



S.F. xxx (LCPR10-005)

H.F. xxx

Executive Summary of Commission Staff Materials

<u>Affected Pension Plan(s):</u>	MSRS-General, State Patrol Retirement Plan, various other plans
<u>Relevant Provisions of Law:</u>	Minnesota Statutes, Sections 352.01, 352.03, 352.115, 352.965, 352B.02, 356.24, and 356.50
<u>General Nature of Proposal:</u>	Administrative and other changes
<u>Date of Summary:</u>	November 9, 2009

Specific Proposed Changes

- Makes administrative revisions in seasonal employee coverage provision and various other provisions.
- Revises public safety reemployed annuitant health insurance withholding provision to ensure that assets are available to cover insurance premiums.
- Creates State Patrol Plan coverage for plan members on leave to provide labor union service.
- Creates State Patrol Plan correction of coverage errors provision.
- Revises deferred compensation plan authority for use on behalf of volunteer firefighters.
- Revises wrongful discharge annuity repayment procedure.

Policy Issues Raised by the Proposed Legislation

1. Whether the seasonal employees revision in Sec. 1 is simply clarification or is a coverage expansion.
2. Whether the MSRS public safety reemployed annuitant insurance provision in Sec. 3 should be expanded to include more types of insurance or insurance providers, and whether PERA might also want this treatment.
3. Whether the deferred compensation agreements in Sec. 5 should be between the employee and employer as in current law, or between the employee and MSRS as proposed.
4. Whether it is appropriate in Sec. 7 to create a provision in the State Patrol Plan to permit service credit for plan members on unpaid leave to provide service to a labor union.
5. Appropriateness of the structure of the proposed State Patrol Plan coverage errors provision in Sec. 9, the appropriate length of the retroactive correction period, whether the proposed refunds of excess contributions and transfers of assets between plans to correct errors are appropriate and consistent with federal plan qualification requirements, and the failure of MSRS to provide documentation justifying the changes.
6. Appropriateness of permitting government subdivisions to contribute to the deferred compensation plan in lieu of providing Social Security coverage in Sec. 10, and the failure of MSRS to provide justifying documentation.
7. Whether the wrongful discharge provision revision in Sec. 11 is clarification and whether it has a negative substantive impact.

Potential Amendments

- LCPR10-005-1A reinstates the existing law seasonal employee language in the MSRS included employees provision. (*Sec. 1*)
- LCPR10-005-2A expands the reemployed annuitant insurance withholding provision to also include Public Employees Insurance Program withholding for all MSRS reemployed annuitants. (*Sec. 3*)
- LCPR10-005-3A provides the same public safety retiree insurance withholding treatment for PERA plan retirees as is proposed for MSRS reemployed annuitant public safety retirees in Section 3.
- LCPR10-005-4A, an alternative to -3A, provides the same expanded reemployed annuitant insurance withholding provision for all PERA reemployed annuitants as is proposed in -2A for MSRS.
- LCPR10-005-5A revises the deferred compensation agreement to be between the employee and the plan trustee, rather than between the employee and the plan sponsor. (*Sec. 5*)
- LCPR10-005-6A deletes Section 7, the provision to permit service and salary credit in the State Patrol Plan for service with a labor union.
- LCPR10-005-7A deletes Section 9, the new State Patrol Retirement Plan correction of errors provision.
- LCPR10-005-8A, an alternative to -7A, revises the length of the retroactive coverage correction period from five years to a number of years to be determined by the Commission.
- LCPR10-005-9A makes the MSRS-Correctional correction of errors provision more similar to the proposed State Patrol Retirement Plan provision (*Sec. 9*).
- LCPR10-005-10A deletes Section 10, the proposed authority to permit government subdivisions to contribute to the deferred compensation plan in lieu of providing Social Security coverage.
- LCPR10-005-11A deletes Section 11, the wrongful discharge annuity repayment provision revisions.



TO: Members of the Legislative Commission on Pensions and Retirement

FROM: Ed Burek, Deputy Director *EB*

RE: LCPR10-005: MSRS-General; State Patrol Retirement Plan: Clarifying Plan Coverage for Seasonal Employees; Creating Leave Provisions and Payment Procedures, Creating State Patrol Plan Coverage Error Provision, Making Changes of an Administrative Nature

DATE: November 6, 2009

General Summary of LCPR10-005

Document LCPR10-005 makes administrative and other changes to the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General) and to the State Patrol Retirement Plan, and to a wrongful discharge provision applicable to many Minnesota public pension plans. The proposed legislation expands the definition of seasonal employee to include all seasonal employees rather than just Department of Revenue seasonal employees, revises the name of the State Deferred Compensation Plan to the Deferred Compensation Plan, revises insurance withholding for public safety reemployed annuitants to avoid failure to pay insurance premiums, creates specific leave of absence provisions in the State Patrol Retirement Plan (generalized leave provision, labor union leaves), creates a provision to address State Patrol Retirement Plan coverage errors and omitted contributions, revises the supplemental plan restriction provision by removing a prohibition against making contributions to a deferred compensation plan on behalf of volunteer firefighters in lieu of Social Security coverage, and eliminates statements in the wrongful discharge annuity repayment requirement statement regarding actions to occur if the annuity is not repaid.

A section-by-section summary of LCPR10-005 is attached.

Discussion and Analysis

The proposed legislation raises a number of pension or related public policy issues for Commission consideration, as follows:

1. Clarification of Plan Coverage Expansion; MSRS Included Employee Provision. (Section 1) The issue is whether the provision reflects an expansion of the plan coverage group or whether it is simply a clarification of the existing law treatment of seasonal employees. MSRS views this provision as a clarification of existing law and policy, because MSRS has required all seasonable employees to be covered by the plan under its interpretation of existing law. The plan provides coverage to "state employees" as defined in Minnesota Statutes, Statute, Section 352.01, Subdivision 2, which defines a state employee as "any employee or officer in the classified or unclassified service of the state." That definition can be interpreted to include seasonal employees. Various groups who fall into temporary employee categories (individuals hired for a short period who are not expected to return), rather than seasonal employees, are specifically excluded from plan coverage under Subdivision 2b of that section. Also, since MSRS has been including all seasonal state employees in the plan, this provision does not create a substantive change and there is little or no concern that legislators will hear complaints from constituents on this matter.

However, if the provision were to be a coverage expansion, it would be perfectly consistent with the Commission's Principles of Pension Policy, which states in Principle II.B.2. that "To the extent possible, membership in a public pension plan should be mandatory for personnel employed on a recurring or regular basis." Seasonal employees presumably can be expected to provide service on a recurring basis, so mandatory coverage by the plan is consistent with the policy statement.

2. Scope Issues; MSRS Reemployed Annuitant Provision. (Section 3) An advantage of the provision is that it may prevent situations where premium payments are missed, because under existing law the plan administration has no inflow to this insurance account to make the payment, and the retiree might be unaware of the need to take over payment of those premiums, because the individual was not informed, forgot, or was unavailable when the payment was due. Cost to the plan is not an issue; this provision does not impose any costs on the plan or create any liability.

Two issues of scope raised by the provision are:

- i. Scope of Insurance Coverage. An issue is the scope of the insurance the revision to this section of statute would cover. The provision as proposed for revision covers health and similar coverage insurance premiums withheld for retired public safety retirees under Section 356.87, Subdivision 2. An issue is whether this treatment should apply to any category of MSRS reemployed annuitant for any type of insurance withholding authorized under Section 356.87, rather than just Subdivision 2 of that provision. Subdivision 1, which is not covered, applies to withholding under the Public Employees Insurance Program. Perhaps this section should be revised to also cover Public Employees Insurance Program withholding.
 - ii. Scope of Included Plans. An issue is the scope of the included pension plans. As drafted, the revision applies only to MSRS reemployed annuitants. Public Employees Retirement Association (PERA) reemployed annuitants might also like to have the proposed treatment.
3. Parties to the Agreement; Minnesota Deferred Compensation Plan Right To Participate Provision. (Section 5) The issue is whether the agreement should be between the employee and the employer, as in current law, or between the employee and the plan sponsor (MSRS) as proposed in the revision of this subdivision. Since another subdivision (Subdivision 3) of this section of statute already authorizes MSRS to take any action necessary to require an employer to implement withholding on behalf of an employee, the public employer has no authority to prohibit an employee from using this deferred compensation plan. Thus, as a practical matter, the only agreement that is of consequence is the agreement between the employee and MSRS.
4. Proper Reference to MSRS; Minnesota Deferred Compensation Plan Right To Participate Provision. (Section 5) The issue is whether it is preferable to refer to MSRS as the “plan sponsor” as proposed under current drafting (lines 5.35 and 6.1) or whether it would be better to use “plan trustee.” “Plan sponsor” is not a defined term, while “plan trustee” is defined in another subdivision within Minnesota Statutes, Section 352.965, Minnesota State Deferred Compensation Plan, to be the MSRS board.
5. Expansion of Authority; State Patrol Retirement Plan Allowable Service, Coverage for Employees of Labor Organizations, and Authorized Leave of Absence Service Credit Purchase Procedure Provisions. (Sections 6, 7 and 8) These sections all reflect an effort to specify certain leaves of absence under the plan and procedures for obtaining service credit for the leave. The new language which permits service and salary credit in the State Patrol Retirement Plan for service with a labor union may be viewed as an expansion of authority. The Commission may wish to consider whether that expansion is appropriate. However, the Commission may wish to be aware that other plans have provisions similar to the proposed State Patrol Plan provision or substantively identical. This drafting is patterned after the provision comparable provision which appears in MSRS-General law. Other leaves being specified in the proposed provisions are purely technical (such as clarifying that service credit purchased under the plan’s Uniformed Services Employment and Reemployment Rights Act (USERRA)-compliant provision is allowable service) or are required by federal law (such as family leaves, which are not referred to by name in the provisions).
6. Appropriate Model for Procedure; State Patrol Retirement Plan Correction of Errors Provision. (Section 9) This section is based on the similar correction of errors provision found in MSRS-Correctional Plan law, but with some modifications. As drafted, transfers of employee and employer contributions from the incorrect plan to the proper plan are required, plus interest. An issue is whether that is an appropriate model, and if it is appropriate, whether comparable revisions should be made in the similar MSRS-Correctional provision. The MSRS-Correctional Plan provision, Minnesota Statutes, Section 352.91, Subdivision 5, does not require transfers between the funds of the two plans.
7. Proper Length of Retroactive Period; State Patrol Retirement Plan Correction of Errors Provision. (Section 9) An issue is the proper length of the retroactive period. As drafted, corrections of coverage can go back five years. Is five years (as appears on page 9, lines 2, 3, 6, and 9) the proper length of retroactive coverage? That same time period occurs in the similar MSRS-Correctional Plan provision in situations where an individual should have been in MSRS-Correctional but was incorrectly covered by another plan, but for reasons that are not clear, the Correctional Plan provision always corrections to go back only three years if the individual was incorrectly covered by the Correctional Plan.
8. Consistency with Federal Plan Qualification Requirements; State Patrol Retirement Plan Correction of Errors Provision. (Section 9) The issue is whether the refunds of excess employee and employer contributions and the transfers of assets between the funds required by this section are consistent with federal plan qualification requirements. A review a few years ago of federal plan qualification

requirements suggested that, after at most one year, removing assets from a plan to correct contribution errors is not permitted. The error must instead be addressed by adjusting future contributions to offset the prior error or errors. For instance, if an employer paid \$1,000 in error to a plan, rather than receiving a refund to correct that error the plan administrator could reduce by \$1,000 the contributions that employer is required to make the next time contributions are to be sent to the plan. The MSRS draft includes no contribution crediting language. MSRS contends that the procedure as drafted is consistent with federal plan qualification requirements because the transfers are between funds sponsored and supported by the same employer, the state. The Commission may wish to seek reassurance from Mr. Bergstrom, through testimony and supporting documentation, that the proposal is compatible with federal requirements. If the Commission is not comfortable with the transfer/refund language in the provision, the Commission may choose to simply delete this section from the bill, pending further work on the issue.

9. Appropriateness of Proposed Change; Supplemental Plan Restrictions Exception Provision. (Section 10) The issue is whether this change is appropriate and consistent with federal requirements. The language being stricken is language stating that no governmental subdivision can make a contribution for volunteer firefighters to a deferred compensation plan in lieu of providing federal Social Security coverage. This language was added to law several years ago at the request of MSRS administrators because it was believed that the prohibition was needed for compliance with federal requirements. MSRS administrators now contend MSRS was in error and that the prohibition should be removed from Minnesota statutes. We have made two requests for documentation to support the proposed removal, but as of this writing that documentation has not been received. The Commission may wish to remove this section from the bill draft if MSRS does not provide convincing documentation supporting its proposed change.
10. Need for the Provision; Revision in Wrongful Discharge Annuity Repayment Procedure. (Section 11) The issue is whether the change is needed. MSRS is proposing to strike language in the wrongful discharge annuity repayment procedure, a procedure which applies to most Minnesota public pension plans. The language proposed to be stricken specifies procedures to follow if an individual is terminated, commences receipt of an annuity, and is then reinstated under the wrongful discharge procedures but fails to repay the annuity. MSRS contends that the language is unnecessary and confusing, because prior language in the provision appears to mandate that the annuity be repaid. Thus, failing to repay is not an option. The Commission may wish to seek assurances from directors of other Minnesota public pension plans regarding whether any of them have concerns about striking this language.

Potential Amendments for Commission Consideration

LCPR10-005-1A revises Section 1 by reinstating the existing law seasonal employee language in the MSRS included employees provision.

LCPR10-005-2A revises Section 3 by expanding the revised insurance withholding provision for reemployed annuitants to include not just MSRS public safety retiree health insurance withholding, but also Public Employees Insurance Program withholding for all MSRS reemployed annuitants.

LCPR10-005-3A adds a section which would apply to PERA plans, providing the same public safety retiree insurance withholding treatment for PERA plan retirees as is proposed in Section 3 for MSRS reemployed annuitant public safety retirees.

LCPR10-005-4A, an alternative to the -3A amendment, adds a section which would apply to PERA plans, providing and expanding the revised insurance withholding treatment to both public safety retiree health insurance withholding and for the Public Employees Insurance Program. The Commission may wish to consider this amendment if it chooses to adopt the -2A amendment.

LCPR10-005-5A revises Section 5 to have the deferred compensation agreement be between the employee and the plan trustee, rather than between the employee and the plan sponsor. "Plan sponsor" is not a defined term. "Plan trustee" is defined to be the MSRS Board in another subdivision of this deferred compensation plan section.

LCPR10-005-6A removes Section 7, the provision to provide coverage to State Patrol Retirement Plan members who going on an unpaid leave to provide service to a labor union which is an exclusive bargaining agent representing members of the plan. The Commission may wish to consider, however, that similar provisions exist in MSRS-General law and the laws of other Minnesota public plans and systems.

LCPR10-005-7A removes Section 9, the new State Patrol Retirement Plan correction of errors provision, if the Commission is uncertain regarding the consistency of this proposed provision with federal plan qualification requirements, or has other concerns about the procedure.

LCPR10-005-8A, an alternative to -7A, would revise the length of the retroactive coverage correction period from five years to a number of years to be determined by the Commission, by inserting a number other than “five” in the blank.

LCPR10-005-9A could be used to make changes in the MSRS-Correctional correction of errors provision to make that provision more similar to the proposed State Patrol Retirement Plan provision (Section 9), if the Commission is comfortable with Section 9, as drafted. The provision in the -9A amendment, however, may be more controversial than the State Patrol Retirement Plan language because coverage errors for MSRS-Correctional employees could involve the Teachers Retirement Association (TRA) or other plan systems.

LCPR10-005-10A deletes Section 10, the proposed change in authority to permit government subdivisions to make contributions to the deferred compensation plan in lieu of providing Social Security coverage.

LCPR10-005-11A deletes Section 11, the proposed revisions in the wrongful discharge annuity repayment provision.

Section-by-Section Summary of LCPR10-005

Summary of LCPR10-005, 2010 MSRS Administrative Bill

Sec.	Pg.Ln - Pg.Ln	Retirement Plan	Stat. Provision	Summary
1	1.13-3.3	MSRS	352.01, Subd. 2a	The included employee provision is revised by expanding the seasonal employee inclusion to include all seasonal employees, rather than just Department of Revenue seasonal employees, and by eliminating an obsolete reference to the Metropolitan Radio Board.
2	3.4-3.20	MSRS	352.03, Subd. 4	The board duties, powers provision is revised by clarifying a reference to the deferred compensation plan.
3	3.21-4.21	MSRS	352.115, Subd. 10	The reemployed annuitant provision is revised by clarifying that if the annuity must be suspended, amounts sufficient to cover health insurance premiums deducted under Sec. 356.87 for retired public safety employees must continue, and the remaining amount, after deduction of these premiums, transfers to the reemployed annuitant's savings account created under Sec. 356.47.
4	4.22-5.28	Deferred Compensation Plan	352.965, Subd. 1	The Minnesota deferred compensation plan establishment provision is revised by changing the name from "Minnesota state deferred compensation plan" to "Minnesota deferred compensation plan."
5	5.29-6.4	Deferred Compensation Plan	352.965, Subd. 2	The Minnesota deferred compensation plan right to participate provision is revised by specifying that the deferred amount must be specified in an agreement, rather than in a written agreement, and that the agreement is between the employee and the plan sponsor (MSRS), rather than between the employee and the employer.
6	6.5-6.30	State Patrol Retirement Plan	352B.011, Subd. 3	The State Patrol Plan allowable service provision is revised to include service for periods of authorized leave without pay, for certain service with labor organizations, and for periods of uniformed service, providing payments or contributions are made under procedures specified for the plan.
7	6.31-7.30	State Patrol Retirement Plan	New 352B.012	Modeled after the MSRS-General labor organization provision, the provision permits State Patrol Plan members on an unpaid leave of absence to serve as an employee of a labor organization which is an exclusive bargaining agent for plan members to earn service credit in the plan provided employee and employer contributions are transmitted to the fund. For plan purposes, the salary is limited to 75% of the Governor's salary.
8	7.31-8.27	State Patrol Retirement Plan	New 352B.013	Specifies procedures for purchasing service credit under the leaves of absence in the State Patrol Plan, except where another procedure is specified in law for a particular leave form. The procedure is comparable to the MSRS-General procedure. Payments (contributions) made within one year must include interest at the equivalent of 8.5% annual interest. Payments made after one year are at full actuarial value.
9	8.28-9.27	State Patrol Retirement Plan	New subdivision in 352B.02	If an individual should be in the State Patrol Retirement Plan, but was instead placed in another plan, the service must be covered by the State Patrol Plan going back no more than five years. The employee will pay to the State Patrol Plan the difference between the employee contributions paid and the employee contributions that would have been paid under the State Patrol Retirement Plan. The department that made the error will pay the State Patrol Retirement Plan the remainder of the difference in present value of accrued benefits, after subtracting the additional employee payment, if any, and prior employee and employer contributions plus interest transferred from the erroneous plan to the proper plan. Similar procedures will apply if an individual was incorrectly placed in the State Patrol Plan. For omitted contribution problems, the State Patrol Retirement Plan will follow procedures specified in MSRS-General law.
10	9.28-11.33	Retirement Systems, Generally	356.24, Subd. 1	The supplemental plan restrictions exception provision is amended by striking language which prohibited governmental subdivisions from making contributions on behalf of volunteer firefighters to a deferred compensation plan in lieu of providing Social Security coverage.
11	11.34-12.9	Retirement Systems, Generally	356.50, Subd. 4	The unlawful discharge annuity repayment provision is amended by deleting statements specifying what is to occur if the annuity is not repaid.

- 1.1 moves to amend S.F. No.; H.F. No., Document LCPR10-005,
- 1.2 as follows:

- 1.3 Page 2, lines 21 to 22, delete the new language and reinstate the stricken language

- 1.1 moves to amend S.F. No.; H.F. No., Document LCPR10-005,
- 1.2 as follows:

- 1.3 Page 4, line 16, delete "subdivision 2, "

1.1 moves to amend S.F. No.; H.F. No., Document LCPR10-005,
1.2 as follows:

1.3 Page 9, after line 36, insert:

1.4 "Sec. 10. Minnesota Statutes 2008, section 353.37, subdivision 3a, is amended to read:

1.5 Subd. 3a. **Disposition of suspension or reduction amount.** (a) The balance of
1.6 the annual retirement annuity after suspension or the amount of the retirement annuity
1.7 reduction must be handled or disposed of as provided in section 356.47.

1.8 (b) If a reemployed annuitant whose annuity is suspended is having insurance
1.9 premium amounts withheld under section 356.87, subdivision 2, insurance premium
1.10 amounts must continue to be withheld and transferred from the suspended portion of the
1.11 annuity. The balance of the annual retirement annuity after cessation, after deduction of
1.12 the insurance premium amounts, must be treated as specified in paragraph (a).

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

1.14 Renumber the sections in sequence

1.15 Amend the title accordingly

1.1 moves to amend S.F. No.; H.F. No., Document LCPR10-005,
1.2 as follows:

1.3 Page 9, after line 36, insert:

1.4 "Sec. 10. Minnesota Statutes 2008, section 353.37, subdivision 3a, is amended to read:

1.5 Subd. 3a. **Disposition of suspension or reduction amount.** (a) The balance of
1.6 the annual retirement annuity after suspension or the amount of the retirement annuity
1.7 reduction must be handled or disposed of as provided in section 356.47.

1.8 (b) If a reemployed annuitant whose annuity is suspended is having insurance
1.9 premium amounts withheld under section 356.87, insurance premium amounts must
1.10 continue to be withheld and transferred from the suspended portion of the annuity. The
1.11 balance of the annual retirement annuity after cessation, after deduction of the insurance
1.12 premium amounts, must be treated as specified in paragraph (a).

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

1.14 Renumber the sections in sequence

1.15 Amend the title accordingly

- 1.1 moves to amend S.F. No.; H.F. No., Document LCPR10-005,
- 1.2 as follows:
- 1.3 Page 6, line 1, delete "sponsor" and insert "trustee"

1.1 moves to amend S.F. No.; H.F. No., Document LCPR10-005,
1.2 as follows:

1.3 Page 6, line 19, after "352B.013;" insert "and"

1.4 Page 6, delete lines 20 to 22

1.5 Page 6, line 23, delete "(6)" and insert "(5)"

1.6 Page 6, delete section 7

1.7 Renumber the sections in sequence

1.8 Amend the title accordingly

- 1.1 moves to amend S.F. No.; H.F. No., Document LCPR10-005,
- 1.2 as follows:

- 1.3 Page 8, delete section 9
- 1.4 Renumber the sections in sequence
- 1.5 Amend the title accordingly

- 1.1 moves to amend S.F. No.; H.F. No., Document LCPR10-005,
- 1.2 as follows:

- 1.3 Page 9, lines 2, 3, 6, and 9, delete "five" and insert "....."

1.1 moves to amend S.F. No.; H.F. No., Document LCPR10-005,
1.2 as follows:

1.3 Page 4, after line 21, insert:

1.4 "Sec. 4. Minnesota Statutes 2008, section 352.91, subdivision 5, is amended to read:

1.5 Subd. 5. **Correction of errors.** (a) Paragraph (b) applies if there is an error
1.6 in coverage and the plan that should have provided coverage is the correction state
1.7 employees retirement plan.

1.8 (b) If it is determined that an employee ~~should have been covered by the correctional~~
1.9 ~~retirement plan but~~ was placed in the ~~general employees retirement plan or Teachers~~
1.10 ~~Retirement Association in error in another retirement plan,~~ the commissioner of
1.11 corrections or the commissioner of human services must report the error to the executive
1.12 director of the Minnesota State Retirement System. The service must be properly credited
1.13 under the ~~correctional employees~~ correct retirement plan for a period of not to exceed five
1.14 years before the date on which the commissioner of corrections or human services notifies
1.15 the executive director of the Minnesota State Retirement System in writing or five years
1.16 from the date on which an employee requests, in writing, the applicable department to
1.17 determine if the person has appropriate retirement plan coverage, whichever is earlier.
1.18 If the error covers more than a five-year period, the service before the five-year period
1.19 must remain under the plan which originally credited the service. The employee shall pay
1.20 the difference between the employee contributions actually paid during the ~~five-year~~
1.21 period eligible for transfer, not to exceed five years, and what should have been paid
1.22 under the ~~correctional employees~~ proper retirement plan, if the amount is positive, plus
1.23 8.5 percent annual compound interest. The employee and employer contributions made
1.24 by the individual or on behalf of the individual to the plan which erroneously provided
1.25 coverage, for the period eligible for coverage transfer, must be transmitted from the fund
1.26 of the plan which erroneously provided coverage to the fund of the proper plan, plus
1.27 8.5 percent interest compounded annually. Service credit in the plan which erroneously
1.28 provided coverage for the period eligible for coverage transfer is forfeited. The department
1.29 making the error shall pay to the ~~correctional employees~~ fund of the proper retirement
1.30 plan an amount equal to the difference in the present value of accrued retirement benefits
1.31 in the proper plan caused by the change in coverage after subtracting the amount paid
1.32 by the employee, if any, and the amount transferred from the fund which erroneously
1.33 provided coverage. Calculation of this amount must be made by the executive director
1.34 of the Minnesota State Retirement System using the applicable preretirement interest
1.35 rate specified in section 356.215, subdivision 8, and the mortality table adopted for the
1.36 Minnesota State Retirement System. The calculation must assume continuous future

2.1 service in the correctional employees retirement plan until the employee would reach the
2.2 age eligible for normal retirement. The calculation must also assume a future salary
2.3 history that includes annual salary increases at the salary increase rate or rates specified in
2.4 section 356.215, subdivision 8.

2.5 ~~(b)~~ (c) Paragraph (b) also applies if an employee ~~was~~ is covered under the
2.6 correctional employees retirement plan, but it is determined that the person should have
2.7 been covered under ~~the general employees~~ another retirement plan, ~~the error must be~~
2.8 ~~corrected if written notification is provided to the employee and the executive director~~
2.9 ~~of the Minnesota State Retirement System within three years of the date on which the~~
2.10 ~~coverage was improperly started.~~ except that the difference in employee and employer
2.11 contributions actually paid to the correctional employees retirement plan in excess of the
2.12 amount that should have been paid to the ~~general employees~~ other retirement plan must be
2.13 refunded to the employee and the employer paying the additional contributions, with six
2.14 percent annual compound interest.

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

2.16 Renumber the sections in sequence

2.17 Amend the title accordingly

1.1 moves to amend S.F. No.; H.F. No., Document LCPR10-005,
1.2 as follows:

1.3 Page 10, delete section 10

1.4 Renumber the sections in sequence

1.5 Amend the title accordingly

1.1 moves to amend S.F. No.; H.F. No., Document LCPR10-005,
1.2 as follows:

1.3 Page 12, delete section 11

1.4 Renumber the sections in sequence

1.5 Amend the title accordingly

1.1 A bill for an act

1.2 relating to retirement; Minnesota State Retirement System; making changes
1.3 of an administrative nature; revising insurance withholding for certain retired
1.4 public employees; creating state patrol plan service credit for leave procedures;
1.5 addressing state patrol plan coverage errors and omitted contributions; revising
1.6 unlawful discharge annuity repayment requirements; amending Minnesota
1.7 Statutes 2008, sections 352.01, subdivision 2a; 352.03, subdivision 4; 352.115,
1.8 subdivision 10; 352.965, subdivisions 1, 2; 352B.02, by adding a subdivision;
1.9 356.24, subdivision 1; 356.50, subdivision 4; Minnesota Statutes 2009
1.10 Supplement, section 352B.011, subdivision 3; proposing coding for new law
1.11 in Minnesota Statutes, chapter 352B.

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

1.13 Section 1. Minnesota Statutes 2008, section 352.01, subdivision 2a, is amended to read:

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

1.15 (1) employees of the Minnesota Historical Society;

1.16 (2) employees of the State Horticultural Society;

1.17 (3) employees of the Minnesota Crop Improvement Association;

1.18 (4) employees of the adjutant general who are paid from federal funds and who are
1.19 not covered by any federal civilian employees retirement system;

1.20 (5) employees of the Minnesota State Colleges and Universities employed under the
1.21 university or college activities program;

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

1.25 (7) employees of the legislature appointed without a limit on the duration of their
1.26 employment and persons employed or designated by the legislature or by a legislative

2.1 committee or commission or other competent authority to conduct a special inquiry,
2.2 investigation, examination, or installation;

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

2.6 (9) employees of the Minnesota Safety Council;

2.7 (10) any employees on authorized leave of absence from the Transit Operating
2.8 Division of the former Metropolitan Transit Commission who are employed by the
2.9 labor organization which is the exclusive bargaining agent representing employees of
2.10 the Transit Operating Division;

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

2.15 (12) judges of the Tax Court;

2.16 (13) personnel employed on June 30, 1992, by the University of Minnesota in the
2.17 management, operation, or maintenance of its heating plant facilities, whose employment
2.18 transfers to an employer assuming operation of the heating plant facilities, so long as the
2.19 person is employed at the University of Minnesota heating plant by that employer or by its
2.20 successor organization;

2.21 (14) seasonal ~~help~~ employees in the classified or unclassified ~~service-employed~~
2.22 ~~by the Department of Revenue;~~

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

2.26 (16) employees of the University of Minnesota unless excluded under subdivision
2.27 2b, clause (3);

2.28 (17) employees of the Middle Management Association whose employment began
2.29 after July 1, 2007, and to whom section 352.029 does not apply; and

2.30 (18) employees of the Minnesota Government Engineers Council to whom section
2.31 352.029 does not apply.

2.32 (b) Employees specified in paragraph (a), clause (13), are included employees under
2.33 paragraph (a) if employer and employee contributions are made in a timely manner in the
2.34 amounts required by section 352.04. Employee contributions must be deducted from
2.35 salary. Employer contributions are the sole obligation of the employer assuming operation

3.1 of the University of Minnesota heating plant facilities or any successor organizations to
3.2 that employer.

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

3.4 Sec. 2. Minnesota Statutes 2008, section 352.03, subdivision 4, is amended to read:

3.5 Subd. 4. **Duties and powers of board of directors.** (a) The board shall:

3.6 (1) elect a chair;

3.7 (2) appoint an executive director;

3.8 (3) establish rules to administer this chapter and chapters 3A, 352B, 352C, 352D,
3.9 and 490 and transact the business of the system, subject to the limitations of law;

3.10 (4) consider and dispose of, or take any other action the board of directors deems
3.11 appropriate concerning denials of applications for annuities or disability benefits under
3.12 this chapter, and complaints of employees and others pertaining to the retirement of
3.13 employees and the operation of the system;

3.14 (5) oversee the administration of the ~~state~~ deferred compensation plan established
3.15 in section 352.965; and

3.16 (6) oversee the administration of the health care savings plan established in section
3.17 352.98.

3.18 (b) The board shall advise the director on any matters relating to the system and
3.19 carrying out functions and purposes of this chapter. The board's advice shall control.

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

3.21 Sec. 3. Minnesota Statutes 2008, section 352.115, subdivision 10, is amended to read:

3.22 Subd. 10. **Reemployment of annuitant.** (a) Except for salary or wages received
3.23 as a temporary employee of the legislature during a legislative session, if any retired
3.24 employee again becomes entitled to receive salary or wages from ~~the state,~~ or any
3.25 employer who employs state employees as that term is defined in section 352.01,
3.26 subdivision 2, ~~other than salary or wages received as a temporary employee of the~~
3.27 ~~legislature during a legislative session~~ in a position covered by this chapter, the annuity or
3.28 retirement allowance shall cease when the retired employee has earned an amount equal
3.29 to the annual maximum earnings allowable for that age for the continued receipt of full
3.30 benefit amounts monthly under the federal old age, survivors, and disability insurance
3.31 program as set by the secretary of health and human services under United States Code,
3.32 title 42, section 403, in any calendar year. If the retired employee has not yet reached
3.33 the minimum age for the receipt of Social Security benefits, the maximum earnings for

4.1 the retired employee shall be equal to the annual maximum earnings allowable for the
4.2 minimum age for the receipt of Social Security benefits.

4.3 (b) The balance of the annual retirement annuity after cessation must be handled or
4.4 disposed of as provided in section 356.47.

4.5 (c) The annuity must be resumed when state service ends, or, if the retired employee
4.6 is still employed at the beginning of the next calendar year, at the beginning of that
4.7 calendar year, and payment must again end when the retired employee has earned the
4.8 applicable reemployment earnings maximum specified in this subdivision. If the retired
4.9 employee is granted a sick leave without pay, but not otherwise, the annuity or retirement
4.10 allowance must be resumed during the period of sick leave.

4.11 (d) No payroll deductions for the retirement fund may be made from the earnings of
4.12 a reemployed retired employee.

4.13 (e) No change shall be made in the monthly amount of an annuity or retirement
4.14 allowance because of the reemployment of an annuitant.

4.15 (f) If a reemployed annuitant whose annuity is suspended under paragraph (a)
4.16 is having insurance premium amounts withheld under section 356.87, subdivision 2,
4.17 insurance premium amounts must continue to be withheld and transferred from the
4.18 suspended portion of the annuity. The balance of the annual retirement annuity after
4.19 cessation, after deduction of the insurance premium amounts, must be treated as specified
4.20 in paragraph (b).

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

4.22 Sec. 4. Minnesota Statutes 2008, section 352.965, subdivision 1, is amended to read:

4.23 Subdivision 1. **Establishment.** (a) The Minnesota ~~state~~-deferred compensation plan
4.24 is established. For purposes of this section, "plan" means the Minnesota ~~state~~-deferred
4.25 compensation plan, unless the context clearly indicates otherwise. The Minnesota State
4.26 Retirement System shall administer the plan.

4.27 (b) The purpose of the plan is to provide a means for a public employee to contribute
4.28 a portion of the employee's compensation to a tax-deferred investment account. The plan
4.29 is an eligible tax-deferred compensation plan under section 457(b) of the Internal Revenue
4.30 Code, United States Code, title 26, section 457(b), and the applicable regulations under
4.31 Code of Federal Regulations, title 26, parts 1.457-3 to 1.457-10.

4.32 (c) The board of directors of the Minnesota State Retirement System is the plan
4.33 trustee and the board's executive director is the plan administrator. Fiduciary activities of
4.34 the plan must be undertaken in a manner consistent with chapter 356A.

5.1 (d) The executive director, with the approval of the board of directors, shall
5.2 adopt and amend, as required to maintain tax-qualified status, a written plan document
5.3 specifying the material terms and conditions for eligibility, benefits, applicable limitations,
5.4 and the time and form under which benefit distributions can be made. With the approval
5.5 of the board of directors, the executive director may also establish policies and procedures
5.6 necessary for the administration of the deferred compensation plan.

5.7 (e) The plan document shall include provisions that are necessary to cause the plan
5.8 to be an eligible deferred compensation plan within the meaning of section 457(b) of
5.9 the Internal Revenue Code. The plan document may provide additional administrative
5.10 and substantive provisions consistent with state law, provided those provisions will not
5.11 cause the plan to fail to be an eligible deferred compensation plan within the meaning
5.12 of section 457(b) of the Internal Revenue Code and may include provisions for certain
5.13 optional features and services.

5.14 (f) The board of directors may authorize the executive director to establish and
5.15 administer a Roth 457 plan if authorized by the Internal Revenue Code or a Roth
5.16 individual retirement account as defined under section 408A of the Internal Revenue Code.

5.17 (g) All amounts contributed to the deferred compensation plan and all earnings
5.18 on those amounts must be held in trust, in custodial accounts, or in qualifying annuity
5.19 contracts for the exclusive benefit of the plan participants and beneficiaries, as required by
5.20 section 457(g) of the Internal Revenue Code and in accordance with sections 356.001 and
5.21 356A.06, subdivision 1.

5.22 (h) The information and data maintained in the accounts of the participants and
5.23 beneficiaries are private data and shall not be disclosed to anyone other than the participant
5.24 or beneficiary pursuant to a court order or pursuant to section 356.49.

5.25 (i) The plan document is not subject to the rule adoption process under the
5.26 Administrative Procedures Act, including section 14.386, but must conform with
5.27 applicable federal and state laws.

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

5.29 Sec. 5. Minnesota Statutes 2008, section 352.965, subdivision 2, is amended to read:

5.30 Subd. 2. **Right to participate in deferred compensation plan.** At the request of an
5.31 officer or employee of the state, an officer or employee of a political subdivision, or an
5.32 employee covered by a retirement fund in section 356.20, subdivision 2, the appointing
5.33 authority shall defer the payment of part of the compensation of the public officer or
5.34 employee through payroll deduction. The amount to be deferred must be as provided in
5.35 ~~a written~~ an agreement between the officer or employee and the ~~public employer~~ plan

6.1 sponsor. The agreement must be in a form specified by the executive director of the
 6.2 Minnesota State Retirement System and must be consistent with the requirements for an
 6.3 eligible plan under federal and state tax laws, regulations, and rulings.

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

6.5 Sec. 6. Minnesota Statutes 2009 Supplement, section 352B.011, subdivision 3, is
 6.6 amended to read:

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

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

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

6.12 (3) for members defined in subdivision 10, clauses (2) and (3), service for which
 6.13 payments have been made to the State Patrol retirement fund under law, service for which
 6.14 payments were made to the State Police officers retirement fund under law after June
 6.15 30, 1961, and all prior service which was credited to a member for service on or before
 6.16 June 30, 1961;

6.17 (4) any period of authorized leave of absence without pay that does not exceed one
 6.18 year and for which the employee obtained credit by payment to the fund under section
 6.19 352B.013;

6.20 (5) any period of authorized leave to provide service to a labor organization as
 6.21 permitted under section 352B.012, for which service credit is obtained by payment to
 6.22 the fund under that section; and

6.23 (6) eligible periods of uniformed service for which the member obtained service
 6.24 credit by payment under section 352B.086 to the fund.

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

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

6.31 Sec. 7. **[352B.012] COVERAGE FOR EMPLOYEES OF LABOR**
 6.32 **ORGANIZATIONS.**

7.1 Subdivision 1. **Qualifications.** A member on leave of absence without pay to
7.2 provide service as an employee or officer of a labor organization that is an exclusive
7.3 bargaining agent representing state patrol retirement plan members may elect under
7.4 subdivision 2 to be covered by the state patrol retirement plan of the Minnesota State
7.5 Retirement System for service with the labor organization, subject to the limitations set
7.6 forth in subdivisions 3 and 4.

7.7 Subd. 2. **Election.** A person described in subdivision 1 shall be covered by the plan
7.8 if written election to be covered is delivered to the executive director within 90 days of
7.9 being employed by the labor organization, or within 90 days of starting the first leave of
7.10 absence to provide service to the exclusive bargaining agent, whichever is later.

7.11 Subd. 3. **Limitations on salary for benefits and contributions.** (a) The covered
7.12 salary for a labor organization employee who qualifies for membership under this section
7.13 is limited to the lesser of:

7.14 (1) the employee's actual salary as defined under section 352.01, subdivision 13; or

7.15 (2) 75 percent of the salary of the governor as set under section 15A.082.

7.16 (b) The limited covered salary determined under this subdivision must be used
7.17 in determining employee and employer contributions under section 352B.02 and in
7.18 determining retirement annuities and other benefits under this chapter and chapter 356.

7.19 Subd. 4. **Earning restrictions apply.** A retirement annuity is only payable, if the
7.20 person has met any other applicable requirements, upon the termination by the person who
7.21 elected coverage under subdivision 2 of employment by the labor organization.

7.22 Subd. 5. **Contributions.** The employee and employer contributions required by
7.23 section 352B.02 are the obligation of the employee who chooses coverage under this
7.24 section. However, the employing labor organization may pay the employer contributions.
7.25 Contributions made by the employee must be made by salary deduction. The employing
7.26 labor organization shall pay all contributions to the system as required by section 352B.02.

7.27 Subd. 6. **Board membership excluded.** Employees of a labor organization who
7.28 retain active plan membership under this section are not eligible for election to the board
7.29 of directors.

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

7.31 Sec. 8. **[352B.013] AUTHORIZED LEAVE OF ABSENCE SERVICE CREDIT**
7.32 **PURCHASE PROCEDURE.**

7.33 Subdivision 1. **Application.** This section specifies the procedure for purchasing
7.34 service credit in the state patrol retirement plan for authorized leaves of absence under

8.1 section 352B.011, subdivision 3, unless an alternative payment procedure is specified in
8.2 law for a particular form of leave or break in service.

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

8.8 (b) If payment is received by the executive director within one year from the date
8.9 the employee returned to work following the authorized leave, the payment amount is
8.10 equal to the employee and employer contribution rates specified in section 352B.02 at the
8.11 end of the leave period multiplied by the employee's hourly rate of salary on the date of
8.12 return from the leave of absence and by the days and months of the leave of absence for
8.13 which the employee is eligible for allowable service credit. The payment must include
8.14 compound interest at a monthly rate of 0.71 percent from the last day of the leave period
8.15 until the last day of the month in which payment is received. If payment is received by the
8.16 executive director after one year from the date the employee returned to work following
8.17 the authorized leave, the payment amount is the amount determined under section
8.18 356.551. Payment under this paragraph must be made before the date of termination from
8.19 public employment covered under this chapter.

8.20 (c) If the employee terminates employment covered by this chapter during the leave
8.21 or following the leave rather than returning to covered employment, payment must
8.22 be received by the executive director within 30 days after the termination date. The
8.23 payment amount is equal to the employee and employer contribution rates specified in
8.24 section 352B.02 on the day prior to the termination date, multiplied by the employee's
8.25 hourly rate of salary on that date and by the days and months of the leave of absence
8.26 prior to termination.

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

8.28 Sec. 9. Minnesota Statutes 2008, section 352B.02, is amended by adding a subdivision
8.29 to read:

8.30 Subd. 3. **Correction of errors.** (a) Paragraph (b) applies if there is an error in plan
8.31 coverage and the plan that should have provided coverage is the state patrol retirement
8.32 plan.

8.33 (b) If it is determined that an employee was placed in error in another Minnesota
8.34 State Retirement System plan, the chief administrative officer of the department retaining
8.35 the employee must report the error to the executive director of the Minnesota State

9.1 Retirement System. The service must be credited to the plan for a period not to exceed
9.2 five years before the date on which the chief administrative officer notifies the executive
9.3 director of the Minnesota State Retirement System in writing or five years from the date
9.4 on which an employee requests, in writing, the applicable department to determine if the
9.5 person has appropriate retirement plan coverage, whichever is earlier. If the error covers
9.6 more than a five-year period, the service before the five-year period must remain under
9.7 the plan which originally credited the service. The employee shall pay the difference
9.8 between the employee contributions actually paid during the period eligible for transfer,
9.9 not to exceed five years, and what should have been paid given the employee contribution
9.10 rate specified for the period under the proper plan, if the amount is positive, plus 8.5
9.11 percent annual compound interest. The employee and employer contributions made by the
9.12 individual or on behalf of the individual to the plan which erroneously provided coverage,
9.13 for the period eligible for coverage transfer, must be transmitted from the fund of the plan
9.14 which erroneously provided coverage to the fund of the proper plan, plus 8.5 percent
9.15 interest compounded annually. Service credit in the plan which erroneously provided
9.16 coverage for the period eligible for coverage transfer is forfeited. The department making
9.17 the error shall pay to the fund of the proper plan an amount equal to the difference in the
9.18 present value of accrued retirement benefits in the proper plan caused by the change
9.19 in coverage after subtracting the amount paid by the employee, if any, and the amount
9.20 transferred from the fund which erroneously provided coverage. Calculation of this
9.21 amount must be made by the executive director of the Minnesota State Retirement System
9.22 using the applicable preretirement interest rate specified in section 356.215, subdivision
9.23 8, and the mortality table adopted for the proper plan. The calculation must assume
9.24 continuous future service in the proper plan until the employee would reach the age
9.25 eligible for normal retirement. The calculation must also assume a future salary history
9.26 that includes annual salary increases at the salary increase rate or rates specified in section
9.27 356.215, subdivision 8.

9.28 (c) Paragraph (b) also applies if an employee was covered under the state patrol
9.29 retirement plan but it is determined that the person should have been covered under
9.30 another plan in the Minnesota State Retirement System, except that the difference in
9.31 employee and employer contributions actually paid to the state patrol retirement plan in
9.32 excess of the amount that should have been paid to the other retirement plan must be
9.33 refunded to the employee and the employer paying the additional contributions, with six
9.34 percent annual compound interest.

9.35 (d) Section 352.04, subdivision 8, applies to omitted salary deductions.

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

10.1 Sec. 10. Minnesota Statutes 2008, section 356.24, subdivision 1, is amended to read:

10.2 Subdivision 1. **Restriction; exceptions.** ~~(a)~~ It is unlawful for a school district
10.3 or other governmental subdivision or state agency to levy taxes for, or to contribute
10.4 public funds to a supplemental pension or deferred compensation plan that is established,
10.5 maintained, and operated in addition to a primary pension program for the benefit of the
10.6 governmental subdivision employees other than:

10.7 (1) to a supplemental pension plan that was established, maintained, and operated
10.8 before May 6, 1971;

10.9 (2) to a plan that provides solely for group health, hospital, disability, or death
10.10 benefits;

10.11 (3) to the individual retirement account plan established by chapter 354B;

10.12 (4) to a plan that provides solely for severance pay under section 465.72 to a retiring
10.13 or terminating employee;

10.14 (5) for employees other than personnel employed by the Board of Trustees of the
10.15 Minnesota State Colleges and Universities and covered under the Higher Education
10.16 Supplemental Retirement Plan under chapter 354C, but including city managers covered
10.17 by an alternative retirement arrangement under section 353.028, subdivision 3, paragraph
10.18 (a), or by the defined contribution plan of the Public Employees Retirement Association
10.19 under section 353.028, subdivision 3, paragraph (b), if the supplemental plan coverage is
10.20 provided for in a personnel policy of the public employer or in the collective bargaining
10.21 agreement between the public employer and the exclusive representative of public
10.22 employees in an appropriate unit or in the individual employment contract between a city
10.23 and a city manager, and if for each available investment all fees and historic rates of return
10.24 for the prior one-, three-, five-, and ten-year periods, or since inception, are disclosed in an
10.25 easily comprehended document not to exceed two pages, in an amount matching employee
10.26 contributions on a dollar for dollar basis, but not to exceed an employer contribution of
10.27 one-half of the available elective deferral permitted per year per employee, under the
10.28 Internal Revenue Code:

10.29 (i) to the state of Minnesota deferred compensation plan under section 352.965;

10.30 (ii) in payment of the applicable portion of the contribution made to any investment
10.31 eligible under section 403(b) of the Internal Revenue Code, if the employing unit has
10.32 complied with any applicable pension plan provisions of the Internal Revenue Code with
10.33 respect to the tax-sheltered annuity program during the preceding calendar year; or

10.34 (iii) any other deferred compensation plan offered by the employer under section
10.35 457 of the Internal Revenue Code;

11.1 (6) for personnel employed by the Board of Trustees of the Minnesota State Colleges
11.2 and Universities and not covered by clause (5), to the supplemental retirement plan under
11.3 chapter 354C, if the supplemental plan coverage is provided for in a personnel policy
11.4 or in the collective bargaining agreement of the public employer with the exclusive
11.5 representative of the covered employees in an appropriate unit, in an amount matching
11.6 employee contributions on a dollar for dollar basis, but not to exceed an employer
11.7 contribution of \$2,700 a year for each employee;

11.8 (7) to a supplemental plan or to a governmental trust to save for postretirement
11.9 health care expenses qualified for tax-preferred treatment under the Internal Revenue
11.10 Code, if the supplemental plan coverage is provided for in a personnel policy or in the
11.11 collective bargaining agreement of a public employer with the exclusive representative of
11.12 the covered employees in an appropriate unit;

11.13 (8) to the laborers national industrial pension fund or to a laborers local pension
11.14 fund for the employees of a governmental subdivision who are covered by a collective
11.15 bargaining agreement that provides for coverage by that fund and that sets forth a fund
11.16 contribution rate, but not to exceed an employer contribution of \$5,000 per year per
11.17 employee;

11.18 (9) to the plumbers and pipefitters national pension fund or to a plumbers and
11.19 pipefitters local pension fund for the employees of a governmental subdivision who are
11.20 covered by a collective bargaining agreement that provides for coverage by that fund and
11.21 that sets forth a fund contribution rate, but not to exceed an employer contribution of
11.22 \$5,000 per year per employee;

11.23 (10) to the international union of operating engineers pension fund for the employees
11.24 of a governmental subdivision who are covered by a collective bargaining agreement that
11.25 provides for coverage by that fund and that sets forth a fund contribution rate, but not to
11.26 exceed an employer contribution of \$5,000 per year per employee;

11.27 (11) to a supplemental plan organized and operated under the federal Internal
11.28 Revenue Code, as amended, that is wholly and solely funded by the employee's
11.29 accumulated sick leave, accumulated vacation leave, and accumulated severance pay;

11.30 (12) to the International Association of Machinists national pension fund for the
11.31 employees of a governmental subdivision who are covered by a collective bargaining
11.32 agreement that provides for coverage by that fund and that sets forth a fund contribution
11.33 rate, but not to exceed an employer contribution of \$5,000 per year per employee; or

11.34 (13) for employees of United Hospital District, Blue Earth, to the state of Minnesota
11.35 deferred compensation program, if the employee makes a contribution, in an amount that

12.1 does not exceed the total percentage of covered salary under section 353.27, subdivisions
12.2 3 and 3a.

12.3 ~~(b) No governmental subdivision may make a contribution to a deferred~~
12.4 ~~compensation plan operating under section 457 of the Internal Revenue Code for volunteer~~
12.5 ~~or emergency on-call firefighters in lieu of providing retirement coverage under the federal~~
12.6 ~~Old Age, Survivors, and Disability Insurance Program.~~

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

12.8 Sec. 11. Minnesota Statutes 2008, section 356.50, subdivision 4, is amended to read:

12.9 Subd. 4. **Annuity repayment.** Notwithstanding subdivisions 1 and 2, if after being
12.10 discharged, the person commences receipt of an annuity from the applicable plan, and it is
12.11 later determined that the person was wrongfully discharged, the person shall repay the
12.12 annuity received in a lump sum within 60 days of receipt of the back pay award. ~~If the~~
12.13 ~~annuity is not repaid, the person is not entitled to reinstatement in the applicable plan as~~
12.14 ~~an active member, the person is not authorized to make payments under subdivision 2,~~
12.15 ~~paragraph (a), and, for subsequent employment with the employer, the person shall be~~
12.16 ~~treated as a reemployed annuitant.~~

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