be set based on the employability limits of average public employees and will be different for public safety employees when compared with general employees.

There was one item of 1997-2007 pension legislation that is potentially at variance with the principle to some degree. In 1997, eight years after setting the general employee retirement plan normal retirement age for post-1989 hires indexed to the Social Security unreduced benefit receipt age, with a maximum of age 67, the maximum age was reduced to age 66 (Laws 1997, Chapter 233, Article 1, Sections 17, 37, and 47, and Article 3, Section 1). No testimony was offered about any change in the employability limits of the average post-1989 hires that would substantiate the need for the change.

5. Principle II.C.5. Appropriate Early Retirement Reductions suggests that Minnesota public pension plans should not subsidize early retirement benefits and that, unless it is a part of an appropriately designed early retirement incentive, the early retirement reduction should be on an actuarial equivalent basis.

Two items of 1997-2007 pension legislation are potentially at variance with the principle to some degree:

- 1) In 1997, the actuarial equivalent early (pre-age 55) retirement reduction for the State Patrol Retirement Plan was replaced by a subsidized reduction factor (Laws 1997, Chapter 233, Article 1, Section 32).
- 2) In 1999, for the State Patrol Retirement Plan, the MSRS State Correctional Employees Retirement Plan (MSRS-Correctional), and the PERA Police and Fire Retirement Plan (PERA-P&F), the early (pre-age 55) retirement reduction was subsidized, with the MSRS-Correctional reduction factor changed from an actuarial equivalency reduction and with the State Patrol Retirement Plan and PERA-P&F reduction factor both further subsidized (Laws 1999, Chapter 222, Article 13, Section 5, and Article 14, Sections 1, 6, and 8).

The State Patrol Retirement Plan and PERA-P&F early retirement reduction factors are so slight after the 1999 change that the only logical next step to provide a benefit increase would be to reset the normal retirement age for the two plans at age 50 rather than age 55.

6. Principle II.C.7. Adequacy of Benefits at Retirement generally suggests that normal retirement benefits should respond to economic changes, should be adequate as of retirement, measured on the basis of the retiree's final salary, with 30 years of service as a reasonable public employment career, at the normal retirement age, and should reflect any Social Security benefit earned during public employment.

One item of 1997-2007 pension legislation is potentially at variance with the principle to some degree. For the Minneapolis Firefighters Relief Association, a retirement benefit increase was provided to retirees who are single, with the increase based on that unmarried status (First Special Session Laws 2001, Chapter 10, Article 15, Section 5). The benefit increase appears to have been motivated by a desire by single retirees to gain the advantages of a prior benefit increase that was granted to married retirees, due to the automatic survivor coverage previously provided by the relief association and its conversion into an optional annuity form. Marital status is not a factor in the policy principle.

7. Principle II.C.8. Post Retirement Benefit Adequacy indicates that the primary purpose for post retirement adjustments is to replace the impact of inflation on previously adequate retirement benefits, with the adjustment mechanism funded on an actuarial basis, and with the inflation measure based on a valid recognized economic indicator.

Five items of 1997-2007 pension legislation are potentially at variance with the principle to some degree:

- 1) In 1997, the Consumer Price Index component of the Minnesota Post Retirement Investment Fund statewide post retirement adjustment mechanism was reduced by one percent as part of the funding for an increase in the benefit accrual rates of the various statewide retirement plans (Laws 1997, Chapter 233, Article 1, Section 5).

- 2) Also in 1997, the thirteenth check lump sum post retirement adjustment mechanism of the St. Paul Teachers Retirement Fund Association (SPTRFA) was replaced by an annual annuitized post-retirement adjustment mechanism, funded from SPTRFA investment actuarial gains (Laws 1997, Chapter 233, Article 3, Sections 7 and 10).
- 3) Additionally, in 1997, the Minneapolis Police Relief Association and the Minneapolis Firefighters Relief Association thirteenth check post retirement adjustment mechanism was modified, increasing the amount of investment gain for distribution and expanding the definition of excess income (Laws 1997, Chapter 233, Article 4, Sections 1, 8 to 10, and 13 to 16).
- 4) In 1999, a “thirteenth check” post retirement adjustment mechanism based on relief association investment actuarial gains was created in addition to the existing post retirement escalator (indexation to the salary of a top grade police officer) for the Fairmont Police Relief Association (Laws 1999, Chapter 222, Article 3, Section 3).
- 5) In 2000, additional “thirteenth check” post retirement adjustment mechanisms funded from a portion of relief association assets in excess of a 110 percent funding ratio were created for the Minneapolis Police Relief Association and the Minneapolis Firefighters Relief Association (Laws 2000, Chapter 461, Article 17, Sections 1, 2, 7, 8, and 9).

Although funded on an actuarial basis, from actuarial gains, the St. Paul Teachers Retirement Fund Association mechanism places an actuarial burden on the overall funding situation of that underfunded plan and all of the mechanisms operate wholly or largely without reference to increases in the Consumer Price Index or other recognized measure of the effects of inflation on the elderly. In 2007, as a demonstration project, the SPTRFA post-retirement adjustment mechanism was temporarily replaced with an adjustment based wholly on the Consumer Price Index increase, subject to a five percent annual maximum. The SPTRFA demonstration project is likely to have a further detrimental actuarial impact on the plan and a study and report on the actuarial impact of the project was also mandated by Laws 2007, Chapter 134, Article 7.

8. Principle II.C.10. Purchases of Prior Service Credit suggests that the purchase of service credit in a defined benefit plan for prior periods of time should only be permitted if the period is either public employment or is substantially akin to public employment, if the service period for purchase has a significant connection to Minnesota, if the purchase is funded either from member payments or a combination of member and employer payments, if the purchase payment is the full actuarial value without a pension plan subsidy, and if the purchase does not offend equity notions.

Twenty-two items of 1997-2007 pension legislation are potentially at variance with the principle:

- 1) In 1998, a new service credit purchase payment amount determination process, developed by the consulting actuary retained by the Legislative Commission on Pensions and Retirement at the apparent instigation of the Teachers Retirement Association (TRA), was enacted on a temporary demonstration basis (Laws 1998, Chapter 390, Article 4, Sections 1 and 2).
- 2) In 1999, TRA and first class city teacher retirement fund association members were granted temporary authority to purchase service credit for previously unpurchased interim military service, prior military service, out-of-state teaching service, maternity leaves, maternity breaks-in-employment parochial and private school teaching service, Peace Corps or VISTA service, and charter school teaching (Laws 1999, Chapter 222, Article 16, Sections 1 to 12).
- 3) Also, in 1999, Minneapolis Teachers Retirement Fund Association members were granted temporary authority to purchase service credit for previously uncredited part-time teaching service (Laws 1999, Chapter 222, Article 16, Section 13).
- 4) In 2000, MSRS-General and PERA-General members were granted temporary authority to purchase service credit for previously unpurchased interim military service or for prior military service (Laws 2000, Chapter 461, Article 4, Sections 1, 3, and 4).
- 5) Also in 2000, TRA and first class city teacher retirement fund association members were granted temporary authority to purchase service credit for nonprofit corporation teaching service (Laws 2000, Chapter 461, Article 11, Sections 3 and 5).



- 6) In 2001, the Joint Subcommittee on Claims approved a claim for a St. Paul police officer who previously served in the Department of Public Safety for a service credit purchase and appropriated a substantial portion of the payment requirement (Laws 2001, Chapter 169, Section 5).
- 7) Also in 2001, TRA and first class city teacher retirement fund association members were granted expanded temporary authority to purchase service credit for foreign teaching service and tribal teaching service (First Special Session Laws 2001, Chapter 10, Article 5, Sections 5 and 11).
- 8) Additionally in 2001, Minnesota State Colleges and Universities System (MnSCU) faculty members who were members of the Individual Retirement Account Plan and were deferred vested TRA or first class city teacher retirement fund association members were authorized to purchase defined benefit plan service credit (First Special Session Laws 2001, Chapter 10, Article 6, Sections 9 and 15).
- 9) Also in 2001, TRA and first class city teacher retirement fund association members were granted temporary authority to purchase service credit for prior University of Minnesota teaching service. In 2001, additionally, TRA and first class city teacher retirement fund association members were granted temporary authority to purchase service credit for Development achievement Center service (First Special Session Laws 2001, Chapter 10, Article 6, Sections 6 and 12).
- 10) Also in 2001, members of every Minnesota defined benefit plan other than a volunteer firefighter relief association were granted temporary authority to purchase service for family leaves, parental leaves, or parental breaks-in-employment (First Special Session Laws 2001, Chapter 10, Article 3, Section 2).
- 11) Additionally in 2001, a White Bear Lake school teacher with prior uncredited school district clerical employment was granted service credit for that clerical service at school district expense, without any member contribution requirement (First Special Session Laws 2001, Chapter 10, Article 17, Section 3).
- 12) In 2001, also, the temporary service credit purchase provisions enacted in 1999 and 2000 were extended for one year (First Special Session Laws 2001, Chapter 10, Article 6, Section 16).
- 13) In 2002, a further one-year extension in the various 1999-2001 prior service credit purchase provision was granted (Laws 2002, Chapter 392, Article 7, Section 1).
- 14) In 2003, another extension in the expiration date for the various 1999-2001 prior service credit purchase provisions was provided (Laws 2003, First Special Session, Chapter 12, Article 6, Sections 1 to 5 and 7).
- 15) In 2004, the full actuarial value service credit provisions for military service for the Minnesota State Retirement System (MSRS), the Public Employees Retirement Association (PERA), and the Teachers Retirement Association (TRA), were extended to 2006 (Laws 2004, Chapter 267, Article 17, Sections 1, 3, 4, 6, and 7).
- 16) In 2005, members of the Judges Retirement Plan were permitted to obtain service credit for a leave of absence of any duration with the payment of an amount equal to the plan normal cost applied to the judge's salary upon return from the leave, plus interest, and the authority expires one year after the conclusion of the leave (Laws 2005, First Special Session, Chapter 8, Article 2, Sections 2 and 8).
- 17) Also in 2005, as part of newly enacted authority for the acquisition of service credit for strike periods, payment of equivalent contribution amounts plus interest were permitted within the first year after the strike, with a full actuarial value service credit purchase required after the first year and no service credit acquisition authorized after five years has elapsed since the conclusion of the strike (Laws 2005, First Special Session, Chapter 8, Article 2, Sections 1, 5, 6, 7, and 8).
- 18) Again in 2005, the military service full actuarial value service credit purchase provisions were extended from 2006 to 2007 (Laws 2005, First Special Session, Chapter 8, Article 2, Sections 3 and 4).
- 19) Also in 2005, the full actuarial value service credit purchase methodology was refined and clarified with the addition of a recognition of Combined Service Annuity portability impacts in the calculation and the establishment of a minimum purchase payment amount (Laws 2005, First Special Session, Chapter 8, Article 10, Section 65).
- 20) In 2006, some individuals transferred from coverage by the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General) to the

Correctional State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-Correctional) were permitted to transfer past service credit with the individual's financial responsibility limited to the increment of additional required member contributions and leaving the remaining unfunded actuarial accrued liability attributable to the service credit transfer to be amortized by the employing unit within the existing contribution structure (Laws 2006, Chapter 271, Article 2, Section 12).

- 21) In 2007, the MSRS-Correctional/MSRS-General service credit transfer financial requirement was revisited, revised and codified for future application, with additional member and employer funding responsibility for additional contribution increments for pre-July 1, 2007, coverage transfers and member and employer full actuarial value funding for post-June 30, 2007, coverage transfers (Laws 2007, Chapter 134, Article 3, Section 5).
- 22) Also in 2007, the Teachers Retirement Association (TRA) procedures for the payment for strike periods and leaves of absence were revised to permit equivalent contribution-rate-based payments during the initial year after the event and a full actuarial value payment thereafter (Laws 2007, Chapter 134, Article 2, Sections 31-35, 41, and 42).

The 1998-1999 prior service credit purchase legislation and subsequent extensions or revisions differ from the policy principles in that the legislation was often generalized authority rather than a case-by-case determination, did not always require that the period of service for purchase be public employment or significantly akin to public employment, did not always require that the purchase period have a significant Minnesota connection, did not always require member participation in the purchase, may involve the provision of a net subsidy from the pension plan to the purchasers, may involve the provision of a substantial subsidy from the pension plan for some types of purchasers, and did not appear to always involve any rigorous formal application of equitable considerations. As a means for the acquisition of service credit outside the normal employment setting, leave of absence and service credit transfer provision blue into service credit purchases, with the funding requirements frequently different for each.

9. Principle II.C.11. Deadline Extensions and Waivers indicates that deadline extensions or waivers should only be permitted on a case-by-case basis and only be permitted if there is an equitable basis for the change, the change occurs on the narrowest possible basis, and the change is unlikely to become an inappropriate future precedent.

One item of 1997-2007 pension legislation appears to be potentially at variance with the principle. In 2003, city managers who were previously permitted to be excluded from coverage by the General Employee Retirement Plan of the Public Employees Retirement Association (PERA-General) in favor of national defined contribution plan coverage were permitted to irrevocably revoke that prior irrevocable election if the individual agrees not to seek a service credit purchase of any prior period uncovered by PERA-General (Laws 2003, First Special Session, Chapter 12, Article 4, Section 3).

The 2003 change was not a case-by-case change, it is unclear that any equitable basis was demonstrated and the requirement of a commitment not to seek a service credit purchase suggests that adverse precedential considerations were apparent at the time of enactment.

10. Principle II.C.13. Reopening Optional Annuity Elections indicates that retirees with an optional annuity form should not be able to reopen that optional annuity election.

One item of 1997-2007 pension legislation is potentially at variance with the principle. In 2000, language that specified that TRA's Social Security leveling optional annuity form is not revocable was removed (Laws 2000, Chapter 461, Article 3, Section 34).

11. Principle II.C.14. Benefit Increase Retroactivity indicates that benefit increases should not be made retroactive to retirees.

At least one item of 1997-2007 pension legislation is potentially at variance with the principle. In 1997, the increase in the service pension amount for the Minneapolis Firefighters Relief Association was made retroactive for existing service pension recipients (Laws 1997, Chapter 241, Article 2, Sections 2 and 10).

12. Principle II.C.17. Reemployed Annuitant Earnings Limitations indicates that reemployed annuitant earnings limitations should be applied narrowly to individuals who regain post-retirement



employment at the same level of government and that the limits should be standardized to the extent possible among public pension plans.

Three items of 1997-2007 pension legislation are potentially at variance with the principle:

- 1) In 2000, the prior benefit forfeiture aspect of the reemployed annuitant earnings limitation was reversed, so that if an MSRS, PERA, TRA, or first class city teacher plan annuity is reduced or terminated in any given year due to reemployment earnings within the given retirement system which exceeds annual maximum earnings allowable for that age for the continued receipt of full benefit amounts under the federal Old Age, Survivors, and Disability Insurance Program (Social Security), the balance of the individual's annuity payments are to be retained in an account in the applicable Minnesota public retirement fund and upon attaining age 65 or thirteen months following termination of the reemployment, whichever is later, the individual may apply for payment of his or her account balance plus six percent interest (Laws 2000, Chapter 461, Article 2, Sections 2, 5, 6, 8, and 10).
  - 2) In 2004, annuitants of the Public Employees Police and Fire Retirement Plan (PERA-P&F) who were working for the Metropolitan Airports Commission as police officers were made exempt from the reemployed annuitant earnings limitation for the period January 1, 2004, to June 30, 2007 (Laws 2004, Chapter 267, Article 7, Section 8).
  - 3) In 2007, field investigators of the former Midwest Forensic Pathology, P.A., who were employed before 2007, who are PERA-P&F annuitants, and who are transferred to Anoka County employment were exempted for the reemployed annuitant earnings limitation (Laws 2007, Chapter 134, Article 12, Section 2).
13. Principle II.C.18. Disability Definitions sets a goal of standardizing disability definitions to the extent possible, recognizing differences in the hazards of various types of employment.

There were four items of 1997-2007 pension legislation that are potentially at variance with the principle:

- 1) In 1998, a special disability benefit was created within PERA-General for local government correctional employees (Laws 1998, Chapter 390, Article 9, Section 3).
- 2) In 1999, that special disability benefit was repealed upon the creation of the PERA Local Government Correctional Employees Retirement Plan (PERA-Correctional) (Laws 1999, Chapter 222, Article 2, Section 20).
- 3) In 2001, for MSRS-General, for MSRS-Correctional, and for the State Patrol Retirement Plan, the basis for the determination of a disability was broadened to include examinations by psychologists and chiropractors (First Special Session Laws 2001, Chapter 10, Article 3, Sections 6, 7, 11, and 16).
- 4) In 2007, the duty disability definitions of the Public Employees Police and Fire Retirement Plan (PERA-P&F) were revised and benefit amounts realigned, attempting to limit enhanced duty disability benefit coverage to disabling events occurring during actual hazardous duty rather than regular employment activities (Laws 2007, Chapter 134, Article 4, Sections 2 and 7).

With the exception of the 2007 PERA-P&F definition revisions, little effort appears to have been expended by the various retirement plan administrators in fashioning more uniform disability benefit qualification provisions during the period 1997-2007.

14. Principle II.C.20. Future Pension Coverage for Privatized Public Employees provides that privatized public employees should be provided with comparable future replacement pension coverage and should not continue in public pension plan coverage.

There were at least 11 items of 1997-2007 pension legislation that are potentially at variance with the principle to some degree:

- 1) Although Laws 1996, Chapter 460, Article 1, established a different approach for privatized employees by creating expanded deferred annuitant eligibility within MSRS-General for privatized University of Minnesota Hospital employees, in 1997, for the privatizations of the Jackson Medical Center, the Melrose Hospital, the Pine Villa Nursing Home, and the Tracy

Municipal Hospital and Clinic, the former members were left with subsequent pension coverage based on the discretion of the privatizing employer (Laws 1997, Chapter 241, Article 2, Sections 16, 17, 18, and 21), but the privatized employees at the University of Minnesota Academic Health Clinics were accorded the expanded deferred annuitant eligibility treatment (Laws 1997, Chapter 241, Article 7, Sections 2 and 3).

- 2) In 1999, for the Glencoe Area Health Center, the Luverne Public Hospital, the Waconia-Ridgeview Medical Center, and Metro II, special expanded deferred annuitant eligibility within PERA-General was created (Laws 1999, Chapter 222, Article 1, Sections 1 to 8, and 10).
- 3) In 2000, employees previously considered to be nonpublic of the Spring Lake Park Fire Department and of Indian tribal governments were made eligible for PERA-General or PERA-P&F coverage (Laws 2000, Chapter 461, Article 7, Sections 2, 3, and 6).
- 4) Also in 2000, for the St. Paul Civic Center Authority, special expanded deferred annuitant eligibility treatment was extended to the privatized employees (Laws 2000, Chapter 461, Article 9).
- 5) In 2001, enhanced disability benefit eligibility was added to the 1996/1999 enhanced deferred annuitant eligibility legislation for MSRS-General and PERA-General (First Special Session Laws 2001, Chapter 10, Article 9).
- 6) In 2002, the Kanabec County Hospital was added to the 1999 PERA-General enhanced deferred annuitant eligibility provision (Laws 2002, Chapter 392, Article 5). Also in 2002, employees who are employed by the Minneapolis Asphalt Plant joint venture and who apparently do not meet the definition of “public employee” were included in Minneapolis Employees Retirement Fund (MERF) or PERA-General coverage (Laws 2002, Chapter 264).
- 7) In 2003, employees of the Red Wing Environmental Learning Center, a nonprofit corporation long associated with the Red Wing School District, were permitted to be certified by the school district as its employees solely for pension coverage purposes (Laws 2003, First Special Session, Chapter 12, Article 4, Sections 2, 6, and 10).
- 8) In 2004, Fair Oaks Lodge (Wadena), Kanabec Hospital, RenVilla Nursing Home, and the St. Peter Community Healthcare Center, were added to the PERA privatized employee chapter (Laws 2004, Chapter 267, Article 12, Sections 1 and 4).
- 9) Also in 2004, employees of the Achieve Program, in Anoka County, or of the Government Training Office, who were employed by either entity on the day prior to privatization, remain as members of PERA-General following the privatization for employment with the successor organization (Laws 2004, Chapter 267, Article 12, Sections 2 and 3).
- 10) In 2005, the Bridges Medical Services, the Hutchinson Area Health Care, and the Northfield Hospital were added to the PERA privatized employee chapter (Laws 2005, First Special Session, Chapter 8, Article 6, Sections 1 and 4).
- 11) In 2007, the Lakefield Nursing Home, the Lakeview Nursing Home in Gaylord, and the Oakland Park Nursing Home were added to the PERA privatized employee chapter (Laws 2007, Chapter 134, Article 5, Section 1).

The variability in the recent treatment of private sector or privatized public sector employees may indicate a need to clarify this Commission policy.

15. Principle II.D.2. Actuarial Funding of Pension Benefits suggests that Minnesota public pension plans be funded on an actuarial basis, with its Entry Age Normal Cost Method normal cost, administrative expenses, and amortization of unfunded actuarial accrued liability to be determined on a reasonable basis on average working career of the membership funded on a current basis.

Eleven items of 1997-2007 pension legislation are potentially at variance with the principle:

- 1) In 1997, a requirement for a quadrennial projection actuarial valuation was added as an alternative measure of the actuarial cost of defined benefit plans (Laws 1997, Chapter 233, Article 1, Sections 2 and 57).
- 2) Also in 1997, a reverse amortization requirement determination was authorized for MSRS-Correctional and for the State Patrol Retirement Plan, both of which had become fully funded (Laws 1997, Chapter 233, Article 1, Section 59).

- 3) In 2000, retroactive to July 1, 1990, the city contributions toward the normal cost requirements of the Minneapolis Fire and Minneapolis Police Relief Associations were permitted to be underpaid by the amount of any employee contribution amounts allocated to the health insurance escrow account rather than to the given association's special fund and if the second "thirteenth check" is payable, the city normal cost contribution requirement for that year to that association was waived (Laws 2000, Chapter 461, Article 17, Sections 3 and 4).
  - 4) In 2000, also, for the Minneapolis Firefighters Relief Association and the Minneapolis Police Relief Association, any post full-funded condition unfunded actuarial accrued liability must be amortized on level-dollar basis over a 15-year period (Laws 2000, Chapter 461, Article 17, Section 5).
  - 5) Additionally, in 2000, the actuarial value of assets definition on which unfunded actuarial accrued liability and amortization determinations was made was revised (Laws 2000, Chapter 461, Article 1, Section 3).
  - 6) Also in 2000, the reverse amortization requirement determination was extended to all Minnesota public pension plans except the Minneapolis Firefighters Relief Association and the Minneapolis Police Relief Association (Laws 2000, Chapter 461, Section 6).
  - 7) In 2001, the amortization target date for PERA-General was extended to 2031 (First Special Session Laws 2001, Chapter 10, Article 11, Section 18).
  - 8) In 2003, the Legislators Retirement Plan was revised from a terminal funded plan to a "pay as you go" plan, with appropriations to be made from the state general fund to MSRS as necessary to pay benefits (Laws 2003, First Special Session, Chapter 1, Article 1, Sections 3 and 136).
  - 9) In 2004, the Minneapolis Police Relief Association amortization date was extended from December 31, 2010, to December 31, 2020 (Laws 2004, Chapter 267, Article 18).
  - 10) In 2005, the Bloomington Fire Department Relief Association amortization date was extended from December 31, 2010, to December 31, 2020 (Laws 2005, First Special Session, Chapter 8, Article 11, Sections 1 and 3).
  - 11) In 2006, the full funding date for the Teachers Retirement Association (TRA) was reset to June 30, 2037 (Laws 2007, Chapter 277, Article 3, Section 34).
16. Principle II.D.3. Allocation of Funding Burden Between Members and Employers indicates that retirement benefits should be financed on a shared basis between members and employers, with the member and employer share for normal cost and administrative expenses and some portion of the amortization requirement shared on a matching basis for general employee plans, with the member and employer share of total cost on a 40 percent/60 percent basis for statewide public safety plans, and with the member and employer share of pension cost to be determined on a "case-by-case" basis for local public safety plans.

Numerous times during the period 1997-2007, pension plan contributions were established or revised. It is unclear that the contribution setting/resetting process has fully accorded with the principle. The following compares the member contribution rate with the normal cost and expenses of the retirement plan and with the total actuarial requirements of the retirement plan:

Retirement Plan	Member Contrib.	Empl'er Contrib.	Empl'er Add'l. Contrib.	Total Support	Normal Cost & Exp.	Total Actuarial Req.	Member Contrib. as % of Normal Cost & Exp.	Member Contrib. as % of Total Act. Req.
	%	%	%	%	%	%	%	%
<u>General Employee Plans</u>								
MSRS-General	4.00	4.00	--	8.00	8.73	10.11	45.82	39.56
PERA-General	5.63	5.63	0.50	11.76	7.98	12.90	70.55	43.64
TRA	5.51	5.23	0.57	11.31	9.76	12.11	56.45	45.50
DTRFA	5.50	5.79	--	11.29	9.95	15.19	55.28	36.21
SPTRFA	5.69	8.59	2.05	16.32	9.47	25.02	60.08	22.74
MSRS-Military Affairs	5.60	5.60	--	11.20	11.52	12.90	48.61	43.41
MSRS-Transportation Pilots	5.60	5.60	--	11.20	10.62	12.00	52.73	46.67
MERF	9.75	39.49	46.08	95.33	22.28	95.32	43.76	10.23

Retirement Plan	Member Contrib.	Empl'er Contrib.	Empl'er Add'l. Contrib.	Total Support	Normal Cost & Exp.	Total Actuarial Req.	Member Contrib. as % of Normal Cost & Exp.	Member Contrib. as % of Total Act. Req.
	%	%	%	%	%	%	%	%
<u>Specialty Plans</u>								
Legislators	9.00	--	--	9.00	18.64	111.24	48.28	8.09
Elected State Officers	--	--	--	--	--	--	--	--
Judges	7.59	20.50	--	28.09	18.08	30.73	41.98	24.70
<u>Public Safety Employee Plans</u>								
MSRS-Correctional	5.69	7.98	--	13.67	17.90	23.34	31.79	24.38
State Patrol	8.40	12.60	--	21.00	24.59	26.69	34.16	31.47
PERA-P&F	7.40	11.10	--	18.50	22.43	25.57	40.00	32.99
PERA-Correctional	5.83	8.75	--	14.58	12.28	12.68	47.48	45.98
MSRS-Arson Investig.	6.78	8.20	--	14.98	12.35	13.73	54.90	49.38

Source: 2006 Valuations. Rates are those in effect for FY2006 and blend multiple program rates if there are multiple programs.

### 1997-2007 Pension Legislation Raising Topics Largely or Wholly Unaddressed by the Commission's Principles of Pension Policy

- a. In General. Pension legislation enacted during the period 1997-2007 dealt with at least 15 topics that were not addressed in whole or in part in the Principles of Pension Policy when that document was last reviewed and revised by the Commission in 1995-1996.
- b. New Pension Policy Principle Topics Raised in 1997-2007.

1. New Potential Topic: Administrative Structure and Governance. The 1995-1996 reformulation of the Commission's Principles of Pension Policy does not provide any guidance on the composition of pension plan governing boards, their purpose and function, and the manner in which public pension plans are administered.

Thirteen items of 1997-2007 pension legislation related to Minnesota public pension plan administrative structure and governance:

- 1) In 1999, the term in office for the retired member representative on the Board of Trustees of the Minnesota State Retirement System and for the retired member representative on the Board of Trustees of the Teachers Retirement Association was extended from two years to four years (Laws 1999, Chapter 222, Article 9, Sections 3 and 5).
- 2) Also in 1999, the salary of the secretary of the Minneapolis Police Relief Association was increased (Laws 1999, Chapter 222, Article 6, Section 1).
- 3) Additionally, in 1999, MSRS, PERA, and TRA were authorized to construct a retirement building funded by State revenue bonds to be retired by annual fund payments (Laws 1999, Chapter 222, Article 22, Sections 3 and 4).
- 4) In 2001, the Minnesota State Retirement System was made responsible for administering a post-retirement health care savings plan (First Special Session Laws 2001, Chapter 10, Article 7, Section 1).
- 5) Also in 2001, consultants retained by volunteer firefighter relief associations were required to provide a copy of the consultant's certificate of insurance (First Special Session Laws 2001, Chapter 10, Article 16).
- 6) Additionally, in 2001, the Open Meeting Law was extended to both State and local public pension plans (First Special Session Laws 2001, Chapter 10, Article 4).
- 7) In 2004, the salary of the Executive Secretary of the Minneapolis Firefighters Relief Association was increased (Laws 2004, Chapter 267, Article 13, Section 1).
- 8) In 2005, many administrative activities for the Hennepin County Supplemental Plan were shifted from the county to the Minnesota State Retirement System (MSRS). MSRS was to create accounts for each participant within the State Board of Investment Supplemental Retirement Fund to receive transferred assets. The participants' accounts will be administered by MSRS on behalf of the county and the applicable eligible employees. Any annual redemption of funds following termination of service may be in a lump sum or spread out over 12 months. MSRS was authorized to enter into an interagency agreement with Hennepin County to cover the MSRS costs (Laws 2005, First Special Session, Chapter 8, Article 11, Sections 4 to 8).

- 9) Also in 2005, for volunteer firefighter relief associations associated with a municipal fire department, the two positions previously filled by the mayor; and the clerk, clerk treasurer, or finance director will be filled by an elected municipal official and elected or appointed municipal official designated by the municipal governing board. If the relief association is a subsidiary of an independent nonprofit firefighting corporation, the board is reduced from ten to nine members with two, rather than three, trustees drawn from the officials of the municipalities served by the corporation (Laws 2005, First Special Session, Chapter 8, Article 9, Section 14).
  - 10) In 2006, the procedure for filling board vacancies for the Public Employees Retirement Association (PERA) was revised by granting the board authority to develop the particulars of filling vacancies (Laws 2006, Chapter 271, Article 3, Section 14).
  - 11) Also in 2006, the salaries of various board members of the Minneapolis Police Relief Association were increased (Laws 2006, Chapter 271, Article 9, Sections 1 and 4).
  - 12) Additionally in 2006, the employees of the former Minneapolis Teachers Retirement Fund Association other than the executive director were transferred to Teachers Retirement Association employment (Laws 2006, Chapter 271, Article 3, Section 43).
  - 13) In 2007, the 1985 requirement of Senate confirmation of the Public Employees Retirement Association (PERA) executive director was eliminated (Laws 2007, Chapter 134, Article 2, Section 20).
2. New Potential Topic: Plan Membership. The 1995-1996 reformulation of the Commission's Principles of Pension Policy does not provide any guidance on public pension plan membership, expansions of plan coverage, and changes in plan membership.

The 1997-2007 pension legislation included 34 items that related to public pension membership inclusions, exclusions, and transfers:

- 1) In 1997, Department of Revenue seasonal help in the classified service were included in MSRS-General coverage by adding them to the MSRS included-employee provision and were permitted to purchase service credit for past service, at full actuarial value, if the person has provided seasonal service to the department in each of the last three years (Laws 1997, Chapter 241, Article 8, Sections 3, 4, and 7).
- 2) Also in 1997, certain individuals at the Minnesota sexual psychopathic personality treatment center and individuals in certain employment classifications at the Minnesota correctional facility at Red Wing (auto mechanic lead, electrician, electrician master of record, groundskeeper intermediate, or plumber master) were added to an uncoded 1996 coverage election law authorizing a prospective coverage election by MSRS-Correctional rather than continued MSRS-General coverage (Laws 1997, Chapter 241, Article 11, Section 1, and Chapter 239, Article 9, Section 40).
- 3) In 1997, additionally, the MSRS-Unclassified Program was designated to provide coverage for all legislators and constitutional officers who are newly elected after June 30, 1997, and for those existing legislators and constitutional officers who choose prospective MSRS-Unclassified coverage (Laws 1997, Chapter 233, Article 2, Section 3).
- 4) In addition, in 1997, pipefitters working for the St. Paul school district newly employed after May 1, 1997, are not covered by PERA. Similar employees who were hired before that date were allowed to elect an exclusion from PERA coverage through an irrevocable election. Those electing exclusion with less than three years of PERA coverage were permitted to apply for a refund (Laws 1997, Chapter 241, Article 2, Sections 1, 8, and 12).
- 5) Furthermore, in 1997, non-teaching charter school employees were made public employees for purposes of PERA coverage (First Special Session Laws 1997, Chapter 4, Article 5, Section 10).
- 6) In 1998, legislators and constitutional officers with less than six years of service who elected to transfer from the Legislators Retirement Plan or the Elective State Officers Retirement Plan, as applicable, were authorized to transfer past member contributions plus 8.5 percent interest, plus an equivalent matching amount to represent past employer contributions, to an account established for the individual in the MSRS-Unclassified Program (Laws 1998, Chapter 390, Article 6, Section 1).

- 7) In 1999, nine METO employment positions at the Cambridge Regional Treatment Center were included for coverage by MSRS-Correctional if the Commissioner of Human Services certified to the MSRS Executive Director that the employee had 75 percent inmate contact (Laws 1999, Chapter 222, Article 13, Sections 1, 2, and 6).
- 8) Also in 1999, if Kandiyohi County and the City of Litchfield elected to participate, the members of their respective rescue squad, if the members are not eligible for volunteer fire or ambulance plan membership, were permitted to elect to participate in the PERA Defined Contribution Plan (Laws 1999, Chapter 222, Article 20).
- 9) Additionally, in 1999, Rice County correctional employees, who for many years were covered by PERA-P&F due to incorrect certification by the county, were grandparented in as PERA-P&F members even though the employees were not peace officers licensed by the Peace Officers Standards and Training Board (Laws 1999, Chapter 222, Article 14, Section 2).
- 10) In 2000, if the applicable Commissioner certified that at least 75 percent of the employee's working time is spent in direct inmate contact, the following positions were included in the MSRS-Correctional Plan (Laws 2000, Chapter 461, Article 6, Sections 1 to 4):
  - registered nurse practitioner at a correctional facility or at the Minnesota Security Hospital;
  - behavior analyst 2, licensed practical nurse 1, office and administrative specialist senior, psychologist 2, social worker specialist, behavior analyst 3, and social worker senior at the Minnesota Security Hospital or the Minnesota Sexual Psychopathic Personality Treatment Center;
  - corrections discipline unit supervisor at Minnesota correctional facilities in Lino Lakes, Oak Park Heights, and St. Cloud;
  - dental assistant registered, at Minnesota correctional facilities in Faribault, Lino Lakes, Moose Lake, Oak Park Heights, and Red Wing;
  - dental hygienist, at the Minnesota correctional facility at Shakopee;
  - psychologist 2, at the correctional facility at Faribault, Lino Lakes, Moose Lake, Oak Park Heights, Red Wing, St. Cloud, Shakopee, and Stillwater;
  - the sentencing-to-service crew chief leader involved with the inmate community work crew program at Faribault and Lino Lakes; and
  - director and assistant group supervisor of the Phoenix/Pomiga treatment/behavioral change program.
- 11) Also in 2000, judges, for their "excess service years" beyond the Judges Retirement Plan service limit, were made members of MSRS-Unclassified, and their eight percent employee contribution was directed to that program (Laws 2000, Chapter 461, Article 18, Sections 1, 2, 4, 6, and 7).
- 12) In 2000, additionally, electrical workers, plumbers, carpenters, and associated trades personnel first employed by Independent School District No. 625 or the City of St. Paul after May 2, 2000, were excluded from PERA-General (Laws 2000, Chapter 461, Article 7, Sections 1, 5, and 7).
- 13) In addition, in 2000, the previous PERA-Correctional plan eligibility requirement was replaced with position specific and duty specific requirements and eligible plan members must be employed in county or regional correctional facilities as correctional guards, correctional officers, joint jailer/dispatchers, or as a supervisor of correctional guards or officers or of joint jailers/dispatchers, the individual must be directly responsible for the direct security, custody, and control of inmates and be expected to respond to incidents within the correctional facility (Laws 2000, Chapter 461, Article 10, Section 1).
- 14) Additionally, in 2000, the governing body of a tribal police department which is determined by the federal government to be an agency or instrumentality of the state for purposes of enforcing state law were permitted to request, by resolution, that the tribal police officers become PERA-P&F members. Credit for past service may be received if a full actuarial value payment is received by PERA (Laws 2000, Chapter 461, Article 7, Sections 2 and 3).
- 15) Also, in 2000, MTRFA members on a leave of absence from teaching who are employed by employee organizations representing MTRFA teachers were permitted to elect continued plan coverage under a union-business-agent-continuing-coverage-provision rather than any leave of absence provision that may otherwise apply and the applicable salary for contribution and annuity purposes was the individual's actual salary or 75 percent of the Governor's salary, whichever is less. The employee was made responsible for all contributions, although the employing unit may pay any applicable employer contribution requirements on the employee's behalf (Laws 2000, Chapter 461, Article 11, Sections 4 and 6).



- 16) In 2001, the MSRS excluded employee provision was revised by clarifying language, and by clarifying that unclassified MnSCU employees (teachers, other higher level MnSCU administrators, and various categories of student employees) were excluded from MSRS coverage (Laws 2001, First Special Session, Chapter 10, Article 3, Section 5).
- 17) Also in 2001, the State Patrol Retirement Plan coverage was extended to service after October 31, 2000, for fugitive apprehension officers who are peace officers and are employed by the Office of Special Investigations, Department of Corrections (First Special Session Laws 2001, Chapter 10, Article 8).
- 18) In 2001, additionally, the Dakota County Board of Commissioners was permitted to certify that full-time Dakota County Agricultural Society employees are public employees for purposes of PERA-General coverage eligibility, the Dakota County Agricultural Society was deemed to be a governmental subdivision for purposes of plan coverage qualification, and the Society's full time employees were added to PERA's eligible employee provision (First Special Session Laws 2001, Chapter 10, Article 10, Sections 1, 3, 7, and 8).
- 19) In 2001, also, union employees working for the City of St. Paul or Independent School District No. 625 who are bricklayers, allied craft workers, cement masons, glaziers, glassworkers, painters, allied trades workers, or plasterers, who have coverage by specified union pension plans, and union plumbers employed by the Metropolitan Airports Commission, with union pension plan coverage were excluded from PERA coverage if first hired after May 1, 2001 (First Special Session Laws 2001, Chapter 10, Article 10, Sections 2, 6, and 8).
- 20) Furthermore, in 2001, the PERA coverage group was revised for new hires after June 30, 2002, with the earnings threshold criteria for PERA membership (\$425 per month or \$5,100 per year) removed, which extends PERA membership to those earning less than those amounts. Local governing body elected officials (other than elected county sheriffs) and individuals appointed to fill one of these elected positions were excluded from PERA-General coverage. The PERA exclusion of all full-time students who are part-time employees was made more limited, was revised to apply to full-time students in high school, undergraduate, graduate, and professional-technical students, only if the individual is in that status on the hire date and the employment is predicated on the student status of the individual. A coverage exclusion was created for seasonal employees, hired for periods not longer than six months in length (First Special Session Laws 2001, Chapter 10, Article 11, Sections 1 to 6, and 22).
- 21) In 2002, the PERA membership revisions enacted in 2001 were revised by reinstating a minimum salary threshold of \$425 in a month for membership eligibility (Laws 2002, Chapter 392, Article 3, Section 1).
- 22) Also, in 2002, the PERA membership exclusion for foreign workers was revised and foreigners working for Hennepin County were authorized to be PERA members unless prohibited by other law (Laws 2002, Chapter 392, Article 3, Section 2).
- 23) Additionally, in 2002, the PERA student membership provision was revised to exclude from PERA membership all students who are attending classes on a full-time basis if the student is under age 23 (Laws 2002, Chapter 392, Article 3, Section 2).
- 24) In 2002, also, Hennepin County Medical Center Protection Officers were made eligible to be certified for PERA-Correctional coverage (Laws 2002, Chapter 392, Article 4, Section 1).
- 25) Furthermore, in 2002, PERA-P&F law was revised to permit PERA-P&F coverage for part-time Metropolitan Transit police officers (Laws 2002, Chapter 392, Article 3, Section 8).
- 26) In 2002, additionally, all charter school teachers, including those teaching in first class cities and previously covered by a first class city teacher plan, were included in TRA coverage effective July 1, 2002. First class city teacher plan law was revised to eliminate further coverage of charter school teachers (Laws 2002, Chapter 392, Article 6, Section 1).
- 27) In 2004, the Corrections discipline unit supervisor, dental hygienist, and psychologist 2 and the Minnesota Correctional Facility-Rush City were added to MSRS-Correctional, if at least 75 percent of the employee's working time is spent in direct contact with inmates, and the Commissioner of Corrections certifies that to the MSRS Executive Director (Laws 2004, Chapter 267, Article 1, Section 1).

- 28) Also in 2004, the Lake Johanna Volunteer Fire Department, Inc., an independent nonprofit firefighting corporation, was added to Public Employees Police and Fire Retirement Plan (PERA-P&F) coverage (Laws 2004, Chapter 267, Article 15, Section 1).
  - 29) In 2005, any University of Minnesota police officer who is required by the Board of Regents to contribute to the University's Faculty Retirement Plan is not eligible for PERA-P&F coverage, and must not be included in any university certification for state police aid (Laws 2005, First Special Session, Chapter 8, Article 4, Sections 1, 5, and 6).
  - 30) Also in 2005, employees of the Insurance Fraud Prevention Division who are peace officers, are members of the State Patrol Retirement Plan up to the mandatory retirement age for State Patrol officers, age 60. If the individual continues in Insurance Fraud Prevention Division employment after that age, the individual is covered by MSRS-General for that continuing employment (Laws 2005, First Special Session, Chapter 8, Article 4, Sections 2 and 4).
  - 31) Additionally, in 2005, the Department of Corrections and Department of Human Services were required to establish a procedure for recommending positions for MSRS-Correctional coverage, and for determining positions no longer qualified for inclusion under that plan (Laws 2005, First Special Session, Chapter 8, Article 4, Section 3).
  - 32) In 2006, several additional employees of the Department of Corrections and the Department of Human Services, as identified under the 2005 inclusion/exclusion procedure, were transferred from MSRS-General coverage to MSRS-Correctional coverage (Laws 2006, Chapter 271, Article 2).
  - 33) In 2007, a number of employees of the Department of Corrections and the Department of Human Services, identified under the 2005 inclusion/exclusion procedure, were transferred from MSRS-General coverage to MSRS-Correctional coverage (Laws 2007, Chapter 134, Article 3, Sections 1, 2, and 3).
  - 34) In 2007, also, the statewide coordinator of the Gang and Drug Oversight Council was transferred to the State Patrol Retirement Plan if the person is a licensed peace officer (Laws 2007, Chapter 134, Article 11, Sections 7 and 9).
3. New Potential Topic: Commencement or Retention of Retirement Benefit Eligibility. The 1995-1996 reformulation of the Commission's Principles of Pension Policy is largely silent on the topic of the point when a former public employee first becomes eligible for a retirement annuity or benefit and what conditions apply to the retired public employee to retain that eligibility.

Pension legislation during the period 1997-2007 included two items that related to the topic of the commencement or retention of retirement benefit eligibility:

- 1) In 2002, the definition of "separation from active service" (for purposes of volunteer firefighter relief association benefit entitlement) was clarified by specifying that the separation from active service must be permanent. If a firefighter resumes service, no additional service pension accrued and the individual must repay any previously received service pension amount (Laws 2000, Chapter 461, Article 15, Sections 4 and 8).
  - 2) In 2002, certain retirees were authorized to receive and retain a volunteer firefighter pension although they are subsequently employed full-time within the fire department by the applicable city or independent nonprofit firefighting corporation, provided that the employer determines the position would be difficult to fill with another similarly qualified applicant, and providing the relief association bylaws permit it (Laws 2002, Chapter 392, Article 13).
4. New Potential Topic: Covered Salary. The 1995-1996 reformulation of the Commission's Principles of Pension Policy does not provide any guidance on what components of compensation are appropriately included in covered salary for purposes of determining both contributions and benefits.

1997-2007 pension legislation included nine items that related to the definition of covered salary for retirement coverage purposes:

- 1) In 2000, State Patrol Retirement Plan service and salary credit was changed to be granted for any month in which contributions have been made to the plan, rather than on a daily or payroll period basis (Laws 2000, Chapter 461, Article 3, Section 2).

- 2) Also in 2000, the TRA salary definition was revised by specifying that salary refers to periodic compensation and includes compensation prior to any voluntary salary deduction program. Salary was defined to exclude employer-paid amounts toward health care, day care, or any similar insurance, savings, or cafeteria plan benefits. TRA's Executive Director was given discretion to determine whether various other amounts are salary for pension purposes (Laws 2000, Chapter 461, Article 3, Section 28).
- 3) In 2001, the State Patrol Retirement Plan definition of average monthly salary (high-five salary) was clarified by indicating that it does not include any lump-sum annual leave payments and overtime payments made at the time of separation from state service (Laws 2001, First Special Session, Chapter 10, Article 3, Section 14).
- 4) Also in 2001, the first class city teacher plan definition of salary was revised by specifying that salary refers to periodic compensation and includes compensation prior to any voluntary salary deduction program. Salary was defined to exclude employer-paid amounts toward health care, day care, or any similar insurance, savings, or cafeteria plan benefits. The applicable first class city teacher plan secretary or executive director was given discretion to determine whether various other amounts are salary for pension purposes (First Special Session Laws 2001, Chapter 10, Article 3, Section 19).
- 5) In 2004, grievance awards and legal settlements were made includable generally in salary for pension purposes only if the situation is reviewed by the Executive Director and the amounts are determined to be consistent with the plan's salary definition (Laws 2004, Chapter 267, Article 2, Section 1).
- 6) Also in 2004, if a TRA member has a salary in excess of 95 percent of the Governor's salary, TRA must audit the salary for consistency with TRA's salary for pension purposes provision and TRA must report to the chairs of the Legislative Commission on Pensions and Retirement, Government Operations and Veterans Affairs Policy Committee in the House, and State And Local Government Operations Committee in the Senate on the number of superintendents, assistant superintendents, and principals who retired during the year where the audit identified an impermissible salary inclusion amount (Laws 2004, Chapter 267, Article 7, Sections 6 and 9).
- 7) In 2005, the general maximum on salary covered for public pension purposes was repealed (Laws 2005, Chapter 169).
- 8) Also in 2005, the PERA-General definition of covered salary was modified to include, for individuals also covered by a laborer's national industrial pension fund, a plumber's or pipe fitter's national or local pension fund, or by an international union of operating engineers pension fund, any mandatory withholding of wages for the supplemental plan (Laws 2005, First Special Session, Chapter 8, Article 1, Section 9).
- 9) In 2007, the 2005 change in the PERA-General covered salary definition was extended to the Minneapolis Employees Retirement Fund (Laws 2007, Chapter 134, Article 8, Section 1).
5. New Potential Issue: Covered Service. The reformulation of the Commission's Principles of Pension Policy in 1995-1996 did not include the provision of any guidance on the topic of what constitutes covered service.

Pension legislation during the period 1997-2007 included ten items that related to the topic of the types of public employment and related activities that constitute covered service for vesting or benefit formula accrual purposes:

- 1) In 2000, State Patrol Retirement Plan service credit was granted for any month in which contributions have been made to the plan, rather than on a daily or payroll period basis (Laws 2000, Chapter 461, Article 3, Section 2).
- 2) Also in 2000, TRA's service credit provision was revised by specifying that a full year of service credit must be based on the number of days in the employer's specified school year if less than 170 days and by indicating that a teacher may not be harmed by the employer converting to a flexible or alternative work schedule (Laws 2000, Chapter 461, Article 3, Section 29).
- 3) In 2001, for the Judges Retirement Plan, allowable service was revised to include any month in which the judge provided service, making the provision more consistent with service credit procedures used in other MSRS plans (First Special Session Laws 2001, Chapter 10, Article 3, Section 27).

- 4) Also in 2001, PERA's allowable service credit provision was revised by specifying that in PERA-General, PERA-Correctional, and PERA-P&F, for new members (including terminated/rehired members) after January 1, 2002, the member will receive one month of service credit for each month with 80 or more compensated hours. If there are less than 80 compensated hours in a given month, the individual will receive a fraction of one month of allowable service equal to the percentage relationship that the number of compensated hours bear to 80 hours. Prorated service will be used for benefit computation purposes. For purposes of vesting, individuals will receive a month of service credit for vesting purposes for any month in which any salary was received. Prorating does not apply to elected officials and or to any other public employees who are compensated solely on an annual basis (Laws 2001, First Special Session, Chapter 10, Article 11, Section 10).
  - 5) Additionally, in 2001, PERA's allowable service provision was revised by specifying that for all PERA leaves for which service credit is obtainable (i.e., personal, parental, family, medical, and military) service credit due to the leave will be granted in full months if the salary or compensated hours used in computing the leave payment amounts were from a non-prorated period or will be prorated if the salary or compensated hours used in computing the leave payment amounts were from a prorated period. In addition, for military leaves, the time period for purchasing service credit was revised. Rather than being required to occur within five years of the date of discharge, payment must be made within three times the length of the military leave period, if that calculated period is less than five years (First Special Session Laws 2001, Chapter 10, Article 11, Section 10).
  - 6) Furthermore, in 2001, beginning on January 1, 2002, for PERA members who earned a month of service credit in each of the nine calendar months immediately preceding the temporary layoff, the service credit provision was modified to provide that the member will receive a month of service credit for each month of the temporary leave, not to exceed three months per year. If any of the prior nine months was prorated, the individual will receive prorated service credit for each month of the leave, determined by divided the total number of months of service credit earned for the compensated employment by nine and multiplying the resulting number by the total number of months in the layoff period (First Special Session Laws 2001, Chapter 10, Article 11, Section 10).
  - 7) In 2001, for any DTRFA member receiving temporary workers' compensation related to the member's teaching duties, and who is receiving reduced teacher salary or no salary, the teacher was permitted to receive full service credit for the applicable period by making an employee equivalent contribution based on the forgone salary and the applicable employee contribution rate in law. If the employee makes the payment, the employer must make a corresponding full-time equivalent employer payment. To receive the applicable service credit, the payments must be made no later than one year after the termination of the workers' compensation payments. Interest payments at an 8.5 percent annual rate are required on any payment made after June 30 of the year during which the workers' compensation payments are received. This section was effective May 1, 2001 (Laws 2001, First Special Session, Chapter 10, Article 3, Section 21).
  - 8) In 2002, for State employees covered by MSRS-General, PERA-General, or TRA who were on strike may receive service credit for the strike period by paying both the employee and employer contributions that would have been made if the employee was not on strike, plus 8.5 percent interest. If payment is made later than 12 months after the end of the strike, a full actuarial value payment would be required to receive service credit. The provision is retroactive to July 1, 2001, and expires on May 23, 2003 (Laws 2002, Chapter 392, Article 2, Section 1).
  - 9) Also in 2002, PERA's allowable service credit provision (including service credit for various leaves of absence) was revised to eliminate the service credit proration for part-time employment for post-December 31, 2001, hires (Laws 2002, Chapter 392, Article 3, Section 4).
  - 10) In 2002, PERA covered members with no salary or with reduced salary during a period of workers' compensation were permitted make contributions on the amount of the salary reduction and to receive larger salary and service credit, to avoid diminishing the salary used to compute the PERA pension benefits (Laws 2002, Chapter 392, Article 3, Section 5).
6. New Potential Issue: Benefit Maximums. The 1995-1996 reformulation by the Commission of the Principles of Pension Policy is largely silent on the topic of appropriate benefit maximums.

Seven items of 1997-2007 pension legislation related to benefit maximums:

- 1) In 1997, the maximum annuity payable from the Judges Retirement Plan was increased from 65 percent to 70 percent of the salary in the year preceding retirement (Laws 1997, Chapter 233, Article 1, Section 66).
  - 2) Also in 1997, for volunteer fire relief associations paying monthly pensions, the highest permitted pensions under the flexible maximum service pension provisions was increased from \$30 per month for each year of service to \$40 per month for each year of service. The corresponding maximum permitted service pensions for volunteer firefighter relief associations paying lump sum benefits was increased from \$4,000 to \$5,500 per year of service. The increased ceilings were effective for pensions payable January 1, 1998 or later (Laws 1997, Chapter 241, Article 6).
  - 3) Additionally, in 1997, if a combined service annuity is used, the maximum formula percentage was reset to 3.0 percent if the service is in the State Patrol Retirement Plan or PERA-P&F; and a maximum formula percentage of 2.7 if the service is in any other included plan (Laws 1997, Chapter 233, Article 1, Section 61).
  - 4) In 1999, for various retirement plans, the definition of total compensation, for purposes of comparison to the initial annuity benefit to determine whether the maximum allowable benefit is exceeded, was revised to include in the definition of total compensation any amounts contributed to tax sheltered or deferred compensation plans (Laws 1999, Chapter 222, Article 12).
  - 5) In 2000, for the Judges Retirement Plan, rather than an annuity limit at the time of retirement of 70 percent of the judge's annual salary for the 12 months preceding retirement, the maximum annuity from the Judges Retirement Plan at the time of retirement was set at 76.8 percent of the high-five average salary (which for a post-July 1, 1980, judge will occur at 24 years of service). Years of service beyond that point does not earn additional service credit in the Judges Plan, but the compensation during these "extra service years" may be used in computing the high-five average salary (Laws 2000, Chapter 461, Article 18, Sections 4, 5, and 8).
  - 6) Also in 2000, the uppermost volunteer firefighter relief association monthly plan flexible service pension maximum was increased from \$40 per month per year of service to \$44 per month per year of service beginning December 31, 2000, \$48 per month per year of service beginning December 31, 2001, \$52 per month per year of service beginning December 31, 2002, and \$56 per month per year of service beginning December 31, 2003. The uppermost volunteer firefighter relief association lump sum plan flexible service pension maximum was increased from the current maximum of \$5,500 per year of service to \$6,000 per year of service beginning December 31, 2000, to \$6,500 per year of service beginning December 31, 2001, to \$7,000 per year of service beginning December 31, 2002, and to \$7,500 per year of service beginning December 31, 2003 (Laws 2000, Chapter 461, Article 15, Section 5).
  - 7) Additionally, in 2000, retroactive to July 1, 1999, Minnesota Statutes 1999 Supplement, Section 356.61, which placed limitations on public employee pensions relative to final salary, was repealed (Laws 2000, Chapter 461, Article 14).
7. New Potential Issue: Form of Benefit Payment. The reformulation of the Commission's Principles of Pension Policy in 1995-1996 did not address the topic of the form of benefit payments.

One item of pension legislation during the period 1997-2007 related to benefit payments. In 2000, in situations where MSRS system or PERA system annuitants would otherwise receive separate checks from two or more plans or systems, MSRS and PERA were authorized to combine payments to retirees if the retiree approves. The pension system making the payment would issue a single combined payment, and is responsible for all administration. The process must not permit one system to subsidize another (Laws 2000, Chapter 461, Article 3, Section 45).

8. New Potential Issue: Optional Annuity Types. The 1995-1996 reformulation by the Commission of the Principles of Pension Policy does not provide any significant guidance to future Commissions on the topic of optional annuity types.

Six items of 1997-2007 pension legislation related to the topic of optional annuity types:

- 1) In 1997, the MSRS Board was authorized to create an actuarial equivalent Social Security leveling option for the MSRS-Correctional Plan, paying higher benefits prior to receipt of Social Security benefits (Laws 1997, Chapter 233, Article 1, Section 25).

- 2) Also in 1997, optional annuities were created for retirees and disabilitants of the Minneapolis Police Relief Association. The options are 50 percent, 75 percent, and 100 percent joint-and-survivor annuities without a bounce-back; and 50 percent, 75 percent, and 100 percent joint-and-survivor annuities with a bounce-back. These optional annuity forms must be actuarially equivalent to the service pension and automatic survivor coverage otherwise payable to the retiring member and the member's beneficiaries. The optional annuities are irrevocable. Current retirees and disabilitants have 60 days from the effective date to elect an optional annuity rather than the normal retirement annuity (Laws 1997, Chapter 233, Article 4, Section 6).
- 3) Additionally, in 1997, optional annuities were created for retirees and disabilitants of the Minneapolis Firefighters Relief Association. The options are 50 percent, 75 percent, and 100 percent joint-and-survivor annuities without a bounce-back; and 50 percent, 75 percent, and 100 percent joint-and-survivor annuities with a bounce-back. These optional annuity forms must be actuarially equivalent to the service pension and automatic survivor coverage otherwise payable to the retiring member and the member's beneficiaries. The optional annuities are irrevocable. Current retirees and disabilitants have 60 days from the effective date to elect an optional annuity rather than the normal retirement annuity (Laws 1997, Chapter 233, Article 4, Section 18).
- 4) In 1999, a retiring plan member was permitted to designate a supplemental needs trust as the recipient of the second half of a joint-and-survivor annuity, with the period of receipt not to exceed the lifetime of the supplemental needs trust beneficiary. The supplemental needs trust must be solely for a disabled person, as determined under Social Security disability determination standards, to cover reasonable living expenses and other basic needs of the disabilitant when public assistance does not provide sufficiently for these needs. This provision applies to MSRS-General, MSRS-Correctional, the State Patrol Retirement Plan, the Legislators Retirement Plan, the Judges Retirement Plan, PERA-General, PERA-Correctional, PERA-P&F, TRA, DTRFA, SPTRFA, MTRFA, MERF, the Minneapolis Fire Relief Association, and the Minneapolis Police Relief Association (Laws 1999, Chapter 222, Article 10).
- 5) In 2002, MSRS was mandated to establish an accelerated optional annuity form for an MSRS member born in 1943, who taught in the Benson and Richfield public schools who has TRA coverage for that teaching service, and who is currently employed by the Legislative Auditors Office with MSRS-General coverage. The eligible person must bear the cost of establishing the optional form (Laws 2002, Chapter 392, Article 14, Section 4).
- 6) Also, in 2002, for the Minneapolis Police Relief Association, only a member's spouse was permitted to be named to receive a joint-and-survivor annuity, and no benefit or annuity may be paid to a person who does not meet the definition of surviving spouse (Laws 2002, Chapter 392, Article 16).
9. New Potential Issue: Disability Benefit Amount. The reformulation of the Commission's Principles of Pension Policy in 1995-1996 did not cover the policy of setting disability benefit amounts.

Five items of 1997-2007 pension legislation relate to disability benefit amounts:

- 1) In 1997, for the MSRS-Correctional Retirement Plan, the job-related disability benefit was revised from 50 percent of high-five average salary plus 2.5 percent of that salary for each year of covered correctional service in excess of 20 years, to 50 percent of high-five average salary plus 2.4 percent of that salary for each year of covered correctional service in excess of 20 years, ten months (Laws 1997, Chapter 233, Article 1, Section 27).
- 2) Also in 1997, with respect to the State Patrol Retirement plan, for duty-related disabilitants, benefit was set at 60 percent of the member's average monthly salary, rather than 50 percent, plus an additional 3.0 percent, rather than 2.65 percent, per year of service in excess of 20 years (Laws 1997, Chapter 233, Article 1, Section 33).
- 3) Additionally, in 1997, for PERA-P&F, for duty-related disabilitants, the benefit was set at 60 percent of the member's average monthly salary, rather than 53 percent, plus an additional 3.0 percent, rather than 2.65 percent, per year of service in excess of 20 years (Laws 1997, Chapter 233, Article 1, Section 42).
- 4) In 2000, the PERA-P&F line-of-duty and non-duty related disability benefit provisions were revised to also cover PERA-P&F members who are Hennepin County paramedics (Laws 2000, Chapter 461, Article 3, Sections 23 and 24).



- 5) In 2001, for MSRS-Correctional, when a disabilitant has some reemployment income, the determination of whether the disability benefit must be reduced was required to be based on a comparison of the current full income (disability benefit plus reemployment income) to the salary of the disabilitant at the time of disability indexed for inflation, rather than to the current salary for that position or similar positions (First Special Session Laws 2001, Chapter 10, Article 3, Section 13).

10. New Potential Issue: Survivor Benefit Eligibility and Amounts. The Commission, in reformulating its Principles of Pension Policy in 1995-1996, provided little policy guidance to future Commissions on the topic of eligibility for survivor benefits and the amount of those benefits.

Fourteen items of 1997-2007 pension legislation related to the topic of survivor benefit eligibility and amounts:

- 1) In 1997, for the MSRS-Correctional Retirement Plan, the following death-while-active survivor benefits were created (Laws 1997, Chapter 233, Article 1, Section 26):
  - Vested, at least retirement age, surviving spouse benefit. If an vested active member dies who reached the minimum age for early retirement (age 50), the surviving spouse may elect to receive an annuity for life equal to the 100 percent joint-and-survivor annuity which employee would have qualified for at the time of death.
  - Vested, below minimum retirement age, surviving spouse benefit. If the employee was under age 50 but vested at the time of death, the surviving spouse may elect to receive a 100 percent joint-and-survivor annuity based on the age of the employee and surviving spouse at the time of death. A benefit would be actuarially reduced to age 50, with one-half of a full actuarial reduction applied after age 50.
  - Alternative term-certain annuity for surviving spouse. In lieu of the above 100 percent joint-and-survivor optional annuities in (1) or (2), the surviving spouse may elect a 10, 15, or 20 year term-certain annuity of equivalent value.
  - Dependent child benefit. If there is no surviving spouse, dependent child benefits are payable to age 20, or if the child is at least age 15 at the time of the employee's death, the benefit is payable for five years. The payment is actuarially equivalent to a 100 percent joint-and-survivor annuity using the age of the employee at death and the age of the dependent child. If there is more than one dependent child, the benefit is divided proportionately.
  - Death refund of excess contributions. If the accumulated contributions credited to the account of a deceased employee exceed the total surviving spouse or dependent child benefits, the excess must be paid to the deceased employee's designated beneficiary.
- 2) Also, in 1997, for the Minneapolis Police Relief Association, a surviving spouse who would not be eligible for survivor benefits (because he or she was not legally married to the deceased covered member, was not married at the time the employee was on the payroll, or did not reside with the member; or in the case of a deceased service pensioner or deferred pensioner, was not married at least one year prior to retirement) was made eligible for survivor benefits if, at the time of death, the surviving spouse was married to the decedent for at least five years and was residing with the decedent at the time of death. If the surviving spouse, made eligible for a benefit due to this expansion of eligibility, is younger than the deceased, the surviving spouse benefit must be actuarially equivalent to the benefit payable to a spouse of the same age as the deceased (Laws 1997, Chapter 233, Article 4, Sections 7 and 23).
- 3) In addition, in 1997, of the Minneapolis Firefighters Relief Association, a surviving spouse who would not be eligible for survivor benefits (because he or she was not legally married to the deceased covered member, was not married at the time the employee was on the payroll, or did not reside with the member; or in the case of a deceased service pensioner or deferred pensioner, was not married at least one year prior to retirement) was made eligible for survivor benefits if the surviving spouse, at the time of death, was married to the decedent for at least five years and was residing with the decedent. If the surviving spouse, who is made eligible for a benefit due to this expansion of eligibility, is younger than the deceased, the surviving spouse benefit must be actuarially equivalent to the benefit payable to spouse of the same age as the deceased, and may be less than 17 units, notwithstanding other law (Laws 1997, Chapter 233, Article 4, Section 12).

- 4) In 2004, the surviving spouse and dependent child benefit provisions of the State Patrol Retirement Plan were revised with respect to eligibility and amounts (Laws 2004, Chapter 267, Article 9, Sections 6, 8 to 11, and 26).
  - 5) Also in 2004, the MSRS-General and PERA-General privatized employee laws were amended to clarify that the general law provisions at the time of privatization continue to apply to privatized employees (Laws 2004, Chapter 267, Article 9, Sections 15 and 16).
  - 6) Additionally, in 2004, the TRA surviving spouse benefit computation was modified to provide higher benefit amounts to survivors of deferred members based on attained age at accrual rather than age at death (Laws 2004, Chapter 267, Article 9, Section 18).
  - 7) In 2004, also, unmarried TRA members were permitted to designate a beneficiary to receive a surviving spouse benefit, including a terminal Rochester teacher with two minor children (Laws 2004, Chapter 267, Article 9, Sections 20 and 24).
  - 8) Also in 2004, the estate of a deceased legislative employee with MSRS-General coverage was allowed to elect an MSRS-Unclassified death benefit on behalf of the decedent (Laws 2004, Chapter 267, Article 16, Section 3).
  - 9) In 2005, Public Employees Police and Fire Retirement Plan (PERA-P&F) active member duty death survivor benefit coverage was extended of former Minnesota public safety employees who are killed while in the armed forces, including the widow of a former St. Louis Park police officer (Laws 2005, First Special Session, Chapter 1, Article 4, Section 97).
  - 10) In 2006, the PERA-General death while eligible optional annuity surviving spouse benefit was revised to make the death refund payable to the surviving spouse's estate rather than the deceased member's beneficiary (Laws 2006, Chapter 271, Article 3, Section 23).
  - 11) Also in 2006, the Legislators Retirement Plan alternative optional surviving spouse annuity was reset to apply at age 55 rather than age 60 (Laws 2006, Chapter 271, Article 12, Section 1).
  - 12) Additionally in 2006, a death while eligible survivor optional annuity benefit was added to the Judges Retirement Plan, including the surviving spouse of a judge who died earlier in 2006 (Laws 2006, Chapter 271, Article 12, Section 3).
  - 13) In 2007, eligibility for the Legislators Retirement Plan alternative optional surviving spouse annuity was extended to the spouse of a former legislator who died on March 5, 2007 (Laws 2007, Chapter 134, Article 2, Section 2).
  - 14) Also in 2007, the PERA-P&F death while active or disabled survivor benefit eligibility provision was revised to apply only in active or deferred situations (and not in disabled situations), was revised to specify that if the death was not a line of duty death the member must have accrued three years of service, rather than one year, for the spouse to be eligible for any annuity, by specifying that an active military service death will be a not in the line of duty death for purposes of PERA survivor benefits, and by revising surviving spouse benefit amounts to 60 percent of average salary for a line of duty death, or a 50 percent of average salary benefit in all other cases, including if the death occurred while receiving disability benefits that accrued prior to July 1, 2007, rather than 50 percent of average salary in all cases (Laws 2007, Chapter 134, Article 4, Sections 26 and 27).
11. New Potential Issue: Other Benefits. The reformulation of the Commission's Principles of Pension Policy in 1995-1996 did not address the issue of the creation of other benefit coverage.

One item of 1997-2007 pension legislation related to the topic of the creation or provision of other benefit coverage. In 2001, MSRS was directed to establish a post-retirement health care savings plan or plans, allowing public employees in state and local government to save to cover post-retirement healthcare costs. One or more trusts will be used with separate accounts for each individual, as permitted under Internal Revenue Code, to provide tax-preferred or tax-free treatment of contributions, earnings, and distributions. MSRS is authorized to contract with public and private entities to provide investment services, record-keeping, benefit payouts and other functions. SBI Supplemental Fund investment options may be offered. Contributions are to be determined through personnel policy or through collective bargaining agreements. The law states that public employers are not obligated to meet and bargain with employee group representatives

regarding an employer contribution to the plan or plans, and that it is not the Legislature's intent to authorize the state to incur new funding obligations for retiree healthcare costs or for plan administration. After retirement, a covered employee can draw from the assets of his or her account to cover healthcare-related costs. If the retiree dies before the account is exhausted, the remainder can be used by the spouse or dependents for their healthcare-related costs (Laws 2001, First Special Session, Chapter 10, Article 7, Section 1).

12. New Potential Issue: Setting and Revising Actuarial Assumptions. The 1995-1996 reformulation of the Principles of Pension Policy by the Commission provided little guidance with respect to the issue of the establishment or the revision of actuarial assumptions.

Four items of 1997-2007 pension legislation related to the topic of the establishment and revision of public pension plan actuarial assumptions:

- 1) In 1997, the post-retirement interest assumption was increased from five to six percent as part of the general benefit increases enacted (Laws 1997, Chapter 233, Article 1, Section 58).
- 2) In 2000, the definition of actuarial value of assets (currently defined as cost plus one-third of the difference between cost and market) was revised by basing the actuarial value on current market value at the date of the current actuarial valuation adjusted for past differences between the expected annual change in market value between actuarial valuation dates, given the actuarial earnings assumption, and the actual change in market value on the date of the applicable prior valuations. Following a transition period beginning June 30, 2000, the new system is fully implemented for valuations after July 1, 2002. For valuations after July 1, 2002, the actuarial value of assets is the market value on the valuation date reduced by (Laws 2000, Chapter 461, Article 1, Section 3):
  - 20 percent of the difference between the net change in market value for the fiscal year beginning four years prior to the current valuation date and the computed increase for the same period assuming asset growth at the pre-retirement interest rate assumption;
  - 40 percent of the difference between the net change in market value for the fiscal year beginning three years prior to the current valuation date and the computed increase for the same period assuming asset growth at the pre-retirement interest rate assumption;
  - 60 percent of the difference between the net change in market value for the fiscal year beginning two years prior to the current valuation date and the computed increase for the same period assuming asset growth at the pre-retirement interest rate assumption; and
  - 80 percent of the difference between the net change in market value for the fiscal year beginning one year prior to the current valuation date and the computed increase for the same period assuming asset growth at the pre-retirement interest rate assumption.
- 3) Also in 2000, the salary increase assumptions for PERA-General and MSRS-General were revised by adding a salary increase factor which is a declining function of service. Higher increases are assumed during the early years of the member's service, with the effect trailing off after ten years of service. MSRS-General, State Patrol Retirement Plan, MSRS-Correctional, PERA-General, PERA-Correctional, and TRA age-related salary increase factors are also revised. The MERF four percent salary increase factor per fiscal year was clarified (Laws 2000, Chapter 461, Article 1, Section 5).
- 4) In 2002, the select and ultimate salary increase assumptions were revised for non-public-safety plans (TRA, SPTRFA, DTRFA, MSRS-General, and PERA-General) (Laws 2002, Chapter 392, Article 9, Section 1).

13. New Potential Issue: State Aid for Pension Plans. The 1995-1996 Commission Principles of Pension Policy reformulation did not address the issue of the manner in which State aid should be provided to Minnesota public pension plans.

Ten items of 1997-2007 pension legislation related to the topic of providing State aid for Minnesota public pension plans:

- 1) In 1997, peace officers who are members of the State Patrol Retirement Plan were included in the annual allocation of police state aid on a phase-in basis. By July 1, 1997, one-half of these officers were to be certified for aid allocation purposes; by July 1, 1998, seven-tenths will be certified; and by March 15, 1999 and thereafter, all were to be certified. The aid received were

required to be used to cover employer contribution costs on behalf of employees paid by the state general fund, then if any aid remained, it was required to be credited towards employer contributions for employees paid from other funds (Laws 1997, Chapter 233, Article 1, Sections 8, 10, 13, and 71).

- 2) Also in 1997, the general state aid to MERF was capped at \$10,455,000 in fiscal 1998, and for fiscal 1999 and thereafter, a new, lower annual cap of \$9 million was established. Also, rather than requiring further contributions from local employers whenever a remaining annual financial requirement exists after applying the state contribution, that remaining contribution requirement was to be accessed only if it exceeds \$1.455 million in fiscal 1998 or \$2.910 million thereafter. The general responsibility for covering the cost of the supplemental benefit was transferred from the state to MERF, and the state's responsibility through 2001 for financing this benefit was limited to the existing state supplemental aid to MERF, \$550,000 annually in fiscal years 1992 through 2001. After fiscal year 2001, any difference between the cumulative supplemental benefit amounts paid since fiscal 1991 and the cumulative supplemental aid, plus investment earnings on the aid, were required to be included in MERF's annual financial requirement as computed by the actuary (Laws 1997, Chapter 202, Article 2, Sections 46 and 48).
- 3) Furthermore, in 1997, PERA-covered employers were included in a new State aid equal to 0.35 percent of PERA-covered payroll in fiscal 1998, and 0.70 percent of PERA-covered payroll thereafter, capped at the fiscal year 1999 aid amount. Additional aid was expected to be \$7,942,500 in fiscal 1998, and \$15,885,000 in each subsequent fiscal year. All aid is scheduled to terminate June 30, 2020 (Laws 1997, Chapter 233, Article 1, Section 15).
- 4) The 1997 Legislature determined that total employer contributions paid to PERA-P&F for calendar year 1995, as certified to the Commissioner of Revenue by PERA, were overstated for some counties and cities and understated in others. The Commission of Revenue was required to adjust the October 1997 police state aid distributions accordingly. The estimated net adjustment for police state aid in the fiscal year ending June 30, 1987 was \$1,835,000. The expected net reduction to future state police state aid expenditures due to this adjustment was 6.5 percent less each year. Brainerd, Crookston, Fairmont, Faribault, Mankato, Minneapolis, South St. Paul, and the Metropolitan Airports Commission also were appropriated additional amounts as 1996 police state aid. The total adjustment was \$2,136,631, with the largest individual recipient, Minneapolis, receiving \$1,918,185. Amounts paid as police state aid in September 1996 to PERA consolidation accounts were ratified (Laws 1997, Chapter 125 and Laws 1997, Chapter 233, Article 1, Section 77).
- 5) Also in 1997, the practice of applying police state aid revenues to cover PERA-P&F firefighter employer contribution pension costs were grandparented, but was limited to the amounts used for this purpose by municipalities from the 1996 aid allocation. The municipalities for which part of this aid was used for firefighter purposes and which were grandparented were Albert Lea, Anoka, Apple Valley Austin, Bemidji, Brooklyn Center, Brooklyn Park, Burnsville, Cloquet, Coon Rapids, Cottage, Crystal, East Grand Forks, Edina, Elk River, Ely, Eveleth, Fergus Falls, Fridley, Golden Valley, Hastings, Hopkins, International Falls, Lakeville, Lino Lakes, Little Falls, Maple Grove, Maplewood, Minnetonka, Montevideo, Moorhead, New Hope, North St. Paul, Northfield, Owatonna, Plymouth, Red Wing, Richfield, Rosemount, Roseville, St. Anthony, St. Louis Park, Thief River Falls, Virginia, Waseca, West St. Paul, White Bear Lake, and Woodbury (Laws 1997, Chapter 233, Article 1, Section 11, and Laws 1997, Chapter 241, Article 1, Section 7).
- 6) In 1997, in addition, for fiscal year 1998, the State began making a direct payment to the SPTRFA of \$4,827,000, rather than \$500,000 as would have been paid under prior law. A new direct state aid was established for MTRFA and DTRFA. In fiscal year 1998, the MTRFA received \$17,954,000 and DTRFA received \$486,000. In the years after 1998, the aid is \$2,827,000 for SPTRFA, \$12,954,000 for MTRFA, and \$486,000 for DTRFA. The provision, which requires termination of state aid, state supplemental aid, and state matching aid to the MTRFA or SPTRFA once the respective association reaches the same funding level as TRA, was expanded to include a cutoff to DTRFA, since aid is established to that association in (g) above. If aid shuts off to one or more of these first class city teacher fund associations, aid is to be reallocated proportionally to the remaining associations based on the relative sizes of their unfunded actuarial accrued liabilities (Laws 1997, Chapter 233, Article 3, Sections 4 and 6).

- 7) In 1999, \$5.892 million was appropriated in each year of the biennium to cover state aid payments to MERF as determined by MERF's financing law, Section 422A.101. An additional \$550,000 in each year was appropriated as the state contribution toward the special benefit for MERF pre-1974 retirees (Laws 1999, Chapter 250, Article 1, Section 30).
  - 8) Also in 1999, \$4.925 million in amortization aid plus \$1 million in supplemental amortization aid was appropriated in each year of the biennium to cover aid payments to local police and paid fire relief associations or PERA-P&F consolidation accounts with unfunded pension liabilities (Laws 1999, Chapter 250, Article 1, Section 30).
  - 9) In 1999, additionally, \$370,000 in each year of the biennium was appropriated to the Department of Revenue to pay reimbursements to volunteer fire relief associations which paid supplemental benefits (Laws 1999, Chapter 250, Article 1, Section 30).
  - 10) In 2001, police state aid was revised to permit police officers with the power to arrest, who are working for tribal police departments under American Indian tribal government to be included in the police state aid program (Laws 2001, First Special Session, Chapter 10, Article 5).
14. New Policy Issue: Collection and Remittance of Contributions and Handling Omitted Contributions. The reformulation in 1995-1996 of the Commission's Principles of Pension Policy did not cover the topic of the collection and remittance of pension plan contributions and the handling of omitted contributions.

Three items of 1997-2007 pension legislation related to the topic:

- 1) In 2001, interest charges on delinquent employee withholding and employer share remittance amounts to TRA commence 14 days after the date of the payroll warrant, rather than after seven days (Laws 2001, First Special Session, Chapter 10, Article 3, Section 18).
  - 2) Also in 2001, for the first class city teacher retirement fund associations, for each payroll cycle, the employing unit was required to identify each employee, salary amounts, contribution amounts, and annual summary information and file it by August 1. A \$5 per day fine was created for each day that member data reports are delinquent. Any retirement plan contributions not received within 30 days of being due will be certified to the Commissioner of Finance, who will deduct the necessary amounts from any aid that would otherwise be paid to the employing unit (Laws 2001, First Special Session, Chapter 10, Article 3, Section 22).
  - 3) In 2002, the State was required to provide payment to the applicable retirement plans of any unpaid employee, employer, and employer additional contributions for charter schools which closed before April 1, 2002, and which did not pay all required contributions to the applicable retirement plan or plans. The required amounts were to be certified by the pension plan administrators and paid to the applicable pension funds by the Commissioner of the Department of Children, Families and Learning. Payment is to occur on July 1, 2002, from the charter school building lease aid. The department was required to reduce the remaining charter school building lease aid by the amount remitted to the retirement funds. This action does not release any closed charter school employer from responsibility for covering these payments, and the Department of Revenue must make reasonable efforts to recover these amounts from those employers (Laws 2002, Chapter 392, Article 6, Sections 4 and 5).
15. New Policy Issue: Public Pension Plan Reporting and Disclosure. The 1995-1996 reformulation of the Commission's Principles of Pension Policy did not deal with the topic of required reporting and disclosure by public pension plans and plan officials.

At least one item of 1997-2007 pension legislation dealt with the topic. In 1997, the prior time-weighted rate of return law was repealed and the prior investment performance attribution law was extensively revised. Mandatory reporting to the Legislative Commission on Pensions and Retirement was eliminated and responsibility for computing returns was shifted from the pension funds to the State Auditor, who was required to compute time-weighted rates of return from data provided in required reports from pension fund administrators. The level of detail required to be submitted to the State Auditor by small plan administrators was significantly reduced, and separate reporting requirements were created for defined contribution plans (Laws 1997, Chapter 241, Article 10, Sections 4, 6, 7, and 8).

16. New Policy Issue: Correction of Administrative Errors. The 1995-1996 reformulation of the Commission's Principles of Pension Policy did not specifically deal with the topic of the manner in which the Legislature will provide for or sanction the correction of pension plan administrative errors.

At least two items of 1997-2007 pension legislation dealt with the topic:

- 1) In 2005, for the Minneapolis Firefighters Relief Association, non-duty related disability pensions that were recomputed and increased to full 25-year service pensions, despite any legal authority for this action, were ratified (Laws 2005, First Special Session, Chapter 8, Article 11, Section 14).
- 2) In 2007, past-overpayments of surviving spouse benefits by the Minneapolis Police Relief Association were ratified (Laws 2007, Chapter 134, Article 9, Section 1).

17. New Policy Issue: Diversion of Retirement Coverage Values After Marriage Dissolutions. The 1995-1996 reformulation of the Commission's Principles of Pension Policy did not deal with the topic of alternative ways of dividing retirement benefits following a marriage dissolution involving a public employee.

At least two items of 1997-2007 pension legislation dealt with the topic:

- 1) In 2006, the immediate commencement of a portion of a retirement annuity to a divorced spouse who was born on August 12, 1944, was permitted, if a court finds the former state employee's decision not to commence receiving an MSRS annuity is due solely to an effort to frustrate the judgment awarded to the ex-spouse (Laws 2006, Chapter 271, Article 14, Section 13).
- 2) In 2007, a portion of a former legislator's benefit as specified in the decree was permitted to be paid to the ex-spouse when the former legislator reaches age 62 (the normal retirement age for the plan), even if the former legislator has not applied for a benefit. When the former legislator does begin drawing benefit, the present value of the benefit paid or payable to the ex-spouse must be deducted from the present value of the benefit payable to the former legislator. The present value calculations must include the impact of the combined service annuity provision, if applicable. The provision is retroactive to decrees rendered after September 2003 (Laws 2007, Chapter 134, Article 2, Section 3).

## Conclusion

This memorandum begins a Commission review and potential reappraisal of its Principles of Pension Policy by identifying those items of recent pension legislation that are potentially at variance with the 1995-1996 reformulation of the Principles or that raise policy issues not addressed by the 1995-1996 Principles. If the Commission desires to proceed with the interim project, a second Commission staff issue memorandum would explore the policy issues arising out of the pension legislation that appears to be at variance with the current Principles of Pension Policy and would explore the potential changes in the document to accommodate those apparent policy changes. The third Commission staff issue memorandum would explore the policy issues surrounding topics not currently addressed by the Principles of Pension Policy and would explore the potential additions to the document to provide policy guidance to future Commissions on those topics.



## Appendix A

### Legislative Commission on Pensions and Retirement Principles of Pension Policy

#### I. Preamble

The Legislative Commission on Pensions and Retirement recommends the following statement of principles, which have been developed since 1955, as the basis for evaluating proposed public pension legislation. Problems can be avoided or minimized if a sound set of principles is used as a guideline in developing the various public pension funds and plans.

#### II. Substantive Principles

##### A. Purpose of Minnesota Public Pension Plans

1. Minnesota public pension plans exist to augment the Minnesota public employer's personnel and compensation system by assisting in the recruitment of new qualified public employees, the retention of existing qualified public employees, and the systematic out-transitioning of existing public employees at the normally expected conclusion of their working careers by providing, in combination with federal Social Security coverage, personal savings and other relevant financial sources, retirement income that is adequate and affordable.
2. Minnesota public pension plans should play their appropriate role in providing financial security to public employees in retirement.
3. As Minnesota public employee workforce trends develop, Minnesota public pension plans should be sufficiently flexible to make necessary adaptations.

##### B. Structure of Minnesota Public Pension Coverage

###### 1. Creation of New Pension Plans

- a. Minnesota public employers, on their own initiative, without legislative authorization, should not be permitted to establish or maintain new public pension plans, except for volunteer firefighter relief associations.
- b. New pension plans for volunteer firefighters should be organized on a county or comparable regional basis if possible.

###### 2. Mandatory Public Pension Plan Membership

To the extent possible, membership in a public pension plan should be mandatory for the personnel employed on a recurring or regular basis.

###### 3. Consolidation of Public Pension Plans by a Minnesota Public Employer.

- a. The State, with the second largest number of public employee pension plans in the nation, would benefit from a more rational public pension plan structure.
- b. The voluntary consolidation of smaller public pension plans should be encouraged, with the development of county or comparable regional public employee pension plans in place of a large number of small local plans to assist in this consolidation if a statewide public pension plan is deemed to be inappropriate.

##### C. Pension Benefit Coverage

###### 1. General Preference for Defined Benefit Plans Over Defined Contribution Plans

- a. Defined benefit plans, where they currently exist, should remain as the primary retirement coverage for Minnesota public employees.
- b. Defined contribution plans are particularly appropriate where interstate portability or private sector-public sector portability is a primary consideration of the public employee group, where the public employee group lacks civil service or analogous employment protections, or where the defined contribution plan is a supplemental pension plan.

###### 2. Social Security Coverage

Except for public employees who are police officers or firefighters, coverage by the federal Old Age, Survivors, Disability and Health Insurance (Social Security) Program should be part of the retirement coverage for Minnesota public employees.

###### 3. Equal Treatment Within Pension Plans

There should be equal pension treatment of public employees in terms of the relationship between benefits and contributions.

###### 4. Appropriate Normal Retirement Ages

The normal retirement age should be set in a reasonable relationship to the employability limits of the average public employee and should differentiate between regular public employees and protective and public safety employees.

###### 5. Appropriate Early Retirement Reductions

Public employee pension plans should not subsidize early retirement benefits and, except for appropriately designed early retirement incentive programs, retirement benefits should be actuarially reduced for retirement before any applicable normal retirement age.

###### 6. Uniformity and Equal Benefit Treatment Among Plans

There should be equal pension treatment in terms of the relationship between benefits and contributions among the various plans and, as nearly as practicable, within the confines of plan demographics, retirement benefits and member contributions should be uniform.

###### 7. Adequacy of Benefits at Retirement

- a. Benefit adequacy requires that retirement benefits respond to changes in the economy.
- b. The retirement benefit should be adequate at the time of retirement.
- c. Except for local police or firefighter relief associations, the retirement benefit should be related to an individual's final average salary, determined on the basis of the highest five successive years average salary unless a different averaging period is designated by the Legislature.
- d. Except for local police or firefighter relief associations, the measure of retirement benefit adequacy should be at a minimum of thirty years service, which would be a reasonable public employment career, and at the generally applicable normal retirement age.
- e. Retirement benefit adequacy must be a function of the Minnesota public pension plan benefit and any Social Security benefit payable on account of Minnesota public employment.

###### 8. Postretirement Benefit Adequacy

- a. The retirement benefit should be adequate during the period of retirement.
- b. Postretirement benefit adequacy should function to replace the impact of economic inflation over time in order to maintain a retirement benefit that was adequate at the time of retirement.
- c. The system of periodic post retirement increases should be funded on an actuarial basis.
- d. In order to replace inflation, the post retirement adjustment system should follow a valid recognized economic indicator.

###### 9. Portability

To the extent feasible, portability should be established as broadly as possible for employment mobile public employees.

#### 10. Purchases of Prior Service Credit

Purchases of public pension plan credit for periods of prior service should be permitted only if, on a case-by-case basis, it is determined that the period to be purchased is public employment or substantially akin to public employment, that the prior service period must have a significant connection to Minnesota, that the purchase payment from the member or from a combination of the member and the employer must equal the actuarial liability to be incurred by the pension plan for the benefit associated with the purchase, appropriately calculated, without the provision of a subsidy from the pension plan, and that the purchase must not violate notions of equity.

#### 11. Deadline Extensions and Waivers

Deadline extensions or waivers should be permitted only if, on a case-by-case basis, it is determined that there is a sufficient equitable basis for the extension or waiver, the extension or waiver does not involve broader applicability than the pension plan members making the request, and that the extension or waiver is unlikely to constitute an inappropriate precedent for the future.

#### 12. Vesting Requirement Waivers

Waivers of vesting requirements should be permitted only if, on a case-by-case basis, it is determined that there is a strong equitable argument to grant the waiver for the requesting public employees.

#### 13. Reopening Optional Annuity Elections

Reopenings of optional annuity elections should not be permitted.

#### 14. Benefit Increase Retroactivity

Retroactivity of benefit increases for retirees and other benefit recipients should not be permitted.

#### 15. Repayment of Previously Paid Benefits and Resumptions of Active Member Status

Repayments of previously paid benefits and resumptions of active member status should not be permitted.

#### 16. Duplicate Public Pension Coverage for the Same Employment

Unless supplemental pension plan coverage is involved, public employees should not have coverage by more than one Minnesota public pension plan for the same period of service with the same public employer.

#### 17. Reemployed Annuitant Earnings Limitations

- a. Limitations on the earnings by reemployed annuitants should apply only to the reemployment of an annuitant by an employing unit that is a participating employer in the same public pension plan from which the annuitant is receiving a pension benefit.
- b. Reemployed annuitant earnings limitations should be standardized to the extent possible among the various Minnesota public pension plans.

#### 18. Disability Definitions

The definitions of what constitutes a disability giving rise to a disability benefit should be standardized to the extent possible, recognizing the differences in the hazards inherent in various types of employment.

#### 19. Design of Early Retirement Incentive Programs

- a. Early retirement incentive programs can have a valid role to play in the public sector personnel system.
- b. Early retirement incentive programs should be targeted to situations when a public employer needs to reduce staffing levels beyond normal attrition.
- c. Early retirement incentive programs should be financed appropriately, with the cost of the benefits provided under the early retirement incentive program borne wholly by the same public employer that gains any compensation savings from a staffing level reduction, without any subsidy from the affected public pension plan.

#### 20. Future Pension Coverage for Privatized Public Employees

Because of applicable federal regulation, employees of public employers that are privatized should not be allowed to continue public pension plan coverage in the future. Privatized public employees should receive adequate replacement pension coverage and a better resolution of this topic should be raised with appropriate federal government officials.

#### 21. Supplemental Pension Plans

- a. Public employees should be encouraged to engage in personal savings for their retirement.
- b. The State should assist this process by making personal retirement savings opportunities available to public employees.
- c. Public employers should have an opportunity to elect to provide financial support to established supplemental pension arrangements for their employees.

#### 22. No Intended Ultimate Benefit Diminutions

- a. In recommending benefit plan modifications, the imposition of reductions in overall benefit coverage for existing pension plan members should not be recommended.
- b. The imposition of a reduction in overall benefit coverage may be imposed for new pension plan members in order to achieve sound pension policy goals.
- c. A reduction in some aspect or aspects of benefit coverage may be recommended in combination with a proposed benefit increase or benefit increases in implementing sound pension policy goals.

### D. Pension Plan Funding

#### 1. Equal Pension Financing Burden for Generations of Taxpayers

There should be utilized a financing method that will distribute total pension costs fairly among the current and future generations of taxpayers and that will discourage unreasonable benefit demands.

#### 2. Actuarial Funding of Pension Benefits

- a. Retirement benefits in Minnesota defined benefit plans should be funded on an actuarial basis.
- b. Currently earned pension plan service credit, as measured by the actuarially determined entry age normal cost of the defined benefit pension plan, should be funded on a current basis.
- c. The administrative expenses of the defined benefit pension plan should be funded on a current basis.
- d. Existing unfunded actuarial accrued liabilities of the defined benefit pension plan should be amortized over a reasonable period of time, and that amortization period should be related to the average working career of the membership of the pension plan, but not to exceed forty years.

#### 3. Allocation of Funding Burden Between Members and Employers

- a. Retirement benefits should be financed on a shared basis between the public employee and the public employer.
- b. For general public employees, the employee and employer should make matching contributions to meet the normal cost and the administrative expenses of the defined benefit pension plan and both the employee and the employer may be required to share some financial responsibility for funding the amortization requirement of the defined benefit pension plan.
- c. For protective and public safety employees covered by a statewide public pension plan, the employee should pay forty percent of the total actuarial costs of the defined benefit pension plan and the employer should pay sixty percent of the total actuarial costs of the defined benefit pension plan.

- d. For protective and public safety employees covered by a local relief association, employee and employer contributions should be considered in light of the special circumstances and history unique to that association. Employees should pay an appropriate portion of the normal cost and administrative expenses of the relief association.

#### 4. Funding of Postretirement Adjustments

- a. Ad hoc postretirement adjustments should be funded separately from the regular defined benefit public pension plan financing and should not be added to the unfunded actuarial accrued liability of the defined benefit public pension plan.
- b. Automatic postretirement adjustment mechanisms should be funded on an actuarial basis as part of the actuarial requirements and contribution structure of the defined benefit public pension plan.

#### 5. Appropriate Basis for Actuarial Assumption Changes

- a. Actuarial assumption changes should only be based on the results of the gain and loss analyses in the regular actuarial valuation reports and the results of a periodic experience study.
- b. Actuarial assumption changes should stand on their own merit, and should not be changed solely to improve benefits or to lower contribution rates.

#### 6. Appropriate Basis for Modifying Contribution Rates

Member and employer contribution rates should only be modified based on the trend in total support rate deficiency or sufficiency revealed in the regular actuarial valuation reports.

### E. **Pension Plan Investments**

#### 1. Appropriate Investment of Public Pension Assets

- a. Public pension plan investment authority should be as uniform as is practicable.
- b. Public pension plan investments should be made in accord with the prudent person rule.
- c. Public pension plan investment authority should be further regulated by a list of authorized investment types, which should appropriately differentiate between pension plans based on asset size and investment expertise.
- d. Written investment policies should be maintained for the investment of public pension plan assets.
- e. Public pension plans should regularly report on their investments, including performance.

#### 2. Sole Membership Benefit Dedication of Plan Assets

Recognizing that public pension plan assets exist to defray current and future pension benefit payments, public pension plan assets should be dedicated to the sole benefit of the plan membership in their investment and expenditure.

### F. **Compliance With Federal Pension Plan Regulation**

Consistent with the principles of federalism, dual sovereignty, and comity among governmental entities, public pension plan provisions and administrative operations and activities should attempt to comply with applicable federal pension plan regulation in order to maintain the tax qualified status of public pension plans.

### G. **Public Pension Plan Fiduciary Responsibility**

#### 1. Strong Fiduciary Responsibility Standards

Public pension plan activities should be conducted in accord with strong fiduciary responsibility standards and regulation.

#### 2. Remedies for Fiduciary Breach

Failures to conduct public pension plan activities in accord with the applicable fiduciary responsibility standards and regulation should be subject to appropriate fiduciary breach remedies.

## III. **Procedural Principles of Pension Policy**

### A. **Adequate Pension Funding**

#### 1. Pre-Existing Funding

No proposed increase in pension benefits for any public pension plan should be recommended by the Legislative Commission on Pension and Retirement until there is established adequate financing to cover the pre-increase normal cost, administrative expense, and amortization contribution requirements of the defined benefit public pension plan calculated according to the applicable actuarial reporting law.

#### 2. Funding Increase

No proposed increase in pension benefits for any defined benefit public pension plan should be recommended by the Legislative Commission on Pensions and Retirement unless there is included, in the proposal, adequate financing to meet any resulting increase in the normal cost and amortization contribution requirements of the defined benefit public pension plan that are estimated by the applicable actuary to result from adopting the proposed benefit increase.

### B. **Preference for General Legislation**

No pension legislation of local or special limited application should be recommended by the Legislative Commission on Pensions and Retirement if the purpose and the intent of the proposed legislation would be better served by legislation of general statutory application or if the proposed legislation constitutes a significant departure from previously established uniform pension policy. Pension legislation affecting local police or salaried firefighters may be recommended by the Legislative Commission on Pensions and Retirement in light of any special circumstances that are unique to the relief association.

### C. **Explicit Application of Principles of Pension Policy**

#### 1. Measurement Against Principles

Each proposed change in retirement benefits or financing should be measured by the Legislative Commission on Pension and Retirement against the current principles of pension policy as part of its consideration to insure that there is adherence to sound pension policy.

#### 2. Formal Reporting of Consistency

The Commission's determination concerning compliance with the principles of pension policy should be a part of the Commission's formal report of its recommendations on proposed public pension legislation.