

1.1 moves to amend S.F. No. 191; H.F. No. 723, as follows:

1.2 Delete everything after the enacting clause and insert:

1.3 "ARTICLE 1

1.4 **DISABILITY BENEFIT PROVISION CHANGES**

1.5 Section 1. Minnesota Statutes 2008, section 43A.34, subdivision 4, is amended to read:

1.6 Subd. 4. **Officers exempted.** Notwithstanding any provision to the contrary, (a)
1.7 conservation officers and crime bureau officers who were first employed on or after July
1.8 1, 1973, and who are members of the State Patrol retirement fund by reason of their
1.9 employment, and members of the Minnesota State Patrol Division and Alcohol and
1.10 Gambling Enforcement Division of the Department of Public Safety who are members
1.11 of the State Patrol Retirement Association by reason of their employment, shall not
1.12 continue employment after attaining the age of 60 years, except for a fractional portion
1.13 of one year that will enable the employee to complete the employee's next full year of
1.14 allowable service as defined pursuant to section ~~352B.01~~ 352B.011, subdivision 3; and (b)
1.15 conservation officers and crime bureau officers who were first employed and are members
1.16 of the State Patrol retirement fund by reason of their employment before July 1, 1973,
1.17 shall not continue employment after attaining the age of 70 years.

1.18 **EFFECTIVE DATE.** This section is effective July 1, 2009.

1.19 Sec. 2. Minnesota Statutes 2008, section 299A.465, subdivision 1, is amended to read:

1.20 Subdivision 1. **Officer or firefighter disabled in line of duty.** (a) This subdivision
1.21 applies to any peace officer or firefighter:

1.22 (1) who the Public Employees Retirement Association or the Minnesota State
1.23 Retirement System determines is eligible to receive a duty disability benefit pursuant to
1.24 section 353.656 or 352B.10, subdivision 1, respectively; or

1.25 (2) who (i) does not qualify to receive disability benefits by operation of the
1.26 eligibility requirements set forth in section 353.656, subdivision 1, paragraph (b), (ii)
1.27 retires pursuant to section 353.651, subdivision 4, or (iii) is a member of a local police or
1.28 salaried firefighters relief association and qualifies for a duty disability benefit under the
1.29 terms of plans of the relief associations, and the peace officer or firefighter described in
1.30 item (i), (ii), or (iii) has discontinued public service as a peace officer or firefighter as a
1.31 result of a disabling injury and has been determined, by the Public Employees Retirement
1.32 Association, to have otherwise met the duty disability criteria set forth in section 353.01,
1.33 subdivision 41.

2.1 (b) A determination made on behalf of a peace officer or firefighter described in
2.2 paragraph (a), clause (2), must be at the request of the peace officer or firefighter made for
2.3 the purposes of this section. Determinations made in accordance with paragraph (a) are
2.4 binding on the peace officer or firefighter, employer, and state. The determination must be
2.5 made by the executive director of the Public Employees Retirement Association and is
2.6 not subject to section 356.96, subdivision 2. Upon making a determination, the executive
2.7 director shall provide written notice to the peace officer or firefighter and the employer.

2.8 This notice must include:

2.9 (1) a written statement of the reasons for the determination;

2.10 (2) a notice that the person may petition for a review of the determination by
2.11 requesting that a contested case be initiated before the Office of Administrative Hearings,
2.12 the cost of which must be borne by the peace officer or firefighter and the employer; and

2.13 (3) a statement that any person who does not petition for a review within 60 days
2.14 is precluded from contesting issues determined by the executive director in any other
2.15 administrative review or court procedure.

2.16 If, prior to the contested case hearing, additional information is provided to support the
2.17 claim for duty disability as defined in section 353.01, subdivision 41, the executive
2.18 director may reverse the determination without the requested hearing. If a hearing is held
2.19 before the Office of Administrative Hearings, the determination rendered by the judge
2.20 conducting the fact-finding hearing is a final decision and order under section 14.62,
2.21 subdivision 2a, and is binding on the executive director, the peace officer or firefighter,
2.22 employer, and state. Review of a final determination made by the Office of Administrative
2.23 Hearings under this section may only be obtained by writ of certiorari to the Minnesota
2.24 Court of Appeals under sections 14.63 to 14.68. Only the peace officer or firefighter,
2.25 employer, and state have standing to participate in a judicial review of the decision of the
2.26 Office of Administrative Hearings.

2.27 (c) The officer's or firefighter's employer shall continue to provide health coverage
2.28 for:

2.29 (1) the officer or firefighter; and

2.30 (2) the officer's or firefighter's dependents if the officer or firefighter was receiving
2.31 dependent coverage at the time of the injury under the employer's group health plan.

2.32 (d) The employer is responsible for the continued payment of the employer's
2.33 contribution for coverage of the officer or firefighter and, if applicable, the officer's
2.34 or firefighter's dependents. Coverage must continue for the officer or firefighter and, if
2.35 applicable, the officer's or firefighter's dependents until the officer or firefighter reaches or,

3.1 if deceased, would have reached the age of 65. However, coverage for dependents does
3.2 not have to be continued after the person is no longer a dependent.

3.3 **EFFECTIVE DATE.** This section is effective the day following final enactment
3.4 and also applies to any member of the State Patrol retirement plan who was awarded a
3.5 duty disability benefit on or after July 1, 2008.

3.6 Sec. 3. Minnesota Statutes 2008, section 352.01, subdivision 2b, is amended to read:

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

3.8 (1) students employed by the University of Minnesota, or the state colleges and
3.9 universities, unless approved for coverage by the Board of Regents of the University of
3.10 Minnesota or the Board of Trustees of the Minnesota State Colleges and Universities,
3.11 whichever is applicable;

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

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

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

3.21 (5) election officers;

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

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

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

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

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

3.35 (11) employees of the Sibley House Association;

4.1 (12) the members of any state board or commission who serve the state intermittently
4.2 and are paid on a per diem basis; the secretary, secretary-treasurer, and treasurer of those
4.3 boards if their compensation is \$5,000 or less per year, or, if they are legally prohibited
4.4 from serving more than three years; and the board of managers of the State Agricultural
4.5 Society and its treasurer unless the treasurer is also its full-time secretary;

4.6 (13) state troopers and persons who are described in section ~~352B.01, subdivision 2~~
4.7 352B.011, subdivision 10, clauses (2) to ~~(6)~~ (8);

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

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

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

4.19 (17) interns hired for six months or less and trainee employees, except those listed in
4.20 subdivision 2a, clause (8);

4.21 (18) persons whose compensation is paid on a fee basis or as an independent
4.22 contractor;

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

4.26 (20) state employees who in any year have credit for 12 months service as teachers
4.27 in the public schools of the state and as teachers are members of the Teachers Retirement
4.28 Association or a retirement system in St. Paul, Minneapolis, or Duluth, except for
4.29 incidental employment as a state employee that is not covered by one of the teacher
4.30 retirement associations or systems;

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

4.34 (22) chaplains and nuns who are excluded from coverage under the federal Old
4.35 Age, Survivors, Disability, and Health Insurance Program for the performance of service
4.36 as specified in United States Code, title 42, section 410(a)(8)(A), as amended, if no

5.1 irrevocable election of coverage has been made under section 3121(r) of the Internal
5.2 Revenue Code of 1986, as amended through December 31, 1992;

5.3 (23) examination monitors who are employed by departments, agencies,
5.4 commissions, and boards to conduct examinations required by law;

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

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

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

5.13 (27) temporary employees who are appointed for not more than six months, of
5.14 the Metropolitan Council and of any of its statutory boards, if the board members are
5.15 appointed by the Metropolitan Council;

5.16 (28) persons who are employed in positions designated by the Department of
5.17 Finance as student workers;

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

5.21 (30) off-duty peace officers while employed by the Metropolitan Council;

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

5.24 (32) persons who are employed as full-time firefighters by the Department of Military
5.25 Affairs and as firefighters are members of the public employees police and fire fund;

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

5.30 (34) persons who are employed by the Board of Trustees of the Minnesota State
5.31 Colleges and Universities and who elected to remain members of the Public Employees
5.32 Retirement Association or the Minneapolis Employees Retirement Fund, whichever
5.33 applies, under Minnesota Statutes 1994, section 136C.75.

5.34 **EFFECTIVE DATE.** This section is effective July 1, 2009.

5.35 Sec. 4. Minnesota Statutes 2008, section 352.113, subdivision 4, is amended to read:

6.1 Subd. 4. **Medical or psychological examinations; authorization for payment of**
6.2 **benefit.** (a) An applicant shall provide medical, chiropractic, or psychological evidence to
6.3 support an application for total and permanent disability.

6.4 (b) The director shall have the employee examined by at least one additional
6.5 licensed chiropractor, physician, or psychologist designated by the medical adviser. The
6.6 chiropractors, physicians, or psychologists shall make written reports to the director
6.7 concerning the employee's disability including expert opinions as to whether the employee
6.8 is permanently and totally disabled within the meaning of section 352.01, subdivision 17.

6.9 (c) The director shall also obtain written certification from the employer stating
6.10 whether the employment has ceased or whether the employee is on sick leave of
6.11 absence because of a disability that will prevent further service to the employer and as a
6.12 consequence the employee is not entitled to compensation from the employer.

6.13 (d) The medical adviser shall consider the reports of the physicians, psychologists,
6.14 and chiropractors and any other evidence supplied by the employee or other interested
6.15 parties. If the medical adviser finds the employee totally and permanently disabled, the
6.16 adviser shall make appropriate recommendation to the director in writing together with the
6.17 date from which the employee has been totally disabled. The director shall then determine
6.18 if the disability occurred within ~~180 days~~ 18 months of filing the application, while still
6.19 in the employment of the state, and the propriety of authorizing payment of a disability
6.20 benefit as provided in this section.

6.21 (e) A terminated employee may apply for a disability benefit within ~~180 days~~ 18
6.22 months of termination as long as the disability occurred while in the employment of the
6.23 state. The fact that an employee is placed on leave of absence without compensation
6.24 because of disability does not bar that employee from receiving a disability benefit.

6.25 (f) Unless the payment of a disability benefit has terminated because the employee is
6.26 no longer totally disabled, or because the employee has reached normal retirement age as
6.27 provided in this section, the disability benefit must cease with the last payment received
6.28 by the disabled employee or which had accrued during the lifetime of the employee unless
6.29 there is a spouse surviving. In that event, the surviving spouse is entitled to the disability
6.30 benefit for the calendar month in which the disabled employee died.

6.31 **EFFECTIVE DATE.** This section is effective July 1, 2009, and applies to disability
6.32 benefit applicants whose last day of public employment was after June 30, 2009.

6.33 Sec. 5. Minnesota Statutes 2008, section 352.95, subdivision 3, is amended to read:

6.34 Subd. 3. **Applying for benefits; accrual.** No application for disability benefits
6.35 shall be made until after the last day physically on the job. The disability benefit shall

7.1 begin to accrue the day following the last day for which the employee is paid sick leave
7.2 or annual leave but not earlier than 180 days before the date the application is filed. A
7.3 terminated employee must file a written application within the time frame specified under
7.4 section 352.113, subdivision 4, paragraph (e).

7.5 **EFFECTIVE DATE.** This section is effective July 1, 2009, and applies to disability
7.6 benefit applicants whose last day of public employment was after June 30, 2009.

7.7 Sec. 6. Minnesota Statutes 2008, section 352.95, subdivision 4, is amended to read:

7.8 Subd. 4. **Medical or psychological evidence.** (a) An applicant shall provide
7.9 medical, chiropractic, or psychological evidence to support an application for disability
7.10 benefits. The director shall have the employee examined by at least one additional licensed
7.11 physician, chiropractor, or psychologist who is designated by the medical adviser. The
7.12 physicians, chiropractors, or psychologists with respect to a mental impairment, shall
7.13 make written reports to the director concerning the question of the employee's disability,
7.14 including their expert opinions as to whether the employee is disabled within the meaning
7.15 of this section. The director shall also obtain written certification from the employer
7.16 stating whether or not the employee is on sick leave of absence because of a disability that
7.17 will prevent further service to the employer, and as a consequence, the employee is not
7.18 entitled to compensation from the employer.

7.19 (b) If, on considering the reports by the physicians, chiropractors, or psychologists
7.20 and any other evidence supplied by the employee or others, the medical adviser finds
7.21 the employee disabled within the meaning of this section, the advisor shall make the
7.22 appropriate recommendation to the director, in writing, together with the date from which
7.23 the employee has been disabled. The director shall then determine the propriety of
7.24 authorizing payment of a disability benefit as provided in this section.

7.25 (c) Unless the payment of a disability benefit has terminated because the employee is
7.26 no longer disabled, or because the employee has reached either age ~~65~~ 55 or the five-year
7.27 anniversary of the effective date of the disability benefit, whichever is later, the disability
7.28 benefit must cease with the last payment which was received by the disabled employee
7.29 or which had accrued during the employee's lifetime. While disability benefits are paid,
7.30 the director has the right, at reasonable times, to require the disabled employee to submit
7.31 proof of the continuance of the disability claimed. If any examination indicates to the
7.32 medical adviser that the employee is no longer disabled, the disability payment must
7.33 be discontinued upon the person's reinstatement to state service or within 60 days of
7.34 the finding, whichever is sooner.

8.1 **EFFECTIVE DATE.** This section is effective July 1, 2009, and applies to disability
8.2 benefit applicants whose last day of public employment was after June 30, 2009.

8.3 Sec. 7. Minnesota Statutes 2008, section 352.95, subdivision 5, is amended to read:

8.4 Subd. 5. **Retirement status at normal retirement age.** The disability benefit
8.5 paid to a disabled correctional employee under this section shall terminate at the end of
8.6 the month in which the employee reaches age ~~65~~55, or the five-year anniversary of the
8.7 effective date of the disability benefit, whichever is later. If the disabled correctional
8.8 employee is still disabled when the employee reaches age ~~65~~55, or the five-year
8.9 anniversary of the effective date of the disability benefit, whichever is later, the employee
8.10 shall be deemed to be a retired employee. If the employee had elected an optional annuity
8.11 under subdivision 1a, the employee shall receive an annuity in accordance with the
8.12 terms of the optional annuity previously elected. If the employee had not elected an
8.13 optional annuity under subdivision 1a, the employee may within 90 days of attaining age
8.14 ~~65~~55 or reaching the five-year anniversary of the effective date of the disability benefit,
8.15 whichever is later, either elect to receive a normal retirement annuity computed in the
8.16 manner provided in section 352.93 or elect to receive an optional annuity as provided
8.17 in section 352.116, subdivision 3, based on the same length of service as used in the
8.18 calculation of the disability benefit. Election of an optional annuity must be made within
8.19 90 days before attaining age ~~65~~55 or reaching the five-year anniversary of the effective
8.20 date of the disability benefit, whichever is later. If an optional annuity is elected, the
8.21 optional annuity shall begin to accrue on the first of the month following the month in
8.22 which the employee reaches age ~~65~~55 or the five-year anniversary of the effective date of
8.23 the disability benefit, whichever is later.

8.24 **EFFECTIVE DATE.** This section is effective July 1, 2009, and applies to disability
8.25 benefit applicants whose last day of public employment was after June 30, 2009.

8.26 Sec. 8. **[352B.011] DEFINITIONS.**

8.27 Subdivision 1. **Scope.** For the purposes of this chapter, the terms defined in this
8.28 section have the meanings given them.

8.29 Subd. 2. **Accumulated deductions.** "Accumulated deductions" means the total
8.30 sums deducted from the salary of a member and the total amount of assessments paid by
8.31 a member in place of deductions and credited to the member's individual account as
8.32 permitted by law without interest.

8.33 Subd. 3. **Allowable service.** (a) "Allowable service" means:

9.1 (1) service in a month during which a member is paid a salary from which a member
9.2 contribution is deducted, deposited, and credited in the State Patrol retirement fund;

9.3 (2) for members defined in subdivision 10, clause (1), service in any month for
9.4 which payments have been made to the State Patrol retirement fund under law; and

9.5 (3) for members defined in subdivision 10, clauses (2) and (3), service for which
9.6 payments have been made to the State Patrol retirement fund under law, service for which
9.7 payments were made to the State Police officers retirement fund under law after June
9.8 30, 1961, and all prior service which was credited to a member for service on or before
9.9 June 30, 1961.

9.10 (b) Allowable service also includes any period of absence from duty by a member
9.11 who, by reason of injury incurred in the performance of duty, is temporarily disabled and
9.12 for which disability the state is liable under the workers' compensation law, until the date
9.13 authorized by the executive director for commencement of payment of a disability benefit
9.14 or until the date of a return to employment.

9.15 Subd. 4. **Average monthly salary.** (a) Subject to the limitations of section 356.611,
9.16 "average monthly salary" means the average of the highest monthly salaries for five
9.17 years of service as a member upon which contributions were deducted from pay under
9.18 section 352B.02, or upon which appropriate contributions or payments were made to
9.19 the fund to receive allowable service and salary credit as specified under the applicable
9.20 law. Average monthly salary must be based upon all allowable service if this service is
9.21 less than five years.

9.22 (b) The salary used for the calculation of "average monthly salary" means the
9.23 salary of the member as defined in section 352.01, subdivision 13. The salary used for
9.24 the calculation of "average monthly salary" does not include any lump-sum annual leave
9.25 payments and overtime payments made at the time of separation from state service, any
9.26 amounts of severance pay, or any reduced salary paid during the period the person is
9.27 entitled to workers' compensation benefit payments for temporary disability.

9.28 Subd. 5. **Department head.** "Department head" means the head of any department,
9.29 institution, or branch of the state service that directly pays salaries from state funds
9.30 to a member who prepares, approves, and submits salary abstracts of employees to the
9.31 commissioner of management and budget.

9.32 Subd. 6. **Dependent child.** "Dependent child" means a natural or adopted unmarried
9.33 child of a deceased member under the age of 18 years, including any child of the member
9.34 conceived during the lifetime of the member and born after the death of the member.

9.35 Subd. 7. **Duty disability.** "Duty disability" means a physical or psychological
9.36 condition that is expected to prevent a member, for a period of not less than 12 months,

10.1 from performing the normal duties of the position held by the person as a member of the
10.2 State Patrol retirement fund, and that is the direct result of any injury incurred during, or a
10.3 disease arising out of, the performance of normal duties or the actual performance of less
10.4 frequent duties, either of which are specific to protecting the property and personal safety
10.5 of others and that present inherent dangers that are specific to the positions covered by
10.6 the State Patrol retirement fund.

10.7 Subd. 8 **Fund.** "Fund" means the State Patrol retirement fund.

10.8 Subd. 9. **Less frequent duties.** "Less frequent duties" means tasks which are
10.9 designated in the member's job description as either required from time to time or as
10.10 assigned, but which are not carried out as part of the normal routine of the member's
10.11 position.

10.12 Subd. 10. **Member.** "Member" means:

10.13 (1) a State Patrol member currently employed under section 299D.03 by the state,
10.14 who is a peace officer under section 626.84, and whose salary or compensation is paid
10.15 out of state funds;

10.16 (2) a conservation officer employed under section 97A.201, currently employed by
10.17 the state, whose salary or compensation is paid out of state funds;

10.18 (3) a crime bureau officer who was employed by the crime bureau and was a member
10.19 of the Highway Patrolmen's retirement fund on July 1, 1978, whether or not that person
10.20 has the power of arrest by warrant after that date, or who is employed as police personnel,
10.21 with powers of arrest by warrant under section 299C.04, and who is currently employed
10.22 by the state, and whose salary or compensation is paid out of state funds;

10.23 (4) a person who is employed by the state in the Department of Public Safety in a
10.24 data processing management position with salary or compensation paid from state funds,
10.25 who was a crime bureau officer covered by the State Patrol retirement plan on August
10.26 15, 1987, and who was initially hired in the data processing management position within
10.27 the department during September 1987, or January 1988, with membership continuing
10.28 for the duration of the person's employment in that position, whether or not the person
10.29 has the power of arrest by warrant after August 15, 1987;

10.30 (5) a public safety employee who is a peace officer under section 626.84, subdivision
10.31 1, paragraph (c), and who is employed by the Division of Alcohol and Gambling
10.32 Enforcement under section 299L.01;

10.33 (6) a Fugitive Apprehension Unit officer after October 31, 2000, who is employed
10.34 by the Office of Special Investigations of the Department of Corrections and who is a
10.35 peace officer under section 626.84;

11.1 (7) an employee of the Department of Commerce defined as a peace officer in section
 11.2 626.84, subdivision 1, paragraph (c), who is employed by the Division of Insurance Fraud
 11.3 Prevention under section 45.0135 after January 1, 2005, and who has not attained the
 11.4 mandatory retirement age specified in section 43A.34, subdivision 4; and

11.5 (8) an employee of the Department of Public Safety, who is a licensed peace officer
 11.6 under section 626.84, subdivision 1, paragraph (c), and is employed as the statewide
 11.7 coordinator of the Gang and Drug Oversight Council.

11.8 Subd. 11. **Normal duties.** "Normal duties" means specific tasks which are
 11.9 designated in the member's job description and which the applicant performs on a
 11.10 day-to-day basis, but do not include less frequent duties which may be requested to be
 11.11 done by the employer from time to time.

11.12 Subd. 12. **Regular disability.** "Regular disability" means a physical or
 11.13 psychological condition that is expected to prevent a member, for a period of not less than
 11.14 12 months, from performing the normal duties of the position held by a person who is a
 11.15 member of the State Patrol retirement plan, and which results from a disease or an injury
 11.16 that arises from any activities while not at work, or while at work and performing those
 11.17 normal or less frequent duties that do not present inherent dangers that are specific to the
 11.18 occupations covered by the State Patrol retirement plan.

11.19 Subd. 13. **Surviving spouse.** "Surviving spouse" means a member's or former
 11.20 member's legally married spouse who resided with the member or former member at the
 11.21 time of death and was married to the member or former member, for a period of at least
 11.22 one year, during or before the time of membership.

11.23 **EFFECTIVE DATE.** (a) Except as provided in paragraph (b), this section is
 11.24 effective July 1, 2009.

11.25 (b) Subdivision 3, paragraph (a), clause (1), is effective retroactively from July
 11.26 1, 1969, and allowable service on the records of the State Patrol retirement plan credit
 11.27 consistent with that provision is validated.

11.28 Sec. 9. Minnesota Statutes 2008, section 352B.02, subdivision 1, is amended to read:

11.29 Subdivision 1. **Fund created; membership.** A State Patrol retirement fund is
 11.30 established. Its membership consists of all persons defined in section ~~352B.01, subdivision~~
 11.31 ~~2~~ 352B.011, subdivision 10.

11.32 **EFFECTIVE DATE.** This section is effective July 1, 2009.

11.33 Sec. 10. **[352B.085] SERVICE CREDIT FOR CERTAIN DISABILITY LEAVES**
 11.34 **OF ABSENCE.**

12.1 A member on leave of absence receiving temporary workers' compensation
12.2 payments and a reduced salary or no salary from the employer who is entitled to allowable
12.3 service credit for the period of absence under section 352B.011, subdivision 3, paragraph
12.4 (b), may make payment to the fund for the difference between salary received, if any,
12.5 and the salary that the member would normally receive if the member was not on leave
12.6 of absence during the period. The member shall pay an amount equal to the member
12.7 and employer contribution rate under section 352B.02, subdivisions 1b and 1c, on
12.8 the differential salary amount for the period of the leave of absence. The employing
12.9 department, at its option, may pay the employer amount on behalf of the member. Payment
12.10 made under this subdivision must include interest at the rate of 8.5 percent per year, and
12.11 must be completed within one year of the member's return from the leave of absence.

12.12 **EFFECTIVE DATE.** This section is effective July 1, 2009.

12.13 **Sec. 11. [352B.086] SERVICE CREDIT FOR UNIFORMED SERVICE.**

12.14 (a) A member who is absent from employment by reason of service in the uniformed
12.15 services, as defined in United States Code, title 38, section 4303(13), and who returns to
12.16 state employment in a position covered by the plan upon discharge from service in the
12.17 uniformed services within the time frame required in United States Code, title 38, section
12.18 4312(e), may obtain service credit for the period of the uniformed service, provided that
12.19 the member did not separate from uniformed service with a dishonorable or bad conduct
12.20 discharge or under other than honorable conditions.

12.21 (b) The member may obtain credit by paying into the fund an equivalent member
12.22 contribution based on the member contribution rate or rates in effect at the time that
12.23 the uniformed service was performed multiplied by the full and fractional years being
12.24 purchased and applied to the annual salary rate. The annual salary rate is the average
12.25 annual salary during the purchase period that the member would have received if the
12.26 member had continued to provide employment services to the state rather than to provide
12.27 uniformed service, or if the determination of that rate is not reasonably certain, the annual
12.28 salary rate is the member's average salary rate during the 12-month period of covered
12.29 employment rendered immediately preceding the purchase period.

12.30 (c) The equivalent employer contribution and, if applicable, the equivalent employer
12.31 additional contribution, must be paid by the employing unit, using the employer and
12.32 employer additional contribution rate or rates in effect at the time that the uniformed
12.33 service was performed, applied to the same annual salary rate or rates used to compute the
12.34 equivalent member contribution.

13.1 (d) If the member equivalent contributions provided for in this subdivision are not
 13.2 paid in full, the member's allowable service credit must be prorated by multiplying the
 13.3 full and fractional number of years of uniformed service eligible for purchase by the
 13.4 ratio obtained by dividing the total member contributions received by the total member
 13.5 contributions otherwise required under this subdivision.

13.6 (e) To receive allowable service credit under this subdivision, the contributions
 13.7 specified in this section must be transmitted to the fund during the period which begins
 13.8 with the date on which the individual returns to state employment covered by the plan and
 13.9 which has a duration of three times the length of the uniformed service period, but not
 13.10 to exceed five years. If the determined payment period is calculated to be less than one
 13.11 year, the contributions required under this subdivision to receive service credit may be
 13.12 within one year from the discharge date.

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

13.16 (g) The employing unit shall pay interest on all equivalent member and employer
 13.17 contribution amounts payable under this section. Interest must be computed at a rate of
 13.18 8.5 percent compounded annually from the end of each fiscal year of the leave or break in
 13.19 service to the end of the month in which payment is received.

13.20 **EFFECTIVE DATE.** This section is effective July 1, 2009.

13.21 Sec. 12. Minnesota Statutes 2008, section 352B.10, subdivision 1, is amended to read:

13.22 Subdivision 1. ~~Injuries; payment amounts~~ Duty disability. A member who
 13.23 ~~becomes disabled and who is expected to be physically or mentally unfit to perform duties~~
 13.24 ~~for at least one year as a direct result of an injury, sickness, or other disability that incurred~~
 13.25 ~~in or arose out of any act of duty~~ is determined to qualify for duty disability as defined in
 13.26 section 352B.011, subdivision 7, is entitled to receive a duty disability benefits benefit
 13.27 while disabled. The benefits must be paid in monthly installments. The duty disability
 13.28 benefit is an amount equal to the member's average monthly salary multiplied by 60
 13.29 percent, plus an additional percent equal to that specified in section 356.315, subdivision
 13.30 6, for each year and pro rata for completed months of service in excess of 20 years, if any.

13.31 **EFFECTIVE DATE.** This section is effective July 1, 2009.

13.32 Sec. 13. Minnesota Statutes 2008, section 352B.10, subdivision 2, is amended to read:

13.33 Subd. 2. ~~Disabled while not on duty~~ Regular disability benefit. ~~If~~ A member with
 13.34 ~~at least one year of service becomes disabled and is expected to be physically or mentally~~

14.1 ~~unfit to perform the duties of the position for at least one year because of sickness or injury~~
14.2 ~~that occurred while not engaged in covered employment, the individual who qualifies for~~
14.3 a regular disability benefit as defined in section 352B.011, subdivision 12, is entitled to
14.4 a regular disability ~~benefits~~ benefit . The regular disability benefit must be computed as if
14.5 the individual were 55 years old at the date of disability and as if the annuity was payable
14.6 under section 352B.08. If a regular disability under this subdivision occurs after one year
14.7 of service but before 15 years of service, the regular disability benefit must be computed
14.8 as though the individual had credit for 15 years of service.

14.9 **EFFECTIVE DATE.** This section is effective July 1, 2009.

14.10 Sec. 14. Minnesota Statutes 2008, section 352B.10, is amended by adding a
14.11 subdivision to read:

14.12 Subd. 2a. **Applying for benefits; accrual.** No application for disability benefits
14.13 shall be made until after the last day physically on the job. The disability benefit shall
14.14 begin to accrue the day following the last day for which the employee is paid sick leave
14.15 or annual leave but not earlier than 180 days before the date the application is filed. A
14.16 member who is terminated must file a written application within the time frame specified
14.17 under section 352.113, subdivision 4, paragraph (e).

14.18 **EFFECTIVE DATE.** This section is effective July 1, 2009, and applies to disability
14.19 benefit applicants whose last day of public employment was after June 30, 2009.

14.20 Sec. 15. Minnesota Statutes 2008, section 352B.10, subdivision 5, is amended to read:

14.21 Subd. 5. **Optional annuity.** A disabilitant may elect, in lieu of spousal survivorship
14.22 coverage under section 352B.11, subdivisions 2b and 2c, the normal disability benefit or
14.23 an optional annuity as provided in section 352B.08, subdivision 3. The choice of an
14.24 optional annuity must be made in writing, on a form prescribed by the executive director,
14.25 and must be made before the commencement of the payment of the disability benefit, or
14.26 within 90 days before reaching age ~~65~~ 55 or before reaching the five-year anniversary
14.27 of the effective date of the disability benefit, whichever is later. The optional annuity
14.28 is effective on the date on which the disability benefit begins to accrue, or the month
14.29 following the attainment of age ~~65~~ 55 or following the five-year anniversary of the
14.30 effective date of the disability benefit, whichever is later.

14.31 **EFFECTIVE DATE.** This section is effective July 1, 2009, and applies to disability
14.32 benefit applicants whose last day of public employment was after June 30, 2009.

14.33 Sec. 16. Minnesota Statutes 2008, section 352B.11, subdivision 2, is amended to read:

15.1 Subd. 2. **Death; payment to dependent children; family maximums.** (a) Each
 15.2 dependent child, as defined in section ~~352B.01, subdivision 10~~ 352B.011, subdivision 6, is
 15.3 entitled to receive a monthly annuity equal to ten percent of the average monthly salary
 15.4 of the deceased member.

15.5 (b) A dependent child over 18 and under 23 years of age also may receive the
 15.6 monthly benefit provided in this section if the child is continuously attending an accredited
 15.7 school as a full-time student during the normal school year as determined by the director.
 15.8 If the child does not continuously attend school, but separates from full-time attendance
 15.9 during any part of a school year, the annuity must cease at the end of the month of
 15.10 separation.

15.11 (c) In addition, a payment of \$20 per month must be prorated equally to the
 15.12 surviving dependent children when the former member is survived by more than one
 15.13 dependent child.

15.14 (d) Payments for the benefit of any dependent child must be made to the surviving
 15.15 spouse, or if there is none, to the legal guardian of the child.

15.16 (e) The monthly benefit for any one family, including a surviving spouse benefit, if
 15.17 applicable, must not be less than 50 percent nor exceed 70 percent of the average monthly
 15.18 salary of the deceased member.

15.19 Sec. 17. **REPEALER.**

15.20 Minnesota Statutes 2008, section 352B.01, subdivisions 1, 2, 3, 3b, 4, 6, 7, 9, 10,
 15.21 and 11, are repealed.

15.22 **EFFECTIVE DATE.** This section is effective July 1, 2009.

15.23 ARTICLE 2

15.24 ADMINISTRATIVE PROVISIONS

15.25 Section 1. Minnesota Statutes 2008, section 43A.346, subdivision 2, is amended to
 15.26 read:

15.27 Subd. 2. **Eligibility.** (a) This section applies to a terminated state employee who:

15.28 (1) for at least the five years immediately preceding separation under clause (2),
 15.29 was regularly scheduled to work 1,044 or more hours per year in a position covered by
 15.30 a pension plan administered by the Minnesota State Retirement System or the Public
 15.31 Employees Retirement Association;

15.32 (2) terminated state or Metropolitan Council employment;

15.33 (3) at the time of termination under clause (2), met the age and service requirements
 15.34 necessary to receive an unreduced retirement annuity from the plan and satisfied

16.1 requirements for the commencement of the retirement annuity or, for a terminated
 16.2 employee under the unclassified employees retirement plan, met the age and service
 16.3 requirements necessary to receive an unreduced retirement annuity from the plan and
 16.4 satisfied requirements for the commencement of the retirement annuity or elected a
 16.5 lump-sum payment; and

16.6 (4) agrees to accept a postretirement option position with the same or a different
 16.7 appointing authority, working a reduced schedule that is both (i) a reduction of at least 25
 16.8 percent from the employee's number of previously regularly scheduled work hours; and
 16.9 (ii) 1,044 hours or less in state or Metropolitan Council service.

16.10 (b) For purposes of this section, an unreduced retirement annuity includes a
 16.11 retirement annuity computed under a provision of law which permits retirement, without
 16.12 application of an earlier retirement reduction factor, whenever age plus years of allowable
 16.13 service total at least 90.

16.14 (c) For purposes of this section, as it applies to ~~staff~~ state employees who are
 16.15 members of the Public Employees Retirement Association who are at least age 62, the
 16.16 length of separation requirement and termination of service requirement prohibiting return
 16.17 to work agreements under section 353.01, subdivisions 11a and 28, are not applicable.

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

16.19 Sec. 2. Minnesota Statutes 2008, section 43A.346, subdivision 6, is amended to read:

16.20 Subd. 6. **Duration.** Postretirement option employment shall be for an initial period
 16.21 not to exceed one year. During that period, the appointing authority may not modify the
 16.22 conditions specified in the written offer without the person's consent, except as required
 16.23 by law or by the collective bargaining agreement or compensation plan applicable to the
 16.24 person. At the end of the initial period, the appointing authority has sole discretion to
 16.25 determine if the offer of a postretirement option position will be renewed, renewed with
 16.26 modifications, or terminated. ~~If the person is under age 62, an offer of renewal and any~~
 16.27 ~~related verbal offer or agreement must not be made until at least 30 days after termination~~
 16.28 ~~of the person's previous postretirement option employment.~~ Postretirement option
 16.29 employment may be renewed for periods of up to one year, not to exceed a total duration
 16.30 of five years. No person shall be employed in one or a combination of postretirement
 16.31 option positions under this section for a total of more than five years.

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

16.33 Sec. 3. Minnesota Statutes 2008, section 353.01, subdivision 16, is amended to read:

17.1 Subd. 16. **Allowable service; limits and computation.** (a) "Allowable service"
17.2 means:

17.3 (1) service during years of actual membership in the course of which employee
17.4 deductions were withheld from salary and contributions were made, at the applicable rates
17.5 under section 353.27, 353.65, or 353E.03;

17.6 (2) periods of service covered by payments in lieu of salary deductions under section
17.7 sections 353.27, subdivision 12, and 353.35;

17.8 ~~(2)~~ (3) service in years during which the public employee was not a member but for
17.9 which the member later elected, while a member, to obtain credit by making payments to
17.10 the fund as permitted by any law then in effect;

17.11 ~~(3)~~ (4) a period of authorized leave of absence with pay from which deductions for
17.12 employee contributions are made, deposited, and credited to the fund;

17.13 ~~(4)~~ (5) a period of authorized personal, parental, or medical leave of absence without
17.14 pay, including a leave of absence covered under the federal Family Medical Leave Act,
17.15 that does not exceed one year, and for which a member obtained service credit for each
17.16 month in the leave period by payment under section 353.0161 to the fund made in place of
17.17 salary deductions. An employee must return to public service and render a minimum of
17.18 three months of allowable service in order to be eligible to make payment under section
17.19 353.0161 for a subsequent authorized leave of absence without pay. Upon payment, the
17.20 employee must be granted allowable service credit for the purchased period;

17.21 ~~(5)~~ (6) a periodic, repetitive leave that is offered to all employees of a governmental
17.22 subdivision. The leave program may not exceed 208 hours per annual normal work
17.23 cycle as certified to the association by the employer. A participating member obtains
17.24 service credit by making employee contributions in an amount or amounts based on the
17.25 member's average salary that would have been paid if the leave had not been taken. The
17.26 employer shall pay the employer and additional employer contributions on behalf of the
17.27 participating member. The employee and the employer are responsible to pay interest on
17.28 their respective shares at the rate of 8.5 percent a year, compounded annually, from the
17.29 end of the normal cycle until full payment is made. An employer shall also make the
17.30 employer and additional employer contributions, plus 8.5 percent interest, compounded
17.31 annually, on behalf of an employee who makes employee contributions but terminates
17.32 public service. The employee contributions must be made within one year after the end of
17.33 the annual normal working cycle or within ~~20~~ 30 days after termination of public service,
17.34 whichever is sooner. The executive director shall prescribe the manner and forms to be
17.35 used by a governmental subdivision in administering a periodic, repetitive leave. Upon
17.36 payment, the member must be granted allowable service credit for the purchased period;

18.1 ~~(6)~~ (7) an authorized temporary or seasonal layoff under subdivision 12, limited
18.2 to three months allowable service per authorized temporary or seasonal layoff in one
18.3 calendar year. An employee who has received the maximum service credit allowed for an
18.4 authorized temporary or seasonal layoff must return to public service and must obtain a
18.5 minimum of three months of allowable service subsequent to the layoff in order to receive
18.6 allowable service for a subsequent authorized temporary or seasonal layoff; ~~or~~
18.7 ~~(7)~~ (8) a period during which a member is absent from employment by a
18.8 governmental subdivision by reason of service in the uniformed services, as defined in
18.9 United States Code, title 38, section 4303(13), if the member returns to public service with
18.10 the same governmental subdivision upon discharge from service in the uniformed service
18.11 within the time frames required under United States Code, title 38, section 4312(e),
18.12 provided that the member did not separate from uniformed service with a dishonorable or
18.13 bad conduct discharge or under other than honorable conditions. The service is credited
18.14 if the member pays into the fund equivalent employee contributions based upon the
18.15 contribution rate or rates in effect at the time that the uniformed service was performed
18.16 multiplied by the full and fractional years being purchased and applied to the annual salary
18.17 rate. The annual salary rate is the average annual salary during the purchase period that
18.18 the member would have received if the member had continued to be employed in covered
18.19 employment rather than to provide uniformed service, or, if the determination of that
18.20 rate is not reasonably certain, the annual salary rate is the member's average salary rate
18.21 during the 12-month period of covered employment rendered immediately preceding the
18.22 period of the uniformed service. Payment of the member equivalent contributions must
18.23 be made during a period that begins with the date on which the individual returns to
18.24 public employment and that is three times the length of the military leave period, or
18.25 within five years of the date of discharge from the military service, whichever is less. If
18.26 the determined payment period is less than one year, the contributions required under
18.27 this clause to receive service credit may be made within one year of the discharge date.
18.28 Payment may not be accepted following ~~20~~ 30 days after termination of public service
18.29 under subdivision 11a. If the member equivalent contributions provided for in this clause
18.30 are not paid in full, the member's allowable service credit must be prorated by multiplying
18.31 the full and fractional number of years of uniformed service eligible for purchase by the
18.32 ratio obtained by dividing the total member contributions received by the total member
18.33 contributions otherwise required under this clause. The equivalent employer contribution,
18.34 and, if applicable, the equivalent additional employer contribution must be paid by the
18.35 governmental subdivision employing the member if the member makes the equivalent
18.36 employee contributions. The employer payments must be made from funds available to

19.1 the employing unit, using the employer and additional employer contribution rate or
 19.2 rates in effect at the time that the uniformed service was performed, applied to the same
 19.3 annual salary rate or rates used to compute the equivalent member contribution. The
 19.4 governmental subdivision involved may appropriate money for those payments. The
 19.5 amount of service credit obtainable under this section may not exceed five years unless a
 19.6 longer purchase period is required under United States Code, title 38, section 4312. The
 19.7 employing unit shall pay interest on all equivalent member and employer contribution
 19.8 amounts payable under this clause. Interest must be computed at a rate of 8.5 percent
 19.9 compounded annually from the end of each fiscal year of the leave or the break in service
 19.10 to the end of the month in which the payment is received. Upon payment, the employee
 19.11 must be granted allowable service credit for the purchased period; or

19.12 (9) a period specified under subdivision 40.

19.13 (b) For calculating benefits under sections 353.30, 353.31, 353.32, and 353.33 for
 19.14 state officers and employees displaced by the Community Corrections Act, chapter 401,
 19.15 and transferred into county service under section 401.04, "allowable service" means the
 19.16 combined years of allowable service as defined in paragraph (a), clauses (1) to (6), and
 19.17 section 352.01, subdivision 11.

19.18 (c) For a public employee who has prior service covered by a local police or
 19.19 firefighters relief association that has consolidated with the Public Employees Retirement
 19.20 Association or to which section 353.665 applies, and who has elected the type of benefit
 19.21 coverage provided by the public employees police and fire fund either under section
 19.22 353A.08 following the consolidation or under section 353.665, subdivision 4, "applicable
 19.23 service" is a period of service credited by the local police or firefighters relief association
 19.24 as of the effective date of the consolidation based on law and on bylaw provisions
 19.25 governing the relief association on the date of the initiation of the consolidation procedure.

19.26 (d) No member may receive more than 12 months of allowable service credit in a
 19.27 year either for vesting purposes or for benefit calculation purposes.

19.28 (e) MS 2002 [Expired]

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

19.30 Sec. 4. Minnesota Statutes 2008, section 353.01, subdivision 16b, is amended to read:

19.31 Subd. 16b. **Uncredited military service credit purchase.** (a) A public employee
 19.32 who has at least three years of allowable service with the Public Employees Retirement
 19.33 Association or the public employees police and fire plan and who performed service in the
 19.34 United States armed forces before becoming a public employee, or who failed to obtain
 19.35 service credit for a military leave of absence under subdivision 16, paragraph ~~(h)~~ (a),

20.1 clause 7, is entitled to purchase allowable service credit for the initial period of enlistment,
20.2 induction, or call to active duty without any voluntary extension by making payment under
20.3 section 356.551. This authority is voided if the public employee has ~~not~~ purchased service
20.4 credit from any other Minnesota defined benefit public employee pension plan, other than
20.5 a volunteer fire plan, for the same period of service, or if the separation from the United
20.6 States armed forces was under less than honorable conditions.

20.7 (b) A public employee who desires to purchase service credit under paragraph
20.8 (a) must apply with the executive director to make the purchase. The application must
20.9 include all necessary documentation of the public employee's qualifications to make the
20.10 purchase, signed written permission to allow the executive director to request and receive
20.11 necessary verification of applicable facts and eligibility requirements, and any other
20.12 relevant information that the executive director may require.

20.13 (c) Allowable service credit for the purchase period must be granted by the
20.14 Public Employees Retirement Association or the public employees police and fire plan,
20.15 whichever applies, to the purchasing public employee upon receipt of the purchase
20.16 payment amount. Payment must be made before the ~~effective date of retirement of the~~
20.17 public employee's termination of public service or termination of membership,
20.18 whichever is earlier.

20.19 (d) This subdivision is repealed July 1, 2013.

20.20 **EFFECTIVE DATE.** This section is effective the day after final enactment.

20.21 Sec. 5. Minnesota Statutes 2008, section 353.27, subdivision 7, is amended to read:

20.22 Subd. 7. **Adjustment for erroneous receipts or disbursements.** (a) Except
20.23 as provided in paragraph (b), erroneous employee deductions and erroneous employer
20.24 contributions and additional employer contributions for a person, who otherwise does not
20.25 qualify for membership under this chapter, are considered:

20.26 (1) valid if the initial erroneous deduction began before January 1, 1990. Upon
20.27 determination of the error by the association, the person may continue membership in the
20.28 association while employed in the same position for which erroneous deductions were
20.29 taken, or file a written election to terminate membership and apply for a refund upon
20.30 termination of public service or defer an annuity under section 353.34; or

20.31 (2) invalid, if the initial erroneous employee deduction began on or after January 1,
20.32 1990. Upon determination of the error, the association shall refund all erroneous employee
20.33 deductions and all erroneous employer contributions as specified in paragraph (d). No
20.34 person may claim a right to continued or past membership in the association based on
20.35 erroneous deductions which began on or after January 1, 1990.

21.1 (b) Erroneous deductions taken from the salary of a person who did not qualify
21.2 for membership in the association by virtue of concurrent employment before July 1,
21.3 1978, which required contributions to another retirement fund or relief association
21.4 established for the benefit of officers and employees of a governmental subdivision, are
21.5 invalid. Upon discovery of the error, the association shall remove all invalid service and,
21.6 upon termination of public service, the association shall refund all erroneous employee
21.7 deductions to the person, with interest as determined under section 353.34, subdivision 2,
21.8 and all erroneous employer contributions without interest to the employer. This paragraph
21.9 has both retroactive and prospective application.

21.10 (c) Adjustments to correct employer contributions and employee deductions taken in
21.11 error from amounts which are not salary under section 353.01, subdivision 10, are invalid
21.12 upon discovery by the association and must be refunded made as specified in paragraph
21.13 ~~(d)~~ (e), except that the period of adjustment must be limited to the fiscal year in which the
21.14 error is discovered by the association and the immediate two preceding fiscal years.

21.15 (d) If there is evidence of fraud or other misconduct on the part of the employee or
21.16 the employer, the board of trustees may authorize adjustments to the account of a member
21.17 or former member to correct erroneous employee deductions and employer contributions
21.18 on invalid salary and the recovery of any overpayments for a period longer than provided
21.19 for under paragraph (c).

21.20 ~~(d)~~ (e) Upon discovery of the receipt of erroneous employee deductions and
21.21 employer contributions under paragraph (a), clause (2), or paragraph (c), the association
21.22 must require the employer to discontinue the erroneous employee deductions and
21.23 erroneous employer contributions reported on behalf of a member. Upon discontinuation,
21.24 the association either must refund:

21.25 (1) for a member, provide a refund or credit to the employer in the amount of the
21.26 invalid employee deductions to the person without interest and with interest on the
21.27 employee deductions as determined under section 353.34, subdivision 2, and the employer
21.28 must pay the refunded employee deductions plus interest to the member;

21.29 (2) for a former member who:

21.30 (i) is not receiving a retirement annuity or benefit, return the erroneous employee
21.31 deductions to the former member through a refund with interest as determined under
21.32 section 353.34, subdivision 2; or

21.33 (ii) is receiving a retirement annuity or disability benefit, or a person who is
21.34 receiving an optional annuity or survivor benefit, for whom it has been determined an
21.35 overpayment must be recovered, adjust the payment amount and recover the overpayments
21.36 as provided under this section; and

22.1 (3) return the invalid employer contributions reported on behalf of a member
22.2 or former member to the employer or provide by providing a credit against future
22.3 contributions payable by the employer for the amount of all erroneous deductions and
22.4 contributions. If the employing unit receives a credit under this paragraph, the employing
22.5 unit is responsible for refunding to the applicable employee any amount that had been
22.6 erroneously deducted from the person's salary. In the event that a retirement annuity or
22.7 disability benefit has been computed using invalid service or salary, the association must
22.8 adjust the annuity or benefit and recover any overpayment under subdivision 7b.

22.9 ~~(e)~~ (f) In the event that a salary warrant or check from which a deduction for the
22.10 retirement fund was taken has been canceled or the amount of the warrant or check
22.11 returned to the funds of the department making the payment, a refund of the sum
22.12 deducted, or any portion of it that is required to adjust the deductions, must be made
22.13 to the department or institution.

22.14 ~~(f) Any refund to a member under this subdivision that is reasonably determined~~
22.15 ~~to cause the plan to fail to be a qualified plan under section 401(a) of the federal~~
22.16 ~~Internal Revenue Code, as amended, may not be refunded and instead must be credited~~
22.17 ~~against future contributions payable by the employer. The employer receiving the~~
22.18 ~~credit is responsible for refunding to the applicable employee any amount that had been~~
22.19 ~~erroneously deducted from the person's salary.~~

22.20 (g) If the association discovers, within three years of the accrual date of any
22.21 retirement annuity, survivor benefit, or disability benefit that an overpayment has resulted
22.22 by using invalid service or salary, or due to any erroneous calculation procedure, the
22.23 association must recalculate the annuity or benefit payable and recover any overpayment
22.24 as provided under subdivision 7b.

22.25 (h) Notwithstanding the provisions of this subdivision, the association may apply the
22.26 Revenue Procedures defined in the Internal Revenue Service Employee Plans Compliance
22.27 Resolution System and not issue a refund of erroneous employee deductions and employer
22.28 contributions or not recover a small overpayment of benefits if the cost to correct the error
22.29 would exceed the amount of the member refund or overpayment.

22.30 (i) Any fees or penalties assessed by the Internal Revenue Service for any failure
22.31 by an employer to follow the statutory requirements for reporting eligible members and
22.32 salary must be paid by the employer.

22.33 **EFFECTIVE DATE.** (a) This section is effective the day following enactment
22.34 except that the statute of limitations under paragraphs (c) and (g) does not apply to any
22.35 adjustments or corrections already in process.

23.1 (b) The interest required on deductions in error as provided in paragraph (e) must
23.2 be applied to any refunds paid on or after June 1, 2009.

23.3 Sec. 6. Minnesota Statutes 2008, section 353.27, subdivision 7b, is amended to read:

23.4 Subd. 7b. **Recovery of overpayments to members.** (a) In the event of an
23.5 overpayment to a member, retiree, beneficiary, or other person, the executive director shall
23.6 recover the overpayment by suspending or reducing the payment of a retirement annuity,
23.7 refund, disability benefit, survivor benefit, or optional annuity payable to the applicable
23.8 person or the person's estate, whichever applies, under this chapter until all outstanding
23.9 money has been recovered. determines that an overpaid annuity or benefit that is the result
23.10 of invalid salary included in the average salary used to calculate the payment amount must
23.11 be recovered, the association must determine the amount of the employee deductions
23.12 taken in error on the invalid salary, with interest as determined under 353.34, subdivision
23.13 2, and must subtract that amount from the total annuity or benefit overpayment, and the
23.14 remaining balance of the overpaid annuity or benefit, if any, must be recovered.

23.15 (b) If the invalid employee deductions plus interest exceed the amount of the
23.16 overpaid benefits, the balance must be refunded to the person to whom the benefit or
23.17 annuity is being paid.

23.18 (c) Any invalid employer contributions reported on the invalid salary must be
23.19 credited to the employer as provided in subdivision 7, paragraph (e).

23.20 (d) If a member or former member, who is receiving a retirement annuity or
23.21 disability benefit for which an overpayment is being recovered, dies before recovery of
23.22 the overpayment is completed and a joint and survivor optional annuity is payable, the
23.23 remaining balance of the overpaid annuity or benefit must continue to be recovered from
23.24 the payment to the optional annuity beneficiary.

23.25 (e) If the association finds that a refund has been overpaid to a former member,
23.26 beneficiary or other person, the amount of the overpayment must be recovered.

23.27 (f) The board of trustees shall adopt policies directing the period of time and manner
23.28 for the collection of any overpaid retirement or optional annuity, and survivor or disability
23.29 benefit, or a refund that the executive director determines must be recovered as provided
23.30 under this section.

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

23.32 Sec. 7. Minnesota Statutes 2008, section 354.44, subdivision 4, is amended to read:

23.33 Subd. 4. **Retirement annuity accrual date.** (a) An annuity payment begins to
23.34 accrue, provided that the age and service requirements under subdivision 1 are satisfied,

24.1 after the termination of teaching service, or after the application for retirement has been
 24.2 filed with the ~~board, whichever is later~~ executive director, as follows:

24.3 (1) on the ~~16th day of~~ after the month of termination or filing if the termination or
 24.4 filing occurs on or before the 15th day of the month of teaching service;

24.5 (2) on the ~~first day of the month following the month of termination or filing if~~
 24.6 ~~the termination or filing occurs on or after the 16th day of the month~~ day of receipt of
 24.7 application if the application is filed with the executive director after the six-month period
 24.8 that occurs immediately following the termination of teaching service;

24.9 (3) on July 1 for all school principals and other administrators who receive a full
 24.10 annual contract salary during the fiscal year for performance of a full year's contract
 24.11 duties; or

24.12 ~~(4) a later date to be either the first or the 16th day of a month occurring within the~~
 24.13 ~~six-month period immediately following the termination of teaching service as specified~~
 24.14 ~~under paragraph (b) by the member.~~

24.15 ~~(b) (4)~~ If an application for retirement is filed with the ~~board~~ executive director
 24.16 during the six-month period that occurs immediately following the termination of teaching
 24.17 service, the annuity may begin to accrue as if the application for retirement had been filed
 24.18 with the board on the date teaching service terminated ~~or a later date under paragraph~~
 24.19 ~~(a), clause (4).~~

24.20 (b) A member, or a person authorized to act on behalf of the member, may specify a
 24.21 different date of retirement from that determined in paragraph (a), as follows:

24.22 (1) if the application is filed on or before the date of termination of teaching service,
 24.23 the accrual date may be a date no earlier than the day after the termination of teaching
 24.24 service and no later than six months after the termination date; or

24.25 (2) if the application is filed during the six-month period that occurs immediately
 24.26 following the termination of teaching service, the accrual date may begin to accrue
 24.27 retroactively, but no earlier than the day after teaching service terminated and no later
 24.28 than six months after the termination date.

24.29 **EFFECTIVE DATE.** This section is effective January 1, 2010.

24.30 Sec. 8. Minnesota Statutes 2008, section 354.48, subdivision 6, is amended to read:

24.31 Subd. 6. **Regular physical examinations.** At least once each year during the first
 24.32 five years following the allowance of a disability benefit to any member, and at least once
 24.33 in every three-year period thereafter, the executive director ~~shall~~ may require the disability
 24.34 ~~beneficiary~~ recipient to undergo an expert examination by a physician or physicians,
 24.35 by a chiropractor or chiropractors, or by one or more psychologists with respect to a

25.1 mental impairment, engaged by the executive director. If an examination indicates that the
25.2 member is no longer permanently and totally disabled or that the member is engaged or is
25.3 able to engage in a substantial gainful occupation, payments of the disability benefit by
25.4 the association must be discontinued. The payments must be discontinued as soon as the
25.5 member is reinstated to the payroll following sick leave, but payment may not be made for
25.6 more than 60 days after the physicians, the chiropractors, or the psychologists engaged by
25.7 the executive director find that the person is no longer permanently and totally disabled.

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

25.9 Sec. 9. **[354.543] PRIOR OR UNCREDITED MILITARY SERVICE CREDIT**
25.10 **PURCHASE.**

25.11 Subdivision 1. **Service credit purchase authorized.** (a) If paragraph (b) does not
25.12 apply, a teacher who has at least three years of allowable service credit with the Teachers
25.13 Retirement Association and who performed service in the United States armed forces
25.14 before becoming a teacher as defined in section 354.05, subdivision 2, or who failed
25.15 to obtain service credit for a military leave of absence under the provisions of section
25.16 354.53, is entitled to purchase allowable and formula service credit for the initial period of
25.17 enlistment, induction, or call to active duty without any voluntary extension by making
25.18 payment under section 356.551.

25.19 (b) A service credit purchase is prohibited if:

25.20 (1) the teacher separated from service with the United States armed forces with a
25.21 dishonorable or bad conduct discharge or under other than honorable conditions; or

25.22 (2) the teacher has purchased or otherwise received service credit from any
25.23 Minnesota defined benefit public employee pension plan, other than a volunteer fire plan,
25.24 for the same period of service.

25.25 Subd. 2. **Application and documentation.** A teacher who desires to purchase
25.26 service credit under subdivision 1 must apply with the executive director to make the
25.27 purchase. The application must include all necessary documentation of the teacher's
25.28 qualifications to make the purchase, signed written permission to allow the executive
25.29 director to request and receive necessary verification of applicable facts and eligibility
25.30 requirements, and any other relevant information that the executive director may require.

25.31 Subd. 3. **Service credit grant.** Allowable and formula service credit for the
25.32 purchase period must be granted by the Teachers Retirement Association to the purchasing
25.33 teacher upon receipt of the purchase payment amount. Payment must be made before the
25.34 teacher's termination of teaching service.

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

26.2 Sec. 10. Minnesota Statutes 2008, section 354A.36, subdivision 6, is amended to read:

26.3 Subd. 6. **Requirement for regular physical examinations.** At least once each year
26.4 during the first five years following the granting of a disability benefit to a coordinated
26.5 member by the board and at least once in every three year period thereafter, the board ~~shall~~
26.6 may require the disability benefit recipient to undergo an expert examination as a condition
26.7 for continued entitlement of the benefit recipient to receive a disability benefit. If the board
26.8 requires an examination, the expert examination must be made at the place of residence of
26.9 the disability benefit recipient or at any other place mutually agreeable to the disability
26.10 benefit recipient and the board. The expert examination must be made by a physician or
26.11 physicians, by a chiropractor or chiropractors, or by one or more psychologists engaged
26.12 by the board. The physician or physicians, the chiropractor or chiropractors, or the
26.13 psychologist or psychologists with respect to a mental impairment, conducting the expert
26.14 examination shall make a written report to the board concerning the disability benefit
26.15 recipient and the recipient's disability, including a statement of the expert opinion of
26.16 the physician, chiropractor, or psychologist as to whether or not the member remains
26.17 permanently and totally disabled within the meaning of section 354A.011, subdivision
26.18 14. If the board determines from consideration of the written expert examination report
26.19 of the physician, of the chiropractor, or of the psychologist, with respect to a mental
26.20 impairment, that the disability benefit recipient is no longer permanently and totally
26.21 disabled or if the board determines that the benefit recipient is engaged or is able to
26.22 engage in a gainful occupation, unless the disability benefit recipient is partially employed
26.23 under subdivision 7, then further disability benefit payments from the fund must be
26.24 discontinued. The discontinuation of disability benefits must occur immediately if the
26.25 disability recipient is reinstated to the district payroll following sick leave and within 60
26.26 days of the determination by the board following the expert examination and report of the
26.27 physician or physicians, chiropractor or chiropractors, or psychologist or psychologists
26.28 engaged by the board that the disability benefit recipient is no longer permanently and
26.29 totally disabled within the meaning of section 354A.011, subdivision 14.

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

26.31 Sec. 11. Minnesota Statutes 2008, section 356.401, subdivision 2, is amended to read:

26.32 Subd. 2. **Automatic deposits.** (a) The chief administrative officer of a covered
26.33 retirement plan may remit, through an automatic deposit system, annuity, benefit, or
26.34 refund payments only to a financial institution associated with the National Automated

27.1 Clearinghouse Association or a comparable successor organization that is trustee for a
27.2 person who is eligible to receive the annuity, benefit, or refund.

27.3 (b) Upon the request of a retiree, disabilitant, survivor, or former member, the chief
27.4 administrative officer of a covered retirement plan may remit the annuity, benefit, or
27.5 refund ~~check~~ payment to the applicable financial institution for deposit in the person's
27.6 individual account or the person's joint account. If an overpayment of benefits is paid
27.7 after the death of the annuitant or benefit recipient, the chief administrative officer of
27.8 the pension plan is authorized to issue an administrative subpoena consistent with the
27.9 requirements of section 13A.02, requiring the applicable financial institution to disclose
27.10 the names of all joint and co-owners of the account and a description of all deposits to,
27.11 and withdrawals from, the account which take place on or after the death of the annuitant
27.12 or benefit recipient. An overpayment to a joint account after the death of the annuitant or
27.13 benefit recipient must be repaid to the fund of the applicable covered retirement plan by
27.14 the joint tenant if the overpayment is not repaid to that fund by the financial institution
27.15 associated with the National Automated Clearinghouse Association or its successor. The
27.16 governing board of the covered retirement plan may prescribe the conditions under which
27.17 these payments may be made.

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

27.19 Sec. 12. Minnesota Statutes 2008, section 356.465, subdivision 1, is amended to read:

27.20 Subdivision 1. **Inclusion as recipient.** ~~Notwithstanding any provision to the~~
27.21 ~~contrary of the laws, articles of incorporation, or bylaws governing a covered retirement~~
27.22 ~~plan specified in subdivision 3,~~ A retiring member may designate a qualified supplemental
27.23 needs trust under subdivision 2 as the remainder recipient on an optional retirement
27.24 annuity form for a period not to exceed the lifetime of the beneficiary of the supplemental
27.25 needs trust.

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

27.27 Sec. 13. Minnesota Statutes 2008, section 356.465, is amended by adding a subdivision
27.28 to read:

27.29 **Subd. 4. Expanded eligibility.** (a) Notwithstanding subdivision 1, for a retirement
27.30 plan specified in paragraph (b), a designation under subdivision 1 may be made by an
27.31 active, disabled, deferred, or retiring member.

27.32 (b) The applicable plan is the Teachers Retirement Association.

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