



H.F. 1987
(Lanning)

S.F. 1692
(Rosen)

Executive Summary of Commission Staff Materials

<u>Affected Pension Plan(s):</u>	TRA; MSRS-Correctional; Major Minnesota public pension plans
<u>Relevant Provisions of Law:</u>	Minnesota Statutes, Sec. 126C.41; 352.91; 354.51; 354A.12; 356.415; 356.611; 423A.02; and 356.215
<u>General Nature of Proposal:</u>	TRA Administrative Bill
<u>Date of Summary:</u>	February 16, 2012

Specific Proposed Changes

- An MSRS-Correctional plan coverage provision is revised by correcting certain job titles.
- The TRA post-retirement adjustment initial eligibility procedure is revised to extend the period of prorated adjustments from 12 to 18 months; TRA aid provisions are recodified; new TRA contribution deficiency recovery procedures are created; TRA aid provisions are moved to different sections of law; and other administrative changes made.
- Federal code compliance provisions are revised, applicable to most Minnesota public pension plans.
- Includes a special law provision to recapture City of Minneapolis underpayments to TRA and MTRFA.

Policy Issues Raised by the Proposed Legislation

1. Unclear meaning of the term "employer," which is not defined in the statute. (*Art. 1, Sec. 4*)
2. Appropriateness of excluding Internal Revenue Code requirements. (*Art. 1, Sec. 6*)
3. Concern that other legislators may erroneously believe these are new aid requirements rather than a recodification of existing aid language being moved to the TRA chapter. (*Art. 2, Sec. 2*)
4. Permissive rather than mandatory contribution shortage recovery language. (*Art. 2, Sec. 3*)
5. Inclusion of the TRA/City of Minneapolis contribution shortage recovery provision requires the Commission and Legislature to act somewhat like a judicial body to settle a dispute. (*Art. 2, Sec. 7*)
6. The financial impact of the contribution shortage recovery provision on the City of Minneapolis (\$727,070 in aid will be diverted from Minneapolis to TRA), and whether interest should be charged on past shortfalls. (*Art. 2, Sec. 7*)

Potential Amendments

- H1987-1A revises relevant language found in Section 4 from "more than one pension plan maintained by the same employer," to "more than one Minnesota public pension plan."
- H1987-2A, an alternative to -1A, would instead revise "more than one pension plan maintained by the same employer" to "more than one pension plan in which the employer participates." This approach, however, may lead pension plan administrations to ignore combined service annuity situations where benefits are from two different retirement systems.
- H1987-3A reinstates the requirement that compensation for pension purposes must conform to additions or subtractions from compensation as found in the Internal Revenue Code.
- H1987-4A requires the TRA executive director to certify amounts for collection to the county auditor if the alternative procedure, collection by certification to the MMB Commissioner, is not used.
- H1987-5A removes all interest from the payment that the City of Minneapolis would otherwise be required to make.
- H1987-6A requires the Commissioner of MMB to report state aid amounts being paid to first class city teacher plans by revising cross-references and updating the provision to mention the TRA as the successor to the former MTRFA.
- H1987-7A revises a federal compliance provision by including references to Roth IRAs as eligible retirement plans and by including reference to military death and disability benefits in a military service compliance provision.



TO: Members of the Legislative Commission on Pensions and Retirement
FROM: Ed Burek, Deputy Director **EB**
RE: H.F. 1987 (Lanning); S.F. 1692 (Rosen): TRA Administrative Bill
DATE: February 10, 2012

General Summary of H.F. 1987 (Lanning); S.F. 1692 (Rosen)

H.F. 1987 (Lanning); S.F. 1692 (Rosen) is the Teachers Retirement Association (TRA) administrative bill, containing various changes intended to be of an administrative nature, including various changes in federal code compliance provisions which impact all or most plans; provisions moving a few existing TRA aid provisions into TRA's chapter of statutes from other chapters; a technical revision in a Correctional State Employees Retirement Plan of the Minnesota State Retirement System (MSRS Correctional) coverage provision to revise certain clinical program therapist job titles; and clarification of an interest and salary assumption provision applicable to many plans.

Of a more substantive nature, the bill includes a provision permitting TRA to deduct from state aids to Minneapolis sufficient amounts to recover past underpayments by the City of Minneapolis to the former Minneapolis Teachers Retirement Fund Association (MTRFA) and its successor organization, TRA.

A section-by-section summary is attached.

Discussion and Analysis

Article 1: Administrative Revisions

Article 1, Section 1, revises a Correctional Employees Retirement Plan of the Minnesota State Retirement System (MSRS-Correctional) plan coverage provision by correcting certain job titles. This is a technical change. If the occupation title of any positions currently covered by MSRS-Correctional changes, Minnesota Statutes, Section 352.91, Subdivision 3h, requires the commissioner of Minnesota Management & Budget to determine whether the employee's duties and responsibilities remain essentially unchanged. If that is the case, the Commissioner certifies to that fact and is required to submit language revising the applicable MSRS-Correctional plan covered employee provision to conform to the new employment position names. The request for this change was submitted to the executive director of the Legislative Commission on Pensions and Retirement in November 2011, and the necessary language appears as Article 1, Section 1.

Article 1, Section 2, makes changes intended to be technical in nature, revising a provision setting actuarial valuation interest and salary assumptions for Minnesota public defined benefit plans, by clarifying the provision and removing obsolete language.

Article 1, Section 3, revises the TRA post-retirement adjustment procedure for prorating benefit adjustments for those who are recently retired prior to a benefit adjustment. Under the revised language, those who retire within 18 months prior to the adjustment date (January 1) will receive prorated adjustments, rather than having prorating applying only to those retired within 12 months of the adjustment date.

The TRA post-retirement adjustment procedure being revised was added to law in 2010, after the executive directors of MSRS, TRA, the Public Employees Retirement Association (PERA), and the Duluth Teachers Retirement Fund Association (DTRFA) came to the Legislature with proposals to improve the health of their pension funds following the severe drop in market values in 2008 and early 2009. Contribution increases were proposed for some plans, and for all plans in these systems provisions were revised to trim liabilities. Part of that trimming involved the post-retirement adjustment provisions. The proposals were enacted as Laws 2010, Chapter 359, Article 1.

An unfortunate consequence of that article was a serious erosion of uniformity. In the decades leading up to 2010, the Legislature had revised plans to provide quite uniform treatment between similar groups of employees, and for retirees. Equity suggests that similar employees ought to receive comparable treatment. Leading up to 2010, across MSRS, PERA, TRA, and first class city teacher plans, vesting

requirements, refund interest rates and refund repayment rates and procedures, and deferred annuity augmentation procedures, were essentially identical. Also, all MSRS, PERA, and TRA plans provided identical post retirement percentage increases to retirees. However, as result of the 2010 changes, vesting requirements differed, as some plans had revised vesting requirements while others did not; refund interest rates differed; deferred annuity augmentation rates were generally lowered, but not in the same way across plans; and considerable variations in post-retirement adjustment procedures were created. MSRS, PERA, and TRA went from providing a uniform 2.5% annual adjustment to procedures that varied within and across plan systems. For retirees from most MSRS plans, the annual post-retirement adjustment is now 2.0% per year, but for the MSRS State Patrol Plan a 1.5% adjustment is paid. Retirees from PERA-General and the Local Government Correctional Service Retirement Plan (PERA-Correctional) now receive a 1.0% annual increase, while Public Employees Police and Fire Retirement Plan (PERA-P&F) retirees receives a 1.0% annual increase in 2011 and 2012, and in 2013 PERA-P&F retirees will begin receiving an inflation match rather than a fixed percentage, but the match is not to exceed 1.5%. TRA waived any increase in 2010 and 2012, and in 2013 will begin paying a 2.0% increase. DTRFA post-retirement adjustments are indefinitely suspended until the funding ratio reaches 80% based on market value. The St. Paul Teachers Retirement Fund Association (SPTRFA) waived any increase for one year.

Article 1, Section 3, addresses TRA post-retirement adjustment prorating procedures for the first adjustment after retirement. The language suggests that those who are retired less than 18 months, rather than 12 months, on the adjustment date (January 1) will receive a prorated adjustment.

Article 1, Section 3, raises the following issues for Commission consideration:

1. Savings. The issue is the savings to TRA that will occur to the plan as a result of the change. This appears to be more than a technical clarification. The drafting suggests that some TRA retirees will receive a lesser increase in the first post-retirement adjustment. Since later increases will compound on that first adjustment, the benefit throughout retirement for an individual impacted by this change will be marginally less than if this change is not enacted. TRA should provide the Commission with an estimate of the impact of this change.
2. Greater Consistency. The proposed change does create greater consistency. The proposed change will create is prorating system for TRA which is comparable to the prorating procedures put in place by the 2010 legislation for MSRS and PERA plans.
3. Implications of Benefit Reduction, Possible Reaction of TRA Retirees. The issue is that the change, by negatively impacting some TRA retirees, may be opposed by those who are harmed.

Article 1, Section 4. TRA is currently undergoing a review by the Internal Revenue Service (IRS) to determine whether TRA procedures and laws governing its operation meet requirements necessary to maintain qualified plan status. The changes that appear in Sections 4 to 7 are changes proposed due to that review, and represent the result of discussions between TRA, Mercer (TRA's consultant), and the IRS agent assigned to the review. These four sections of the bill propose changes in various subdivisions of a federal compliance provision (M.S., Sec. 356.611) found in Chapter 356, Retirement Systems Generally. While this section of statutes applies to TRA, it also applies to nearly all Minnesota public pension plans. Given that these provisions in this bill will impact many plans, TRA circulated the draft to administrators in other plan systems for comment and review. TRA received no replies prior to submitting the draft to the Revisor for final drafting services, suggesting that administrators from MSRS, PERA, and the first class city teacher plans do not object to the proposed changes.

Article 1, Section 4 revises the maximum benefit limitation provision, which states that Minnesota plans must comply with benefit limitations specified in Internal Revenue Code Section 415(b), as adjusted over time to keep current with inflation. The federal provisions, as of 2011, limited the maximum benefit at approximately normal retirement age to a person's high-three average salary or \$195,000, whichever is less. This limitation applies to the portion of the benefit derived or attributable to employer contributions. However, some materials on the internet suggest that if an employer pick-up is used to shield employee contributions from current taxation, as is the case in Minnesota, the employee contributions will be treated as employer contributions for purposes of the limitation.

The most significant new language added to Section 4 is a statement that if "an annuitant participated in more than one pension plan maintained by the same employer, the benefits under each plan must be reduced proportionately, if necessary, to satisfy the applicable limitation." This new language suggests an effort to be consistent with requirements in Internal Revenue Code Section 415(f), Combining of Plans, which requires that for purposes of applying limitations, all defined benefit plans "of an employer" are to be treated as one defined benefit plan, and all defined contribution plans "of an employer" are to be treated

as one defined contribution plan. Given that requirement, then if a benefit must be restricted, it is reasonable to reduce the benefits proportionally from all the applicable plans from which the person's total combined benefit is received.

Regarding the use of the term "employer," that term in many federal pension provisions reflects a mindset formed by the federal government's dealing with many independent employers, generally private sector entities, where that employer can decide whether or not to offer a plan or plans, and where that plan or plans are maintained by that employing unit or by another organization under contract with the employer. Thus, it is understandable that the IRS would be comfortable with this proposed language in Section 4. But within Minnesota public systems, it may be less clear who the employer is for purposes of enforcing this provision, and the actual enforcer in our case would not be the employing unit, but rather the pension plan administration or administrations.

Article 1, Section 4, raises the following issues for Commission consideration:

4. Unclear Meaning of "Employer." The interpretation of the term "employer" will determine the proper scope of plans to be included when deciding whether an individual's benefits exceed limitations. However, "employer" is not defined within this Minnesota statute. The Commission may wish to ask TRA or its consultants how the term "employer" ought to be interpreted within this section, and if its meaning is sufficiently clear. The language on lines 9.16 to 9.18 refers to pension plans "maintained by the same employer." Consider a city employee covered for the employment by PERA-General. If "employer" in section 4 is interpreted to mean the city, that suggests that in determining whether a benefit exceeds limitations, only benefits an individual is to receive from any combination of plans in the PERA system should be reviewed to determine if an individual's combined benefit exceeds the limit. If "employer" is interpreted more broadly to be the state, then benefits for a given individual from all PERA plans, all MSRS plans, or possibly all Minnesota public plans, must be added together to determine if limits are exceeded. A teacher covered by TRA may be directly employed by a local school district, but because of extensive state funding in education and state oversight, the teacher might be considered a state employee. This would suggest that if a teacher is retiring, that person's participation not just in TRA, but also any MSRS plan, and possibly in any Minnesota public plan needs to be considered in the determination.
5. Implementation Problems. The issue is whether any pension organization has the information needed to fully and correctly implement this limitation.

If the Commission is sufficiently concerned about how to interpret "employer" for federal compliance purposes, members may wish to consider amendments after receiving some clarification from TRA or other parties. Possible amendments include:

- Amendment H1987-1A revises relevant language found in Section 4 on line 9.16 and 9.17 from "more than one pension plan maintained by the same employer," to "more than one Minnesota public pension plan."
- Amendment H1987-2A, an alternative to H1987-1A, would instead revise relevant language found on line 9.16 from "more than one pension plan maintained by the same employer," to "more than one pension plan in which the employer participates." This approach, however, may lead pension plan administrations, who are to enforce these requirements, to ignore combined service annuity situations where one benefit is, for example, from a PERA plan while another benefit is from an MSRS plan.

Article 1, Section 5, revises the annual addition (contribution) limitation provision applicable to defined contribution plans. The revised language generalizes the provision to apply to all Minnesota defined contribution plans, as is required by federal code, rather than just to the Unclassified State Employees Retirement Program of the Minnesota State Retirement System (MSRS-Unclassified) and the PERA Defined Contribution Plan.

Article 1, Section 6, revises the definition of "compensation" for federal compliance purposes by clarifying that the compensation limit for pension purposes cannot be exceeded, and by indicating that compensation must take into account the various exclusions and inclusion in federal treasury regulations. Stricken from the provision are statements that compensation must also comply with exclusions and additions specified in the Internal Revenue Code. The section raises the following issue:

6. Appropriateness of Excluding Internal Revenue Code Requirements. The issue is whether removing all reference to the Internal Revenue Code is appropriate (lines 10.4 to 10.10). This language exists in current statute because a prior IRS compliance review indicated it was necessary, and it is unclear

why it should now be removed. All the Internal Revenue Code provisions referred to in this stricken language continue to exist, so it is unclear why that language, which added or deleted items from the compensation definition, are no longer needed. The elective deferrals on stricken lines 10.5 and 10.6 refer to deferrals under 401(k), 403(b), and similar arrangements. Stricken line 10.8 refers to contributions made to cafeteria plans and 457 deferred compensation plans, such as the MSRS state deferred compensation plan. Stricken line 10.10 is a reference to certain qualified transportation fringe benefits. The Commission may wish to ask TRA why it is appropriate to remove this language.

The Commission may wish to consider the following amendment to reinsert this language:

- Amendment H1987-3A revises Section 6 by reinstating the requirement that compensation for pension purposes must conform to additions or subtractions from compensation as found in the Internal Revenue Code.

Article 1, Section 7, defines limitation year, created by moving existing language from another provision. (The language being stricken and moved is found on lines 9.14 to 9.16).

Article 2: Aid Provision Recodification; Adding Shortage Recovery Procedure

Article 2, Section 1, is a retirement levy provision. Cross-references are being changed to conform to other changes found in this article.

Article 2, Section 2, proposed for coding in the TRA chapter as Section 354.435, is created by moving two existing aid provisions to this chapter from existing provisions in other chapters. Given that this aid is received by TRA, the TRA chapter is the most logical place for this language. Subdivision 1 is special direct state matching aid. This is lifted nearly verbatim from a provision in the first class city teacher chapter, Section 354A.12, Subdivision 3b. This language had been in the first class city teacher chapter because the aid provision was enacted many years ago, to help fund one of the first class city teacher plans, the former Minneapolis Teachers Retirement Fund Association (MTRFA). Several years ago, MTRFA was merged into TRA, and the special direct state matching aid provision was revised to have that aid sent to TRA as the MTRFA's successor organization. Given that the aid now goes to TRA, it is reasonable to shift that aid provision into the TRA chapter.

Subdivision 2 contains language moved from another aid provision currently found in Section 423A.02, Subdivision 3, reallocation of amortization and supplemental amortization aid. In 1980, the closing out of local police and paid fire plans began by closing these plans to new members. About the same time, the amortization and supplemental amortization aid programs were started to assist these local police and fire relief associations in retiring their unfunded liabilities. Over the years, as some of these organizations reached full funding and dropped out of those aid programs, unallocated aid became available, and procedures were placed in law to reallocate unused amortization and supplemental amortization aid to pension funds, both police and fire plans and first class city teacher plans which continued to have unfunded liabilities (the SPTRFA and MTRFA). When law was revised to permit first class city teacher plans to receive some of this reallocated aid, these revised laws were drafted using a carrot approach. For the SPTRFA, the law required the school district to contribute a specified amount in order to be permitted to share in the amortization and supplemental amortization aid reallocation. The amount required from the St. Paul school district was \$200,00 in 1998, \$400,000 in 1999, \$600,000 in 2000, and \$800,000 in 2001 and thereafter. Regarding reallocated aid to the MTRFA, for the MTRFA to receive that aid both the Minneapolis school district and the City of Minneapolis had to contribute matching specified amounts. In 1998, the necessary amounts from the school district and the city were \$250,000 each, escalating in later years. Since 2003, the specified matching amounts are \$1 million each per year.

In 2007, following the MTRFA merger into TRA, the amortization and supplemental aid reallocation provision, Section 423A.02, Subdivision 3, was revised to send all applicable aid to TRA rather than to the MTRFA. Another change was in severing the amounts required from the City of Minneapolis and the Minneapolis school district (\$1 million each) from any connection to reallocated aid. Starting in 2007, the city and school districts were simply required by law to make a \$1 million contribution to TRA. Once that step was taken to sever any connection to reallocated amortization and supplemental amortization aid, there was no longer any reason to leave this contribution requirement in Section 423A.02, Subdivision 3. A more logical place for it now is in Chapter 354.

The section raises the following issue:

7. Perception. Commission members may wish to be aware that this provision may concern other members, who may erroneously believe this is a new aid requirement rather than existing aid language being moved from other provisions in law to TRA's chapter.

Article 2, Section 3, strikes repetitive language specifying a procedure for recovering shortages in contributions because it is being moved to a new section. The provision raises one issue:

8. Permissive Recovery Language. This section contains an existing procedure under which TRA's executive director must certify contribution shortages to the county auditor, and the auditor is required to add a levy to raise the necessary amount. In this bill the notification to the auditor is made permissive rather than mandatory. This change from mandatory to permissive was suggested by TRA because if they are required to use the county auditor approach to collecting shortfalls, they are unable to use the alternative procedure now found in section 4, starting on line 14.9. However, use of Section 4 is permissive, and if lines 13.7 to 13.12 are also permissive, then TRA has the option to do nothing. Doing nothing to collect a shortfall would be inconsistent with current law and with TRA fiduciary responsibilities.

The Commission may wish to consider the following amendment:

- Amendment H1987-4A requires the TRA executive director to certify amounts for collection to the county auditor if the alternative procedure, collection by certification to the commissioner of Minnesota Management & Budget, is not used.

Article 2, Section 4, is a new section, created largely by moving language from another section, authorizing the TRA executive director to obtain recovery of shortfalls by certifying amounts to the commissioner of Minnesota Management & Budget, who will withhold amounts from aids or appropriations and transmit them to TRA. It does raise one issue:

9. Scope. While based on existing law language, the new provision is more general, permitting the TRA executive director to obtain payment through certification to the commissioner of Minnesota Management & Budget regardless of the specific source of the shortfall. This may be an expansion of authority in certain situations beyond that found in existing law.

Article 2, Section 5, deletes language from a termination of supplemental contributions and direct matching state aid provision in first class city teacher law because it is moved to an earlier section.

Article 2, Section 6, revises the reallocation of amortization or supplementary amortization state aid provision by removing obsolete language and language being moved to an earlier section.

Article 2, Section 7, is a special law TRA recovery of deficiency provision. The provision is requested by TRA as a way to recover past deficiencies by the City of Minneapolis, and to address findings by the Office of the Legislative Auditor (OLA) in two recent TRA audits. The OLA claims that the City of Minneapolis repeatedly failed to make the full required payments under the state matching aid provision, Minnesota Statutes, Section 354A.12, Subdivision 3b, and the reallocated amortization and supplemental amortization aid provision, Section 423A.02, Subdivision 3. The more recent OLA audit computed a cumulative shortfall of \$727,070.

This shortfall problem is longstanding, starting when the former MTRFA was still in existence, and has continued following the merger of the MTRFA into TRA. TRA and the City of Minneapolis have been in negotiations regarding this matter, but no resolution has occurred. TRA and the OLA read these provisions, as they existed in law at the applicable times, as requiring the city and school district to make identical contributions. The school district always made the full contribution specified in law, but the city generally did not. The city has argued, particularly with the matching aid provision, that it is required to levy for the specified amount and to retransmit to the MTRFA or TRA, whichever was applicable during the given year, the proceeds of that levy. Apparently, the city levied for the specific amount specified in the law, but the amount collected was always somewhat less, due to uncollectible amounts. Thus, a lesser amount was transmitted to the applicable pension plan administration. A copy of the applicable provisions of law and relevant pages from the OLA audits are attached.

The OLA is in full agreement with TRA and has urged TRA to get the issue resolved. Given that discussions with the city have not been productive, TRA is proposing Section 1 to remedy the matter. The provision authorizes the TRA executive director to certify to the commissioner of Minnesota Management & Budget as a shortfall for collection the amount determined by the OLA, \$727,070, plus any additional shortfalls that may have occurred since the auditors computations, plus interest if not already included in the computed amounts. The amount is to be deducted from aid to the City of Minneapolis.

Article 2, Section 7, raises a number of issues:

10. Review of Situation. Inclusion of this provision in the bill requires the Commission and the Legislature to act somewhat like a judicial body to settle a dispute. In its deliberations, the Commission may wish to consider the attached materials and testimony from TRA, the City of Minneapolis, and possibly from the OLA to decide whether this section is a proper solution to the problem. The Commission may also wish to hear from some of its longer-serving members regarding what they believed was to occur under the state matching aid provision. Minnesota Statutes, Section 354A.12, Subdivision 3b, Paragraph (b), clearly suggests an intention of matching financial effort. The city and school district are required to contribute a matching amount (\$1.25 million each) and the state will match that combined effort with a matching \$2.5 million amount. Paragraph (a) of this provision is where the levy language is located, upon which the city rests its argument, that it is required to levy for \$1.25 million, but may pay less if less is raised. Regarding the other provision under question, Minnesota Statutes, 423A.02, Subdivision 3, that provision does not appear to have ever included levy language. It simply specifies dollar amounts to be paid by the city.
11. Impact on the City of Minneapolis. The issue is the financial impact on the City of Minneapolis. \$727,070 in aid (and possibly more) will be diverted from Minneapolis to TRA. Failing to take action, however, if the Commission concludes that the city owes this amount or some other amount, shifts some of the ultimate burden for covering TRA liabilities to other contributors (employees, employers, and the state through aids).
12. Whether New Authority is Needed. An issue is whether any new authority is needed. TRA has provisions in its existing law to recover shortfalls. The Commission may wish to hear from TRA regarding why it has not already taken collection action on this specific matter.
13. Need for Special Law Given New Proposed General Law. The issue is whether the special law language is needed given the new proposed general law (Section 3, line 12.25). The special law language does have the advantage of having language describing this specific situation, mandating action dealing with past shortfalls, clearly siding with the TRA/OLA position, and mandating city payment (through withholding and redirection of aid that would otherwise go to Minneapolis).
14. Interest. The issue is whether interest should be charged on past shortfalls. To not charge interest would fail to fully reimburse TRA for the opportunity cost of not having the assets at the applicable time, ultimately shifting part of the burden of covering TRA liabilities to other contributors.

The Commission may wish to consider amendments to this section.

- If the Commission desires to remove the entire recovery of deficiency provision, the Commission can use a verbal amendment to delete Section 7 on page 16.
- If the Commission wishes to include the section but not include interest, Amendment H1987-5A removes all interest from the payment that the City of Minneapolis would otherwise be required to make.

Article 2, Section 8, repeals a Minneapolis school district aid rededication provision (Section 128D.18) which is redundant and obsolete given language now found in other statutes, and the direct state matching aid provision in the first class city teacher chapter (Sec. 354A.12, Subd. 3b), because that language is being moved to the TRA chapter.

Additional Amendments for Commission Consideration

There is one additional amendment that adds a section which should have been included in the bill:

- Amendment H1987-6A requires the commissioner of Minnesota Management and Budget to report state aid amounts being paid to first class city teacher plans by revising cross-references and updating the provision to mention the TRA as the successor to the former MTRFA.

The following is an additional amendment recently requested by TRA and the St. Paul Teachers Retirement Fund Association (SPTRFA) to federal compliance provisions.

- Amendment H1987-7A revises a federal compliance provision by including references to Roth IRAs as eligible retirement plans and by including reference to military death and disability benefits in a military service compliance provision.

Section-by-Section Summary of H.F. 1987 (Lanning); S.F. 1692 (Rosen)


Sec.	Pg.Ln	Retirement Plan	Stat. Provision	Summary
Article 1: Administrative Revisions				
1	1.17	MSRS-Correctional	352, 91, Subd. 3d	An MSRS-Correctional coverage provision is revised by correcting the provision to conform with recent changes in job titles for various corrections program therapists, who are now called clinical program therapists.
2	3.1	MN defined benefit plans	356.215, Subd. 8	The actuarial valuation interest and salary assumption provision is revised by clarifying the provision and removing obsolete language.
3	7.36	TRA	356.415, Subd. 1d	The TRA post-retirement adjustment procedures provision is revised by paying prorated adjustments rather than full adjustments to those who are retired up to 18 months, rather than 12 months, prior to the adjustment.
4	9.8	MN defined benefit plans	356.611, Subd. 3	The federal code compliance maximum benefit limitation provision is revised by striking language specifying the limitation year (which is being moved to a new provision), and by specifying that if an annuitant participated in more than one pension plan maintained by the same employer, the benefits under each plan must be reduced proportionately to satisfy any applicable limitation.
5	9.20	MN defined contrib. plans	356.611, Subd. 3a	The federal code compliance maximum annual additional limitation provision is revised by removing obsolete language and by generalizing the provision to apply to all defined contribution plans.
6	9.29	MN public plans	356.611, Subd. 4	The federal code compliance compensation definition provision is revised by clarifying that compensation for pension plan purposes must not exceed compensation limits for pension plan purposes as set in applicable federal treasury regulations, and by removing all statements specifying compliance with federal code.
7	10.12	MN public plans	356.611, New Subd. 5	A new subdivision (containing language moved from another provision) is added defining "limitation year" as the plan's calendar year or fiscal year, whichever is applicable, for purposes of complying with federal code.
Article 2: Aid Provision Recodification; Adding Shortage Recovery Procedure				
1	10.21	Education funding retirement levy provision	126C.41, Subd.3	Cross-references in an education funding retirement levy provision are revised to conform with other revisions in the article.
2	11.20	TRA	New 354.435	Two aid provisions are moved from other statutes to a new provision proposed for coding in the TRA chapter. In Subd. 1, as special direct state matching aid, each fiscal year the City of Minneapolis and the Minneapolis school district must each contribute \$1.25 million to TRA, which the state shall match with an annual \$2.5 million contribution. In Subd. 2, as additional contribution amounts, in addition to any other required contributions the City of Minneapolis and the Minneapolis school district must each contribute an additional \$1 million. This section is repealed when TRA becomes fully funded.
3	12.25	TRA	354.51, Subd. 5	The TRA payment of shortages provision is revised by striking shortage recapture language which is moved to another section.
4	14.9	TRA	New 354.512	New section specifying a procedure for recovering contribution or aid payment deficiencies, based on language moved from 354.51, Subd. 5. In addition to any other remedies in law, if an employing unit fails to pay in full within 60 days any aid or contributions required to be remitted to TRA, the TRA executive director may certify amounts to the commissioner of Minnesota Management & Budget, who will withhold needed amounts from aid to the employing unit and transmit the amounts to TRA.
5	14.18	TRA	354A.12, Subd. 3c	A termination of supplemental contributions and direct matching aid provision is revised by striking language moved to New Section 354.435.
6	15.1	SPTRFA, TRA	423A.02, Subd. 3	The reallocation of amortization or supplementary amortization state aid provision is revised to simplify the provision and by striking obsolete language and language being moved to another provision.
7	16.8	TRA	Uncoded	TRA is specifically authorized to recover past shortfalls in payments which the City of Minneapolis has been required to make to the former MTRFA and to TRA as the successor to MTRFA, under the state matching aid provision in M.S., Sec. 354A.12, Subd. 3b, and under an aid reallocation provision, M.S., Sec. 423A.02, Subd. 3. The amount to be recovered is the cumulative amount of the shortfalls, which began in 1998 and is computed by the Office of the Legislative Auditor to be \$727,070. TRA is authorized to certify this amount, plus interest if not already included in the auditor's calculation, to the commissioner of Minnesota Management & Budget, who will deduct the needed amount from state aid to the city.
8	17.2	--	Repealer	M.S., Sec.128D.18, an aid rededication provision for the Minneapolis school district made redundant by subsequent legislation, and Sec. 354A.12, Subd. 3b, the special direct state matching aid language being moved to New Sec. 354.435, are repealed.



DATE: November 10, 2011

TO: Dave Bergstrom, Executive Director
Minnesota State Retirement Systems

Larry Martin, Executive Director
Legislative Commissions on Pensions and Retirement

FROM: Jim Schowalter, Commissioner 
Minnesota Management & Budget

RE: Occupational Name Change & Correctional Employee Retirement Plan Eligibility

This is to notify you that Minnesota Management & Budget has re-titled the Corrections Program Therapist classification to Clinical Program Therapist. The Corrections Program Therapist was a qualifying job for covered correctional service. In accordance with M.S. 352.91, Subd. 3h, I am certifying that the duties, requirements, and responsibilities of the newly re-titled Clinical Program Therapist classifications are substantially identical to the duties, requirements and responsibilities of the prior occupational title.

As a result, employees assigned to the re-titled Clinical Program Therapist classification in accordance with M.S. 352.91, Subd. 3d are qualified for coverage by the correctional state employee retirement plan (CERP). That coverage should continue until July 1, 2012, or until such change is made in law to make this coverage permanent. All of the employees that will be assigned to this newly re-titled classification were previously covered by CERP, and so this change will not result in an expansion in the number of employees eligible for CERP coverage.

Attached is draft proposed legislation reflecting the occupational title change covered by this section for consideration by the Legislative Commission on Pensions and Retirement for the 2012 legislative session.

Please contact Laurie Hansen at 651-259-3620 if you have any questions or want more information about this class re-title.

cc: Connie Jones, Human Resources Director, Department of Human Services
Lori Kingston, Human Resources Director, Department of Corrections
Laurie Hansen, Director, Human Resources Management Division

Sec. 415. Limitations on benefits and contribution under qualified plans

TITLE 26, Subtitle A, CHAPTER 1, Subchapter D, PART I, Subpart B, Sec. 415.

(f) Combining of plans

(1) In general

For purposes of applying the limitations of subsections (b) and (c) -

(A) all defined benefit plans (whether or not terminated) of an employer are to be treated as one defined benefit plan, and

(B) all defined contribution plans (whether or not terminated) of an employer are to be treated as one defined contribution plan.

(2) Annual compensation taken into account for defined benefit plans

If the employer has more than one defined benefit plan -

(A) subsection (b)(1)(B) shall be applied separately with respect to each such plan, but

(B) in applying subsection (b)(1)(B) to the aggregate of such defined benefit plans for purposes of this subsection, the high 3 years of compensation taken into account shall be the period of consecutive calendar years (not more than 3) during which the individual had the greatest aggregate compensation from the employer.

(3) Exception for multiemployer plans

Notwithstanding paragraph (1) and subsection (g), a multiemployer plan (as defined in section 414(f)) shall not be combined or aggregated -

(A) with any other plan which is not a multiemployer plan for purposes of applying subsection (b)(1)(B) to such other plan, or

(B) with any other multiemployer plan for purposes of applying the limitations established in this section.

Sec. 402. Taxability of beneficiary of employees' trust

TITLE 26, Subtitle A, CHAPTER 1, Subchapter D, PART I, Subpart A, Sec. 402.

(g) Limitation on exclusion for elective deferrals

(3) Elective deferrals

For purposes of this subsection, the term "elective deferrals" means, with respect to any taxable year, the sum of -

- (A)** any employer contribution under a qualified cash or deferred arrangement (as defined in section 401(k)) to the extent not includible in gross income for the taxable year under subsection (e)(3) (determined without regard to this subsection),
- (B)** any employer contribution to the extent not includible in gross income for the taxable year under subsection (h)(1)(B) (determined without regard to this subsection),
- (C)** any employer contribution to purchase an annuity contract under section 403(b) under a salary reduction agreement (within the meaning of section 3121(a)(5)(D)), and
- (D)** any elective employer contribution under section 408(p)(2)(A)(i). An employer contribution shall not be treated as an elective deferral described in subparagraph (C) if under the salary reduction agreement such contribution is made pursuant to a one-time irrevocable election made by the employee at the time of initial eligibility to participate in the agreement or is made pursuant to a similar arrangement involving a one-time irrevocable election specified in regulations.

Sec. 125. Cafeteria plans

TITLE 26, Subtitle A, CHAPTER 1, Subchapter B, PART III, Sec. 125.

STATUTE

(a) General rule

Except as provided in subsection (b), no amount shall be included in the gross income of a participant in a cafeteria plan solely because, under the plan, the participant may choose among the benefits of the plan.

(b) Exception for highly compensated participants and key employees

(1) Highly compensated participants

In the case of a highly compensated participant, subsection (a) shall not apply to any benefit attributable to a plan year for which the plan discriminates in favor of -

(A) highly compensated individuals as to eligibility to participate, or

(B) highly compensated participants as to contributions and benefits.

(2) Key employees

In the case of a key employee (within the meaning of section 416(i)(1)), subsection (a) shall not apply to any benefit attributable to a plan for which the statutory nontaxable benefits provided to key employees exceed 25 percent of the aggregate of such benefits provided for all employees under the plan. For purposes of the preceding sentence, statutory nontaxable benefits shall be determined without regard to the last sentence of subsection (f).

(3) Year of inclusion

For purposes of determining the taxable year of inclusion, any benefit described in paragraph (1) or (2) shall be treated as received or accrued in the taxable year of the participant or key employee in which the plan year ends.

(c) Discrimination as to benefits or contributions

For purposes of subparagraph (B) of subsection (b)(1), a cafeteria plan does not discriminate where qualified benefits and total benefits (or employer contributions allocable to qualified benefits and employer contributions for total benefits) do not discriminate in favor of highly compensated participants.

(d) Cafeteria plan defined

For purposes of this section -

(1) In general

The term "cafeteria plan" means a written plan under which -

(A) all participants are employees, and

(B) the participants may choose among 2 or more benefits consisting of cash and qualified benefits.

(2) Deferred compensation plans excluded

(A) In general

The term "cafeteria plan" does not include any plan which provides for deferred compensation.

(B) Exception for cash and deferred arrangements

Subparagraph (A) shall not apply to a profit-sharing or stock bonus plan or rural cooperative plan (within the meaning of section 401(k)(7)) which includes a qualified cash or deferred arrangement (as defined in section 401(k)(2)) to the extent of amounts which a covered

employee may elect to have the employer pay as contributions to a trust under such plan on behalf of the employee.

(C) Exception for certain plans maintained by educational institutions Subparagraph (A) shall not apply to a plan maintained by an educational organization described in section 170(b)(1)(A)(ii) to the extent of amounts which a covered employee may elect to have the employer pay as contributions for post-retirement group life insurance if -

- (i) all contributions for such insurance must be made before retirement, and
- (ii) such life insurance does not have a cash surrender value at any time. For purposes of section 79, any life insurance described in the preceding sentence shall be treated as group-term life insurance.

(D) Exception for health savings accounts
Subparagraph (A) shall not apply to a plan to the extent of amounts which a covered employee may elect to have the employer pay as contributions to a health savings account established on behalf of the employee.

(e) Highly compensated participant and individual defined
For purposes of this section -

(1) Highly compensated participant

The term "highly compensated participant" means a participant who is -

- (A) an officer,
- (B) a shareholder owning more than 5 percent of the voting power or value of all classes of stock of the employer,
- (C) highly compensated, or
- (D) a spouse or dependent (within the meaning of section 152) of an individual described in subparagraph (A), (B), or (C).

(2) Highly compensated individual

The term "highly compensated individual" means an individual who is described in subparagraphs (A), (B), (C), or (D) of paragraph (1).

(f) Qualified benefits defined

For purposes of this section, the term "qualified benefit" means any benefit which, with the application of subsection (a), is not includible in the gross income of the employee by reason of an express provision of this chapter (other than section 106(b), 117, 127, or 132). Such term includes any group term life insurance which is includible in gross income only because it exceeds the dollar limitation of section 79 and such term includes any other benefit permitted under regulations. Such term shall not include any product which is advertised, marketed, or offered as long-term care insurance.

(g) Special rules

(1) Collectively bargained plan not considered discriminatory

For purposes of this section, a plan shall not be treated as discriminatory if the plan is maintained under an agreement which the Secretary finds to be a collective bargaining agreement between employee representatives and one or more employers.

(2) Health benefits

For purposes of subparagraph (B) of subsection (b)(1), a cafeteria plan which provides health benefits shall not be treated as discriminatory if -

- (A) contributions under the plan on behalf of each participant include an amount which -
 - (i) equals 100 percent of the cost of the health benefit coverage under the plan of the majority of the highly compensated participants similarly situated, or

(ii) equals or exceeds 75 percent of the cost of the health benefit coverage of the participant (similarly situated) having the highest cost health benefit coverage under the plan, and

(B) contributions or benefits under the plan in excess of those described in subparagraph (A) bear a uniform relationship to compensation.

(3) Certain participation eligibility rules not treated as discriminatory

For purposes of subparagraph (A) of subsection (b)(1), a classification shall not be treated as discriminatory if the plan -

(A) benefits a group of employees described in section 410(b)(2)(A)(i), and

(B) meets the requirements of clauses (i) and (ii):

(i) No employee is required to complete more than 3 years of employment with the employer or employers maintaining the plan as a condition of participation in the plan, and the employment requirement for each employee is the same.

(ii) Any employee who has satisfied the employment requirement of clause (i) and who is otherwise entitled to participate in the plan commences participation no later than the first day of the first plan year beginning after the date the employment requirement was satisfied unless the employee was separated from service before the first day of that plan year.

(4) Certain controlled groups, etc.

All employees who are treated as employed by a single employer under subsection (b), (c), or (m) of section 414 shall be treated as employed by a single employer for purposes of this section.

(h) Cross reference

For reporting and recordkeeping requirements, see section 6039D.

(i) Regulations

The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section.

FOOTNOTES

1. So in original. Probably should be "subparagraph".

Sec. 132. Certain fringe benefits

TITLE 26, Subtitle A, CHAPTER 1, Subchapter B, PART III, Sec. 132.

STATUTE

(f) Qualified transportation fringe

(4) No constructive receipt

No amount shall be included in the gross income of an employee solely because the employee may choose between any qualified transportation fringe and compensation which would otherwise be includible in gross income of such employee.

Laws 2007, Chapter 134, Article 1, Section 12

Sec. 12. Minnesota Statutes 2006, section 423A.02, subdivision 3, is amended to read:

Subd. 3. **Reallocation of amortization or supplementary amortization state**

aid. (a) Seventy percent of the difference between \$5,720,000 and the current year amortization aid or supplemental amortization aid distributed under subdivisions 1 and 1a that is not distributed for any reason to a municipality for use by a local police or salaried fire relief association must be distributed by the commissioner of revenue according to this paragraph. The commissioner shall distribute 70 percent of the amounts derived under this paragraph to the ~~Minneapolis Teachers Retirement Fund Association~~ Teachers Retirement Association and 30 percent to the St. Paul Teachers Retirement Fund Association to fund the unfunded actuarial accrued liabilities of the respective funds. These payments shall be made on or before June 30 each fiscal year. The amount required under this paragraph is appropriated annually from the general fund to the commissioner of revenue. If ~~either the Minneapolis Teachers Retirement Fund Association or the St. Paul Teachers Retirement Fund Association becomes funded at the funding ratio applicable to the teachers retirement association based on the actuarial reports prepared by the actuary for the Legislative Commission on Pensions and Retirement, then the commissioner shall distribute that fund's share under this paragraph to the other fund. The appropriation under this paragraph terminates when both funds become fully funded, its eligibility for this aid ceases.~~ Amounts remaining in the undistributed balance account at the end of the biennium if aid eligibility ceases cancel to the general fund.

(b) In order to receive amortization and supplementary amortization aid under paragraph (a), Independent School District No. 625, St. Paul, must make contributions to the St. Paul Teachers Retirement Fund Association in accordance with the following schedule:

Fiscal Year	Amount
1996	\$0
1997	\$0
1998	\$200,000
1999	\$400,000
2000	\$600,000
2001 and thereafter	\$800,000

(c) ~~In order to receive amortization and supplementary amortization aid under paragraph (a),~~ Special School District No. 1, Minneapolis, and the city of Minneapolis must each make contributions to the ~~Minneapolis Teachers Retirement Fund Association~~ Teachers Retirement Association in accordance with the following schedule:

Fiscal Year	City amount	School district amount
1996	\$0	\$0
1997	\$0	\$0
1998	\$250,000	\$250,000
1999	\$400,000	\$400,000
2000	\$550,000	\$550,000
2001	\$700,000	\$700,000
2002	\$850,000	\$850,000
2003 and thereafter	\$1,000,000	\$1,000,000

(d) Money contributed under paragraph (a) and either paragraph (b) or (c), as applicable, must be credited to a separate account in the applicable teachers retirement fund and may not be used in determining any benefit increases. The separate account terminates for a fund when the aid payments to the fund under paragraph (a) cease.

(e) Thirty percent of the difference between \$5,720,000 and the current year amortization aid or supplemental amortization aid under subdivisions 1 and 1a that is not distributed for any reason to a municipality for use by a local police or salaried firefighter relief association must be distributed under section 69.021, subdivision 7, paragraph (d), as additional funding to support a minimum fire state aid amount for volunteer firefighter relief associations. The amount required under this paragraph is appropriated annually to the commissioner of revenue.

EFFECTIVE DATE. This section is effective retroactive to July 1, 2006.

- TRA did not have adequate separation of duties when employers sent payroll detail reports and checks for contributions together. Some employers submitted their payroll details and contribution checks together via US mail.³ In these cases, the same employee had custody of the payroll detail reports and checks which resulted in inadequate segregation of duties and increased the risk of errors or fraud.
- TRA did not have sufficient controls to ensure that it received the correct amount of payments related to the merger of the Minneapolis Teachers Retirement Fund into the state's fund from the City of Minneapolis, as required by statute.⁴ The City of Minneapolis underpaid its direct aids for fiscal year 2009 by approximately \$70,000, an amount immaterial to TRA's financial statements.

Department of Management and Budget's policy states that each agency head has the responsibility to identify, analyze, and manage business risks that impact an entity's ability to maintain its financial strength and the overall quality of its products and government services.⁵ This policy also requires follow-up procedures that, at a minimum, should include mechanisms for monitoring results and reporting significant control deficiencies to individuals responsible for the process or activity involved, including executive management and those individuals in a position to take corrective action. Until TRA fully designs and implements a comprehensive risk assessment, it increases the risk of errors or fraud in its business operations.

Recommendations

- *TRA should continue to develop and implement a comprehensive risk assessment over its business operations.*
- *TRA should design and implement controls to:*
 - *Provide added assurance that participating employers properly calculate and report eligible salary and contributions.*
 - *Ensure it receives all required payroll reports and pension contributions.*
 - *Establish an adequate segregation of duties over employer contributions received together with payroll reports.*
 - *Ensure that it receives the correct aid from the City of Minneapolis related to the former Minneapolis Teachers Retirement Fund.*

³ Most participating employers wire transfer the payment separately from the payroll reports.

⁴ *Minnesota Statutes* 2009, 354A.12, subd. 3a and 3b, and 423A.02, subd. 3.

⁵ Department of Management and Budget Policy Number 0102-01.

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March 9, 2010
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- Ensure that it receives the correct aid from the City of Minneapolis related to the former Minneapolis Teachers Retirement Fund.

TRA Responses:

Bullet 1: TRA has established procedures and resources dedicated to the accuracy of member salary, contribution and service taught. TRA reviews member contracts and bargaining unit agreements to ensure salary reported is in compliance with TRA law. Further, the TRA Executive Director has statutory authority to conduct field audits of employers and to request additional data from the employer units to supplement the verifying of member data. We agree to improve the documentation of the processes and controls currently in place. We are currently working with the Public Employees Retirement Association (PERA) on developing school district audit strategies to improve quality and accuracy of salary and other member data. The establishment of new internal controls and auditing of school district data will be performed using a cost/benefit analysis.

Bullet 2: TRA currently uses a combination of manual and systems edits to verify statutory reporting compliance by employer units. Payroll processors within TRA are assigned to school districts and other employers. Regular communications between TRA staff and employer personnel about payroll reporting reduce the risk that payroll is missing. Enhancements to TRA's systems to improve detection of employer reporting omission are scheduled but will not be fully implemented until 2012. Until that time, mitigating controls and manual processes will be strengthened to address this risk.

TRA Responsibility: Karen Williamson, Asst. Exec. Director- Operations
Kathleen LaClair, Data Integrity Manager
Leslie Nagel, Internal Auditor

Resolution Date: Ongoing

Bullet 3: More TRA employers are opting to pay TRA contributions using electronic means resulting in a much lower volume of checks sent to TRA. We agree to document a listing of checks arriving in the office. To improve internal controls and audit trail, the listing will be performed by a person not assigned to the processing of the bank deposit. The Internal Auditor will periodically test the effectiveness of this new control procedure.

TRA Responsibility: Bob Johnson, Accounting Director
Kathleen LaClair, Data Integrity Manager
Leslie Nagel, Internal Auditor

Resolution Date: April 1, 2010

Bullet 4: TRA became the recipient of direct state and local aids when the former Minneapolis Teachers Retirement Association Fund (MTRFA) was merged into TRA in 2006. TRA management will meet with the City of Minneapolis' Board of Estimate and Taxation to resolve differences between the amount levied and the statutory required contribution.

Finding 3

Prior Finding Partially Resolved:⁴ TRA did not receive the correct amount of direct appropriation aid contributions from the City of Minneapolis.

TRA did not collect the correct amount of payments from the City of Minneapolis, as required by two state statutes.⁵ One statute governs the reallocation of amortization

⁴ Office of the Legislative Auditor's Financial Audit Division Report 10-07, *Teachers Retirement Association Financial Statement Report*, issued March 12, 2010.

⁵ *Minnesota Statutes* 2010, 354A.12, subd. 3(b), and *Minnesota Statutes* 2010, 423A.02 subd.3(c).

or supplementary amortization of state aid for unfunded actuarial liabilities of local police and fire fighters relief associations. The other statute pertains to the merger of the Minneapolis Teachers Retirement Fund into the state retirement fund. Despite TRA's efforts to achieve statutory compliance, TRA and the City of Minneapolis continued to interpret the statutes differently. TRA believes, and the statutes require, that the City of Minneapolis should remit \$2.25 million annually, while the city believes that only the money collected through a tax levy should be remitted to TRA, regardless of whether the collected amount is less than \$2.25 million.

For the fiscal year ending June 30, 2010, the City of Minneapolis underpaid its direct aids by approximately \$6,300. However, the total amount in dispute, based on TRA's records is, \$727,070; \$675,222 pertains to the reallocation of state aid dating back to 1998, and \$51,848 pertains to payments since 2006 related to the merger.

Recommendation

- *TRA should resolve the conflicting interpretation of Minnesota Statutes to ensure that it collects the correct amount from the City of Minneapolis and reaches agreement on a settlement of the past due amount.*

Finding #3: Prior Finding Partially Resolved: TRA did not receive the correct amount of direct appropriation aid contributions from the City of Minneapolis.

Recommendation:

TRA should resolve the conflicting interpretation of Minnesota Statutes to ensure that it collects the correct amount from the City of Minneapolis and reaches agreement on a settlement of past due amounts.

TRA Response:

TRA began receiving direct aid from the City of Minneapolis effective with the June 30, 2006 merger with the Minneapolis Teachers Retirement Fund Association (MTRFA). In fiscal year 2010, the City of Minneapolis paid about 99.7 percent of the \$2.25 million of direct aid TRA annually expects from the City.

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TRA management has unsuccessfully attempted to resolve this issue with the City of Minneapolis over the past two years. As your finding explains, the City of Minneapolis Board of Estimate and Taxation believes that the amount of the direct aid should be based on tax levies actually paid by taxpayers to the City of Minneapolis.


We acknowledge that there is a conflict in the statutory provisions (Minn. Stat. Sec. 354A.12 subd. 3b, paragraphs (a) and (b)), and the clarification of legislative intent would help resolve the conflict. At this point, TRA is not planning to seek legislation during the 2011 session, but will be alert to the potential to address the issue should this section of statute come up for legislative review.

TRA Responsibility: John Wicklund, Asst. Exec. Director- Administration
Robert Johnson, Accounting Director

Resolution Date: June 30, 2012, should no legislative activity occur during the 2011 session

Thank you for the courtesy your staff extended to TRA employees during the audit. Please contact me if you have any further questions.

Sincerely,



Laurie Fiori Hacking
Executive Director

1.1 moves to amend H.F. No. 1987; S.F. No. 1692, as follows:

1.2 Page 9, line 17, after "one" insert "Minnesota public" and delete "maintained by
1.3 the same employer"

- 1.1 moves to amend H.F. No. 1987; S.F. No. 1692, as follows:
- 1.2 Page 9, line 17, delete "maintained by the same" and insert "in which the" and after "
- 1.3 employer" insert "participates"

- 1.1 moves to amend H.F. No. 1987; S.F. No. 1692, as follows:
- 1.2 Page 9, line 30, reinstate the stricken language
- 1.3 Page 10, lines 4 to 10, reinstate the stricken language

- 1.1 moves to amend H.F. No. 1987; S.F. No. 1692, as follows:
- 1.2 Page 13, line 8, after the comma insert "and if the executive director does not use the
- 1.3 recovery procedure in section 354.512,"
- 1.4 Page 13, line 9, reinstate the stricken "shall" and delete "may"

1.1 moves to amend H.F. No. 1987; S.F. No. 1692, as follows:

1.2 Page 16, line 19, after the period insert "If the deficiency amount as determined
1.3 by the Office of the Legislative Auditor includes interest, that interest is to be deducted
1.4 from the computed deficiency."

1.5 Page 16, delete subdivision 4

1.6 Page 16, line 33, delete "5" and insert "4"

1.1 moves to amend H.F. No. 1987; S.F. No. 1692, as follows:

1.2 Page 10, after line 20, insert:

1.3 "Section 1. Minnesota Statutes 2010, section 16A.06, subdivision 9, is amended to read:

1.4 Subd. 9. **First class city teacher retirement funds aids reporting.** Each year,
1.5 on or before April 15, the commissioner of management and budget shall report to the
1.6 chairs of the senate Finance Committee and the house of representatives Ways and Means
1.7 Committee on expenditures for state aids to the ~~Minneapolis and Saint St. Paul Teacher~~
1.8 ~~Retirement Fund associations~~ Association, and to the Teachers Retirement Association on
1.9 behalf of the merged Minneapolis Teachers Retirement Fund Association, under sections
1.10 354.435, 354A.12, and 423A.02, subdivision 3. This report shall include the amounts
1.11 expended in the most recent fiscal year and estimates of expected expenditures for the
1.12 current and next fiscal year.

1.13 **EFFECTIVE DATE.** This section is effective the day following final enactment."

1.14 Renumber the sections in sequence and correct the internal references

1.15 Amend the title accordingly

1.1 moves to amend H.F. No. 1987; S.F. No. 1692, as follows:

1.2 Page 10, after line 17, insert:

1.3 "Sec. 8. Minnesota Statutes 2010, section 356.635, subdivision 6, is amended to read:

1.4 Subd. 6. **Eligible retirement plan.** (a) An "eligible retirement plan" is:

1.5 (1) an individual retirement account under section 408(a) or 408A of the federal
1.6 Internal Revenue Code;

1.7 (2) an individual retirement annuity plan under section 408(b) of the federal Internal
1.8 Revenue Code;

1.9 (3) an annuity plan under section 403(a) of the federal Internal Revenue Code;

1.10 (4) a qualified trust plan under section 401(a) of the federal Internal Revenue Code
1.11 that accepts the distributee's eligible rollover distribution;

1.12 (5) an annuity contract under section 403(b) of the federal Internal Revenue Code;

1.13 (6) an eligible deferred compensation plan under section 457(b) of the federal
1.14 Internal Revenue Code, which is maintained by a state or local government and which
1.15 agrees to separately account for the amounts transferred into the plan; or

1.16 (7) in the case of an eligible rollover distribution to a nonspousal beneficiary, an
1.17 individual account or annuity treated as an inherited individual retirement account under
1.18 section 402(c)(11) of the federal Internal Revenue Code.

1.19 (b) For distributions of after-tax contributions which are not includable in gross
1.20 income, the after-tax portion may be transferred only to an individual retirement
1.21 account or annuity described in section 408(a) or (b) of the federal Internal Revenue
1.22 Code, to a Roth individual retirement account described in section 408A of the federal
1.23 Internal Revenue Code, or to a qualified ~~defined-contribution~~ plan described in either
1.24 section 401(a) or 403(a) of the federal Internal Revenue Code, that agrees to separately
1.25 account for the amounts transferred, including separately accounting for the portion of
1.26 the distribution which is includable in gross income and the portion of the distribution
1.27 which is not includable.

2.1 **EFFECTIVE DATE.** This section is effective retroactively from January 1, 2008.

2.2 Sec. 9. Minnesota Statutes 2010, section 356.635, subdivision 9, is amended to read:

2.3 Subd. 9. **Military service.** Contributions, benefits, including death and disability
2.4 benefits under section 401(a)(37) of the Internal Revenue Code, and service credit with
2.5 respect to qualified military service must be provided according to section 414(u) of the
2.6 Internal Revenue Code.

2.7 **EFFECTIVE DATE.** This section is effective retroactively from January 1, 2007."

2.8 Amend the title accordingly

This Document can be made available in alternative formats upon request

State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH SESSION

H. F. No. 1987

01/30/2012 Authored by Lanning

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

1.1 A bill for an act

1.2 relating to retirement; Teachers Retirement Association and other plans; revising

1.3 Teachers Retirement Association post-retirement adjustment initial eligibility

1.4 procedure; recodifying Teachers Retirement Association aid provisions; creating

1.5 new Teachers Retirement Association contribution and aid payment deficiency

1.6 recovery procedures; revising federal code compliance provisions applicable

1.7 to all plans; making other changes of an administrative nature; amending

1.8 Minnesota Statutes 2010, sections 126C.41, subdivision 3; 352.91, subdivision

1.9 3d; 354.51, subdivision 5; 354A.12, subdivision 3c; 356.415, subdivision 1d;

1.10 356.611, subdivisions 3, 3a, 4, by adding a subdivision; 423A.02, subdivision 3;

1.11 Minnesota Statutes 2011 Supplement, section 356.215, subdivision 8; proposing

1.12 coding for new law in Minnesota Statutes, chapter 354; repealing Minnesota

1.13 Statutes 2010, sections 128D.18; 354A.12, subdivision 3b.

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

1.15 ARTICLE 1

1.16 ADMINISTRATIVE REVISIONS

1.17 Section 1. Minnesota Statutes 2010, section 352.91, subdivision 3d, is amended to read:

1.18 Subd. 3d. **Other correctional personnel.** (a) "Covered correctional service" means

1.19 service by a state employee in one of the employment positions at a correctional facility or

1.20 at the Minnesota Security Hospital specified in paragraph (b) if at least 75 percent of the

1.21 employee's working time is spent in direct contact with inmates or patients and the fact of

1.22 this direct contact is certified to the executive director by the appropriate commissioner.

1.23 (b) The employment positions are:

1.24 (1) automotive mechanic;

1.25 (2) baker;

1.26 (3) central services administrative specialist, intermediate;

1.27 (4) central services administrative specialist, principal;

- 2.1 (5) chaplain;
- 2.2 (6) chief cook;
- 2.3 (7) cook;
- 2.4 (8) cook coordinator;
- 2.5 (9) ~~corrections~~ clinical program therapist 1;
- 2.6 (10) ~~corrections~~ clinical program therapist 2;
- 2.7 (11) ~~corrections~~ clinical program therapist 3;
- 2.8 (12) ~~corrections~~ clinical program therapist 4;
- 2.9 (13) corrections inmate program coordinator;
- 2.10 (14) corrections transitions program coordinator;
- 2.11 (15) corrections security caseworker;
- 2.12 (16) corrections security caseworker career;
- 2.13 (17) corrections teaching assistant;
- 2.14 (18) delivery van driver;
- 2.15 (19) dentist;
- 2.16 (20) electrician supervisor;
- 2.17 (21) general maintenance worker lead;
- 2.18 (22) general repair worker;
- 2.19 (23) library/information research services specialist;
- 2.20 (24) library/information research services specialist senior;
- 2.21 (25) library technician;
- 2.22 (26) painter lead;
- 2.23 (27) plant maintenance engineer lead;
- 2.24 (28) plumber supervisor;
- 2.25 (29) psychologist 1;
- 2.26 (30) psychologist 3;
- 2.27 (31) recreation therapist;
- 2.28 (32) recreation therapist coordinator;
- 2.29 (33) recreation program assistant;
- 2.30 (34) recreation therapist senior;
- 2.31 (35) sports medicine specialist;
- 2.32 (36) work therapy assistant;
- 2.33 (37) work therapy program coordinator; and
- 2.34 (38) work therapy technician.

2.35 **EFFECTIVE DATE.** This section is effective the day following final enactment.

3.1 Sec. 2. Minnesota Statutes 2011 Supplement, section 356.215, subdivision 8, is
 3.2 amended to read:

3.3 Subd. 8. **Interest and salary assumptions.** (a) The actuarial valuation must use
 3.4 the applicable following preretirement interest assumption and the applicable following
 3.5 postretirement interest assumption:

3.6		preretirement	postretirement
3.7		interest	interest
3.8	plan	rate assumption	rate assumption
3.9	general state employees retirement plan	8.5%	6.0%
3.10	correctional state employees retirement plan	8.5	6.0
3.11	State Patrol retirement plan	8.5	6.0
3.12	legislators retirement plan	8.5	6.0
3.13	elective state officers retirement plan	8.5	6.0
3.14	judges retirement plan	8.5	6.0
3.15	general public employees retirement plan	8.5	6.0
3.16	public employees police and fire retirement plan	8.5	6.0
3.17	local government correctional service		
3.18	retirement plan	8.5	6.0
3.19	teachers retirement plan	8.5	6.0
3.20	Duluth teachers retirement plan	8.5	8.5
3.21	St. Paul teachers retirement plan	8.5	8.5
3.22	Fairmont Police Relief Association	5.0	5.0
3.23	Virginia Fire Department Relief Association	5.0	5.0
3.24	Bloomington Fire Department Relief		
3.25	Association	6.0	6.0
3.26	local monthly benefit volunteer firefighters		
3.27	relief associations	5.0	5.0

3.28 (b) Before July 1, 2010, the actuarial valuation must use the applicable following
 3.29 single rate future salary increase assumption, the applicable following modified single
 3.30 rate future salary increase assumption, or the applicable following graded rate future
 3.31 salary increase assumption:

3.32 (1) single rate future salary increase assumption

3.33	plan	future salary increase assumption
3.34	legislators retirement plan	5.0%
3.35	judges retirement plan	4.0
3.36	Fairmont Police Relief Association	3.5
3.37	Virginia Fire Department Relief Association	3.5
3.38	Bloomington Fire Department Relief	
3.39	Association	4.0

3.40 (2) age-related select and ultimate future salary increase assumption or graded rate
 3.41 future salary increase assumption

4.1	plan	future salary increase assumption
4.2	correctional state employees retirement plan	assumption D
4.3	State Patrol retirement plan	assumption C
4.4	local government correctional service retirement plan	assumption C
4.5	Duluth teachers retirement plan	assumption A
4.6	St. Paul teachers retirement plan	assumption B

4.7 For plans other than the Duluth teachers
4.8 retirement plan, the select calculation
4.9 is: during the designated select period, a
4.10 designated percentage rate is multiplied by
4.11 the result of the designated integer minus T,
4.12 where T is the number of completed years of
4.13 service, and is added to the applicable future
4.14 salary increase assumption. ~~The designated~~
4.15 ~~select period is five years and the designated~~
4.16 ~~integer is five for the general state employees~~
4.17 ~~retirement plan. The designated select period~~
4.18 is ten years and the designated integer is ten
4.19 for all ~~other~~ retirement plans covered by
4.20 this clause. The designated percentage rate
4.21 is: (1) 0.2 percent for the correctional state
4.22 employees retirement plan, the State Patrol
4.23 retirement plan, and the local government
4.24 correctional service retirement plan; and (2)
4.25 ~~0.6 percent for the general state employees~~
4.26 ~~retirement plan; and (3) 0.3 percent for the~~
4.27 ~~teachers retirement plan, the Duluth Teachers~~
4.28 ~~Retirement Fund Association, and the St.~~
4.29 Paul Teachers Retirement Fund Association.
4.30 The select calculation for the Duluth Teachers
4.31 Retirement Fund Association is 8.00 percent
4.32 per year for service years one through seven,
4.33 7.25 percent per year for service years seven
4.34 and eight, and 6.50 percent per year for
4.35 service years eight and nine.

4.36 The ultimate future salary increase assumption is:

	age	A	B	C	D
5.1	16	8.00%	6.90%	7.7500%	7.2500%
5.2	17	8.00	6.90	7.7500	7.2500
5.3	18	8.00	6.90	7.7500	7.2500
5.4	19	8.00	6.90	7.7500	7.2500
5.5	20	6.90	6.90	7.7500	7.2500
5.6	21	6.90	6.90	7.1454	6.6454
5.7	22	6.90	6.90	7.0725	6.5725
5.8	23	6.85	6.85	7.0544	6.5544
5.9	24	6.80	6.80	7.0363	6.5363
5.10	25	6.75	6.75	7.0000	6.5000
5.11	26	6.70	6.70	7.0000	6.5000
5.12	27	6.65	6.65	7.0000	6.5000
5.13	28	6.60	6.60	7.0000	6.5000
5.14	29	6.55	6.55	7.0000	6.5000
5.15	30	6.50	6.50	7.0000	6.5000
5.16	31	6.45	6.45	7.0000	6.5000
5.17	32	6.40	6.40	7.0000	6.5000
5.18	33	6.35	6.35	7.0000	6.5000
5.19	34	6.30	6.30	7.0000	6.5000
5.20	35	6.25	6.25	7.0000	6.5000
5.21	36	6.20	6.20	6.9019	6.4019
5.22	37	6.15	6.15	6.8074	6.3074
5.23	38	6.10	6.10	6.7125	6.2125
5.24	39	6.05	6.05	6.6054	6.1054
5.25	40	6.00	6.00	6.5000	6.0000
5.26	41	5.90	5.95	6.3540	5.8540
5.27	42	5.80	5.90	6.2087	5.7087
5.28	43	5.70	5.85	6.0622	5.5622
5.29	44	5.60	5.80	5.9048	5.4078
5.30	45	5.50	5.75	5.7500	5.2500
5.31	46	5.40	5.70	5.6940	5.1940
5.32	47	5.30	5.65	5.6375	5.1375
5.33	48	5.20	5.60	5.5822	5.0822
5.34	49	5.10	5.55	5.5404	5.0404
5.35	50	5.00	5.50	5.5000	5.0000
5.36	51	4.90	5.45	5.4384	4.9384
5.37	52	4.80	5.40	5.3776	4.8776
5.38	53	4.70	5.35	5.3167	4.8167
5.39	54	4.60	5.30	5.2826	4.7826
5.40	55	4.50	5.25	5.2500	4.7500
5.41	56	4.40	5.20	5.2500	4.7500
5.42	57	4.30	5.15	5.2500	4.7500

6.1	58	4.20	5.10	5.2500	4.7500
6.2	59	4.10	5.05	5.2500	4.7500
6.3	60	4.00	5.00	5.2500	4.7500
6.4	61	3.90	5.00	5.2500	4.7500
6.5	62	3.80	5.00	5.2500	4.7500
6.6	63	3.70	5.00	5.2500	4.7500
6.7	64	3.60	5.00	5.2500	4.7500
6.8	65	3.50	5.00	5.2500	4.7500
6.9	66	3.50	5.00	5.2500	4.7500
6.10	67	3.50	5.00	5.2500	4.7500
6.11	68	3.50	5.00	5.2500	4.7500
6.12	69	3.50	5.00	5.2500	4.7500
6.13	70	3.50	5.00	5.2500	4.7500
6.14	(3) service-related ultimate future salary increase assumption				
6.15	general state employees retirement plan of the				assumption A
6.16	Minnesota State Retirement System				
6.17	general employees retirement plan of the Public				assumption B
6.18	Employees Retirement Association				
6.19	Teachers Retirement Association				assumption C
6.20	public employees police and fire retirement plan				assumption D
6.21	service				
6.22	length	A	B	C	D
6.23	1	10.75%	12.25%	12.00%	13.00%
6.24	2	8.35	9.15	9.00	11.00
6.25	3	7.15	7.75	8.00	9.00
6.26	4	6.45	6.85	7.50	8.00
6.27	5	5.95	6.25	7.25	6.50
6.28	6	5.55	5.75	7.00	6.10
6.29	7	5.25	5.45	6.85	5.80
6.30	8	4.95	5.15	6.70	5.60
6.31	9	4.75	4.85	6.55	5.40
6.32	10	4.65	4.65	6.40	5.30
6.33	11	4.45	4.45	6.25	5.20
6.34	12	4.35	4.35	6.00	5.10
6.35	13	4.25	4.15	5.75	5.00
6.36	14	4.05	4.05	5.50	4.90
6.37	15	3.95	3.95	5.25	4.80
6.38	16	3.85	3.85	5.00	4.80
6.39	17	3.75	3.75	4.75	4.80
6.40	18	3.75	3.75	4.50	4.80
6.41	19	3.75	3.75	4.25	4.80
6.42	20	3.75	3.75	4.00	4.80
6.43	21	3.75	3.75	3.90	4.70

7.1	22	3.75	3.75	3.80	4.60
7.2	23	3.75	3.75	3.70	4.50
7.3	24	3.75	3.75	3.60	4.50
7.4	25	3.75	3.75	3.50	4.50
7.5	26	3.75	3.75	3.50	4.50
7.6	27	3.75	3.75	3.50	4.50
7.7	28	3.75	3.75	3.50	4.50
7.8	29	3.75	3.75	3.50	4.50
7.9	30 or more	3.75	3.75	3.50	4.50

7.10 (c) Before July 2, 2010, the actuarial valuation must use the applicable following
 7.11 payroll growth assumption for calculating the amortization requirement for the unfunded
 7.12 actuarial accrued liability where the amortization retirement is calculated as a level
 7.13 percentage of an increasing payroll:

7.14	plan	payroll growth assumption
7.15	general state employees retirement plan of the	
7.16	Minnesota State Retirement System	3.75%
7.17	correctional state employees retirement plan	4.50
7.18	State Patrol retirement plan	4.50
7.19	legislators retirement plan	4.50
7.20	judges retirement plan	4.00
7.21	general employees retirement plan of the Public	
7.22	Employees Retirement Association	3.75
7.23	public employees police and fire retirement plan	3.75
7.24	local government correctional service retirement plan	4.50
7.25	teachers retirement plan	3.75
7.26	Duluth teachers retirement plan	4.50
7.27	St. Paul teachers retirement plan	5.00

7.28 (d) After July 1, 2010, the assumptions set forth in paragraphs (b) and (c) continue to
 7.29 apply, unless a different salary assumption or a different payroll increase assumption:

- 7.30 (1) has been proposed by the governing board of the applicable retirement plan;
- 7.31 (2) is accompanied by the concurring recommendation of the actuary retained under
- 7.32 section 356.214, subdivision 1, if applicable, or by the approved actuary preparing the
- 7.33 most recent actuarial valuation report if section 356.214 does not apply; and
- 7.34 (3) has been approved or deemed approved under subdivision 18.

7.35 **EFFECTIVE DATE.** This section is effective the day following final enactment.

7.36 Sec. 3. Minnesota Statutes 2010, section 356.415, subdivision 1d, is amended to read:

7.37 Subd. 1d. **Teachers Retirement Association annual postretirement adjustments.**

7.38 (a) Retirement annuity, disability benefit, or survivor benefit recipients of the Teachers

8.1 Retirement Association are entitled to a postretirement adjustment annually on January
8.2 1, as follows:

8.3 (1) for January 1, 2011, and January 1, 2012, no postretirement increase is payable;

8.4 (2) for January 1, 2013, and each successive January 1 until funding stability is
8.5 restored, a postretirement increase of two percent must be applied each year, effective
8.6 on January 1, to the monthly annuity or benefit amount of each annuitant or benefit
8.7 recipient who has been receiving an annuity or a benefit for at least 18 full months prior
8.8 to the January 1 increase;

8.9 (3) for January 1, 2013, and each successive January 1 until funding stability is
8.10 restored, for each annuitant or benefit recipient who has been receiving an annuity or a
8.11 benefit for at least six full months before the January 1 increase, an annual postretirement
8.12 increase of 1/12 of two percent for each month the person has been receiving an annuity or
8.13 benefit must be applied, effective January 1, ~~following the year in~~ for which the person has
8.14 been retired for at least six months but less than 12 18 months;

8.15 (4) for each January 1 following the restoration of funding stability, a postretirement
8.16 increase of 2.5 percent must be applied each year, effective January 1, to the monthly
8.17 annuity or benefit amount of each annuitant or benefit recipient who has been receiving an
8.18 annuity or a benefit for at least 18 full months prior to the January 1 increase; and

8.19 (5) for each January 1 following the restoration of funding stability, for each
8.20 annuitant or benefit recipient who has been receiving an annuity or a benefit for at least six
8.21 full months before the January 1 increase, an annual postretirement increase of 1/12 of
8.22 2.5 percent for each month the person has been receiving an annuity or benefit must be
8.23 applied, effective January 1, ~~following the year in~~ for which the person has been retired
8.24 for at least six months but less than 12 18 months.

8.25 (b) Funding stability is restored when the market value of assets of the Teachers
8.26 Retirement Association equals or exceeds 90 percent of the actuarial accrued liabilities of
8.27 the Teachers Retirement Association in the most recent prior actuarial valuation prepared
8.28 under section 356.215 and the standards for actuarial work by the approved actuary
8.29 retained by the Teachers Retirement Association under section 356.214.

8.30 (c) An increase in annuity or benefit payments under this section must be made
8.31 automatically unless written notice is filed by the annuitant or benefit recipient with the
8.32 executive director of the Teachers Retirement Association requesting that the increase
8.33 not be made.

8.34 (d) The retirement annuity payable to a person who retires before becoming eligible
8.35 for Social Security benefits and who has elected the optional payment as provided in
8.36 section 354.35 must be treated as the sum of a period-certain retirement annuity and a life

9.1 retirement annuity for the purposes of any postretirement adjustment. The period-certain
 9.2 retirement annuity plus the life retirement annuity must be the annuity amount payable
 9.3 until age 62, 65, or normal retirement age, as selected by the member at retirement, for an
 9.4 annuity amount payable under section 354.35. A postretirement adjustment granted on
 9.5 the period-certain retirement annuity must terminate when the period-certain retirement
 9.6 annuity terminates.

9.7 **EFFECTIVE DATE.** This section is effective the day following final enactment.

9.8 Sec. 4. Minnesota Statutes 2010, section 356.611, subdivision 3, is amended to read:

9.9 Subd. 3. **Maximum benefit limitations.** ~~A member's~~ An annuitant's annual benefit,
 9.10 if necessary, must be reduced to the extent required by section 415(b) of the federal
 9.11 Internal Revenue Code, as adjusted by the United States secretary of the treasury under
 9.12 section 415(d) of the federal Internal Revenue Code for any applicable increases in the
 9.13 cost of living, including applicable increases in the cost of living after the member's
 9.14 termination of employment. ~~For purposes of section 415 of the federal Internal Revenue~~
 9.15 ~~Code, the limitation year of a pension plan covered by this section must be the fiscal year~~
 9.16 ~~or calendar year of that plan, whichever is applicable.~~ If an annuitant participated in more
 9.17 than one pension plan maintained by the same employer, the benefits under each plan must
 9.18 be reduced proportionately, if necessary, to satisfy the applicable limitation.

9.19 **EFFECTIVE DATE.** This section is effective the day following final enactment.

9.20 Sec. 5. Minnesota Statutes 2010, section 356.611, subdivision 3a, is amended to read:

9.21 Subd. 3a. **Maximum annual addition limitation, defined contribution plans.** The
 9.22 annual additions on behalf of a member to ~~the~~ a defined contribution plan established
 9.23 ~~under chapter 352D or 353D~~ for any limitation year ~~beginning after December 31, 2001,~~
 9.24 shall not exceed the ~~lesser of 100 percent of the member's compensation, as defined for~~
 9.25 ~~purposes of~~ applicable limitation on annual additions under section 415(c) of the federal
 9.26 Internal Revenue Code, ~~or \$40,000,~~ as adjusted by the United States secretary of the
 9.27 treasury under section 415(d) of the federal Internal Revenue Code.

9.28 **EFFECTIVE DATE.** This section is effective the day following final enactment.

9.29 Sec. 6. Minnesota Statutes 2010, section 356.611, subdivision 4, is amended to read:

9.30 Subd. 4. **Compensation.** ~~(a)~~ For purposes of this section, compensation means a
 9.31 member's compensation actually paid or made available for any limitation year including
 9.32 all items of remuneration described in federal treasury regulation section 1.415 (c)-2(b)

10.1 and excluding all items of remuneration described in federal treasury regulation section
 10.2 1.415 (c)-2(c). Compensation for pension plan purposes for any limitation year shall not
 10.3 exceed the applicable federal compensation limit described in subdivision 2.

10.4 ~~(b) Compensation for any period includes:~~

10.5 ~~(1) any elective deferral as defined in section 402(g)(3) of the federal Internal~~
 10.6 ~~Revenue Code;~~

10.7 ~~(2) any elective amounts that are not includable in a member's gross income by~~
 10.8 ~~reason of sections 125 or 457 of the federal Internal Revenue Code; and~~

10.9 ~~(3) any elective amounts that are not includable in a member's gross income by~~
 10.10 ~~reason of section 132(f)(4) of the federal Internal Revenue Code.~~

10.11 **EFFECTIVE DATE.** This section is effective the day following final enactment.

10.12 Sec. 7. Minnesota Statutes 2010, section 356.611, is amended by adding a subdivision
 10.13 to read:

10.14 Subd. 5. **Limitation year.** Unless otherwise specifically provided, for purposes of
 10.15 section 415 of the federal Internal Revenue Code, the limitation year of a pension plan
 10.16 covered by this section is the calendar year or fiscal year, whichever is applicable.

10.17 **EFFECTIVE DATE.** This section is effective the day following final enactment.

10.18 **ARTICLE 2**

10.19 **AID PROVISION RECODIFICATION; ADDING SHORTAGE**
 10.20 **RECOVERY PROCEDURE**

10.21 Section 1. Minnesota Statutes 2010, section 126C.41, subdivision 3, is amended to read:

10.22 Subd. 3. **Retirement levies.** (a) In 1991 and each year thereafter, a district to which
 10.23 this subdivision applies may levy an additional amount required for contributions to
 10.24 the general employees retirement plan of the Public Employees Retirement Association
 10.25 as the successor of the Minneapolis Employees Retirement Fund as a result of the
 10.26 maximum dollar amount limitation on state contributions to that plan imposed under
 10.27 section 353.505. The additional levy must not exceed the most recent amount certified by
 10.28 the executive director of the Public Employees Retirement Association as the district's
 10.29 share of the contribution requirement in excess of the maximum state contribution under
 10.30 section 353.505.

10.31 (b) For taxes payable in 1994 and thereafter, Special School District No. 1,
 10.32 Minneapolis, and Independent School District No. 625, St. Paul, may levy for the increase

11.1 in the employer retirement fund contributions, under Laws 1992, chapter 598, article 5,
11.2 section 1.

11.3 (c) If the employer retirement fund contributions under section 354A.12, subdivision
11.4 2a, are increased for fiscal year 1994 or later fiscal years, Special School District No. 1,
11.5 Minneapolis, and Independent School District No. 625, St. Paul, may levy in payable
11.6 1994 or later an amount equal to the amount derived by applying the net increase in
11.7 the employer retirement fund contribution rate of the respective teacher retirement fund
11.8 association between fiscal year 1993 and the fiscal year beginning in the year after the
11.9 levy is certified to the total covered payroll of the applicable teacher retirement fund
11.10 association. If an applicable school district levies under this paragraph, they may not
11.11 levy under paragraph (b).

11.12 (d) In addition to the levy authorized under paragraph (c), Special School District
11.13 No. 1, Minneapolis, may also levy payable in 1997 or later an amount equal to the
11.14 contributions under section ~~423A.02~~ 354.435, subdivision ~~3~~ 2, and may also levy in
11.15 payable 1994 or later an amount equal to the state aid contribution under section ~~354A.12~~
11.16 354.435, subdivision ~~3~~ 1. Independent School District No. 625, St. Paul, may levy
11.17 payable in 1997 or later an amount equal to the supplemental contributions under section
11.18 423A.02, subdivision 3.

11.19 **EFFECTIVE DATE.** This section is effective the day following final enactment.

11.20 Sec. 2. **[354.435] ADDITIONAL CONTRIBUTIONS BY SPECIAL SCHOOL**
11.21 **DISTRICT NO. 1 AND CITY OF MINNEAPOLIS.**

11.22 **Subdivision 1. Special direct state matching aid.** (a) Special School District No. 1,
11.23 Minneapolis, and the city of Minneapolis must make additional employer contributions
11.24 to the Teachers Retirement Association in the amounts specified in paragraph (b). These
11.25 contributions can be made from any available source. If made in whole or in part by a
11.26 levy, the levy may be classified as that of a special taxing district for purposes of sections
11.27 275.065 and 276.04, and for all other property tax purposes.

11.28 (b) Each fiscal year \$1,250,000 must be contributed by Special School District
11.29 No. 1, Minneapolis, and \$1,250,000 must be contributed by the city of Minneapolis to
11.30 the Teachers Retirement Association and the state shall match this total by paying to
11.31 the Teachers Retirement Association \$2,500,000. The superintendent of Special School
11.32 District No. 1, Minneapolis, the mayor of the city of Minneapolis, and the executive
11.33 director of the Teachers Retirement Association shall jointly certify to the commissioner
11.34 of management and budget the total amount that has been contributed by Special School
11.35 District No. 1, Minneapolis, and by the city of Minneapolis to the Teachers Retirement

12.1 Association. Any certification to the commissioner of management and budget must
 12.2 be made quarterly. If the certifications for a fiscal year exceed the maximum annual
 12.3 direct state matching aid amount in any quarter, the amount of direct state matching aid
 12.4 payable to the Teachers Retirement Association must be limited to the balance of the
 12.5 maximum annual direct state matching aid amount available. The amount required under
 12.6 this paragraph, subject to the maximum direct state matching aid amount, is appropriated
 12.7 annually to the commissioner of management and budget.

12.8 (c) The commissioner of management and budget may prescribe the form of the
 12.9 certifications required under paragraph (b).

12.10 Subd. 2. **Additional contributions.** In addition to any other required contributions,
 12.11 on or before June 30 each fiscal year, Special School District No. 1, Minneapolis, and the
 12.12 city of Minneapolis must each make an additional contribution to the Teachers Retirement
 12.13 Association of \$1,000,000.

12.14 Subd. 3. **Procedure for recovery of deficient or delinquent amounts.** If Special
 12.15 School District No. 1, Minneapolis, or the city of Minneapolis fails to pay the full amount
 12.16 required under subdivision 1, paragraph (b), or subdivision 2, in a timely manner, the
 12.17 executive director is authorized to use section 354.512, or any other process in law to
 12.18 ensure full payment is obtained.

12.19 Subd. 4. **Expiration; repealer.** This section expires and is repealed effective the
 12.20 first day of the fiscal year next following the fiscal year in which the Teachers Retirement
 12.21 Association has no unfunded actuarial accrued liability as determined by the actuarial
 12.22 valuation prepared under section 356.215, by the approved actuary retained under section
 12.23 356.214.

12.24 **EFFECTIVE DATE.** This section is effective the day following final enactment.

12.25 Sec. 3. Minnesota Statutes 2010, section 354.51, subdivision 5, is amended to read:

12.26 Subd. 5. **Payment of shortages.** (a) Except as provided in paragraph (b), in the
 12.27 event that full required member contributions are not deducted from the salary of a
 12.28 teacher, payment must be made as follows:

12.29 (1) Payment of shortages in member deductions on salary earned after June 30,
 12.30 1957, and before July 1, 1981, may be made any time before retirement. Payment must
 12.31 include interest at an annual rate of 8.5 percent compounded annually from the end of the
 12.32 fiscal year in which the shortage occurred to the end of the month in which payment is
 12.33 made and the interest must be credited to the fund. If payment of a shortage in deductions
 12.34 is not made, the formula service credit of the member must be prorated under section
 12.35 354.05, subdivision 25, clause (3).

13.1 (2) Payment of shortages in member deductions on salary earned after June 30,
 13.2 1981, are the sole obligation of the employing unit and are payable by the employing unit
 13.3 upon notification by the executive director of the shortage with interest at an annual rate of
 13.4 8.5 percent compounded annually from the end of the fiscal year in which the shortage
 13.5 occurred to the end of the month in which payment is made and the interest must be
 13.6 credited to the fund. Effective July 1, 1986, the employing unit shall also pay the employer
 13.7 contributions as specified in section 354.42, subdivisions 3 and 5 for the shortages. If the
 13.8 shortage payment is not paid by the employing unit within 60 days of notification, the
 13.9 executive director ~~shall~~ may certify the amount of the shortage payment to the applicable
 13.10 county auditor, who shall spread a levy in the amount of the shortage payment over the
 13.11 taxable property of the taxing district of the employing unit if the employing unit is
 13.12 supported by property taxes, ~~or to the commissioner of management and budget, who shall~~
 13.13 ~~deduct the amount from any state aid or appropriation amount applicable to the employing~~
 13.14 ~~unit if the employing unit is not supported by property taxes.~~

13.15 (3) Payment may not be made for shortages in member deductions on salary earned
 13.16 before July 1, 1957, for shortages in member deductions on salary paid or payable under
 13.17 paragraph (b), or for shortages in member deductions for persons employed by the
 13.18 Minnesota State Colleges and Universities system in a faculty position or in an eligible
 13.19 unclassified administrative position and whose employment was less than 25 percent
 13.20 of a full academic year, exclusive of the summer session, for the applicable institution
 13.21 that exceeds the most recent 36 months.

13.22 (b) For a person who is employed by the Minnesota State Colleges and Universities
 13.23 system in a faculty position or in an eligible unclassified administrative position and
 13.24 whose employment was less than 25 percent of a full academic year, exclusive of the
 13.25 summer session, for the applicable institution, upon the person's election under section
 13.26 354B.21 of retirement coverage under this chapter, the shortage in member deductions
 13.27 on the salary for employment by the Minnesota State Colleges and Universities system
 13.28 institution of less than 25 percent of a full academic year, exclusive of the summer session,
 13.29 for the applicable institution for the most recent 36 months and the associated employer
 13.30 contributions must be paid by the Minnesota State Colleges and Universities system
 13.31 institution, plus annual compound interest at the rate of 8.5 percent from the end of the
 13.32 fiscal year in which the shortage occurred to the end of the month in which the Teachers
 13.33 Retirement Association coverage election is made. ~~If the shortage payment is not made by~~
 13.34 ~~the institution within 60 days of notification, the executive director shall certify the amount~~
 13.35 ~~of the shortage payment to the commissioner of management and budget, who shall deduct~~
 13.36 ~~the amount from any state appropriation to the system.~~ An individual electing coverage

14.1 under this paragraph shall repay the amount of the shortage in member deductions, plus
 14.2 interest, through deduction from salary or compensation payments within the first year of
 14.3 employment after the election under section 354B.21, subject to the limitations in section
 14.4 16D.16. The Minnesota State Colleges and Universities system may use any means
 14.5 available to recover amounts which were not recovered through deductions from salary or
 14.6 compensation payments. No payment of the shortage in member deductions under this
 14.7 paragraph may be made for a period longer than the most recent 36 months.

14.8 **EFFECTIVE DATE.** This section is effective the day following final enactment.

14.9 Sec. 4. **[354.512] RECOVERY OF DEFICIENCIES.**

14.10 In addition to any other remedies permitted under law, if an employing unit or
 14.11 other entity required by law to make any form of payment to the Teachers Retirement
 14.12 Association fails to make full payment within 60 days of notification, the executive
 14.13 director is authorized to certify the amount of deficiency to the commissioner of
 14.14 management and budget, who shall deduct the amount from any state aid or appropriation
 14.15 applicable to the employing unit or entity, and transmit the withheld aid or appropriation
 14.16 to the executive director for deposit in the fund.

14.17 **EFFECTIVE DATE.** This section is effective the day following final enactment.

14.18 Sec. 5. Minnesota Statutes 2010, section 354A.12, subdivision 3c, is amended to read:

14.19 Subd. 3c. **Termination of supplemental contributions and direct matching and**
 14.20 **state aid.** ~~The supplemental contributions payable to the Minneapolis Teachers Retirement~~
 14.21 ~~Fund Association by Special School District No. 1 and the city of Minneapolis under~~
 14.22 ~~section 423A.02, subdivision 3, must be paid to the Teachers Retirement Association and~~
 14.23 ~~must continue until the current assets of the fund equal or exceed the actuarial accrued~~
 14.24 ~~liability of the fund as determined in the most recent actuarial report for the fund by~~
 14.25 ~~the actuary retained under section 356.214, or 2037, whichever occurs earlier. The~~
 14.26 supplemental contributions payable to the St. Paul Teachers Retirement Fund Association
 14.27 by Independent School District No. 625 under section 423A.02, subdivision 3, or the
 14.28 direct state aid under subdivision 3a to the St. Paul Teachers Retirement Fund Association
 14.29 must continue until the current assets of the fund equal or exceed the actuarial accrued
 14.30 liability of the fund as determined in the most recent actuarial report for the fund by the
 14.31 actuary retained under section 356.214 or until 2037, whichever occurs earlier.

14.32 **EFFECTIVE DATE.** This section is effective the day following final enactment.

15.1 Sec. 6. Minnesota Statutes 2010, section 423A.02, subdivision 3, is amended to read:

15.2 Subd. 3. **Reallocation of amortization or supplementary amortization state**

15.3 **aid.** (a) Seventy percent of the difference between \$5,720,000 and the current year
15.4 amortization aid and supplemental amortization aid distributed under subdivisions 1
15.5 and 1a that is not distributed for any reason to a municipality for use by a local police
15.6 or salaried fire relief association must be distributed by the commissioner of revenue
15.7 according to this paragraph. The commissioner shall distribute 50 percent of the amounts
15.8 derived under this paragraph to the Teachers Retirement Association, ten percent to the
15.9 Duluth Teachers Retirement Fund Association, and 40 percent to the St. Paul Teachers
15.10 Retirement Fund Association to fund the unfunded actuarial accrued liabilities of the
15.11 respective funds. These payments shall be made on or before June 30 each fiscal year. If
15.12 the St. Paul Teachers Retirement Fund Association becomes fully funded, its eligibility
15.13 for this aid ceases. Amounts remaining in the undistributed balance account at the end of
15.14 the biennium if aid eligibility ceases cancel to the general fund.

15.15 (b) In order to receive amortization and supplementary amortization aid under
15.16 paragraph (a), prior to June 30 Independent School District No. 625, St. Paul, must make
15.17 ~~contributions~~ an additional contribution of \$800,000 each year to the St. Paul Teachers
15.18 Retirement Fund Association ~~in accordance with the following schedule.~~

15.19	Fiscal Year	Amount
15.20	1996	\$ 0
15.21	1997	\$ 0
15.22	1998	\$ 200,000
15.23	1999	\$ 400,000
15.24	2000	\$ 600,000
15.25	2001 and thereafter	\$ 800,000

15.26 ~~(c) Special School District No. 1, Minneapolis, and the city of Minneapolis must~~
15.27 ~~each make contributions to the Teachers Retirement Association in accordance with the~~
15.28 ~~following schedule:~~

15.29	Fiscal Year	City amount	School district amount
15.30			
15.31	1996	\$ 0	\$ 0
15.32	1997	\$ 0	\$ 0
15.33	1998	\$ 250,000	\$ 250,000
15.34	1999	\$ 400,000	\$ 400,000
15.35	2000	\$ 550,000	\$ 550,000
15.36	2001	\$ 700,000	\$ 700,000
15.37	2002	\$ 850,000	\$ 850,000
15.38	2003 and thereafter	\$ 1,000,000	\$ 1,000,000

16.1 ~~(d)~~ (c) Thirty percent of the difference between \$5,720,000 and the current year
 16.2 amortization aid and supplemental amortization aid under subdivisions 1 and 1a that is not
 16.3 distributed for any reason to a municipality for use by a local police or salaried firefighter
 16.4 relief association must be distributed under section 69.021, subdivision 7, paragraph (d),
 16.5 as additional funding to support a minimum fire state aid amount for volunteer firefighter
 16.6 relief associations.

16.7 **EFFECTIVE DATE.** This section is effective the day following final enactment.

16.8 Sec. 7. **RECOVERY OF PRIOR DEFICIENCIES.**

16.9 **Subdivision 1. Authorization.** Due to a determination by the Office of the
 16.10 Legislative Auditor, Financial Audit Division, that the city of Minneapolis has failed to
 16.11 pay, beginning in 1998, the full amounts required under Minnesota Statutes 2010, section
 16.12 354A.12, subdivision 3b, and Minnesota Statutes 2010, section 423A.02, subdivision 3,
 16.13 and earlier versions of these provisions, to the Minneapolis Teachers Retirement Fund
 16.14 Association or to its successor organization, the Teachers Retirement Association, the
 16.15 executive director of the Teachers Retirement Association is authorized to obtain payment
 16.16 of the deficiency under procedures specified in this section.

16.17 **Subd. 2. Deficient amount.** The amount of the deficiency is the shortage amount as
 16.18 determined by the Office of the Legislative Auditor, \$727,070, plus additional shortage, if
 16.19 any, by the city of Minneapolis that has occurred since the auditor's determination.

16.20 **Subd. 3. Recovery procedure.** The executive director of the Teachers Retirement
 16.21 Association is authorized to certify the deficiency amount to the commissioner of
 16.22 management and budget, who shall deduct the amount of the deficiency from any state
 16.23 aid for the city of Minneapolis, and transmit the withheld aid to the executive director for
 16.24 deposit in the Teachers Retirement Association pension fund.

16.25 **Subd. 4. Interest.** If interest is not already included in the auditor's determined
 16.26 amount, the executive director of the Teachers Retirement Association is authorized
 16.27 to add, to the amount of the deficiency determined under subdivision 2 and certified
 16.28 under subdivision 3, interest at the preretirement interest rate specified for the Teachers
 16.29 Retirement Association in Minnesota Statutes, section 356.215, expressed in monthly
 16.30 terms and compounded annually, from the first of the month following the date each
 16.31 underpayment occurred until the first of the month following the date that the withheld
 16.32 aid is transmitted to the Teachers Retirement Association.

16.33 **Subd. 5. Expiration.** Authority for the executive director of the Teachers
 16.34 Retirement Association to certify shortages for collection under this section expires two
 16.35 years from the date of enactment.

17.1 **EFFECTIVE DATE.** This section is effective the day following final enactment.

17.2 Sec. 8. **REPEALER.**

17.3 Minnesota Statutes 2010, sections 128D.18; and 354A.12, subdivision 3b, are
17.4 repealed.

17.5 **EFFECTIVE DATE.** This section is effective the day following final enactment.

APPENDIX
Article locations in 12-4699

ARTICLE 1 ADMINISTRATIVE REVISIONS Page.Ln 1.15
AID PROVISION RECODIFICATION; ADDING SHORTAGE
ARTICLE 2 RECOVERY PROCEDURE Page.Ln 10.18