



**S.F. 2404**  
(Pappas)

**H.F. 2951**  
(Kahn)

### **Executive Summary of Commission Staff Materials**

<i>Affected Pension Plan(s):</i>	SPTRFA, Various Plans
<i>Relevant Provisions of Law:</i>	Minnesota Statutes, Chapters 354A and 356A
<i>General Nature of Proposal:</i>	Increasing benefits and state aid; revising fiduciary provisions and large plan investment authority
<i>Date of Summary:</i>	February 22, 2010

### **Specific Proposed Changes**

- Increases St. Paul Teachers Retirement Fund Association (SPTRFA) benefits similar to those provided to the Teachers Retirement Association (TRA) in 2006.
- Makes unspecified changes in contribution rates to the plan while increasing aid to SPTRFA and revising aid procedures.
- Removes all investment authority restrictions applicable to the SPTRFA, the Duluth Teachers Retirement Fund Association (DTRFA), the Minneapolis Employees Retirement Fund (MERF), local police relief associations, local paid fire relief associations, and dozens or more volunteer fire plans.
- Replaces those investment authority provisions with a requirement that the plans must follow a prudent person standard and develop an investment policy statement.
- Revises numerous fiduciary provisions applicable to all Minnesota public pension plans.

### **Policy Issues Raised by the Proposed Legislation**

1. The need for benefit improvement based on labor force needs.
2. The need for benefit improvement when extensive ability exists to use supplemental defined contribution savings plans.
3. Funding a benefit improvement in light of current recession.
4. Alternative to consolidate into the Teachers Retirement Association (TRA).
5. Cost.
6. Added long-term cost of using rolling amortization period.
7. Inconsistency between aid request drafting and use of rolling amortization.
8. Lack of specified new employee and employer contribution rate.
9. Bill fails to comply with administrative provisions law.
10. Lowers fiduciary standards for custodians and asset managers (Section 6).
11. Language placement; implications of new language prohibiting social investing (Section 9).
12. Unreasonable impact of revision of "large plan" investment authority (Section 10).
13. Inconsistency of removing requirements which continue to apply to small "limited list" plans (Section 12).
14. Repealer issues (Section 13).

### **Potential Amendments**

**Amendment SF2404-1A** removes all benefit-related provisions from the bill, including the benefit increase, contribution rate increase, and aid increase.

**Amendment SF2404-2A** merges SPTRFA into TRA effective July 1, 2011.

**Amendment SF2404-3A** replaces the rolling 25-year amortization used by SPTRFA with a fixed amortization date of 25 years, and can be used if -1A or -2A is not used. The amortization date would be June 30, 2035. If the Commission prefers a different date, that could be done by a verbal amendment to page 2, line 7, of the amendment.

**Amendment SF2404-4A** specifies the revised contribution rates and can be used if -1A or -2A is not used and a benefit improvement remains in the bill. Those rates are left blank in the bill.

#### **State Aid Amendments:**

**Amendment SF2404-5A** revises the state aid amount by filling in the revised aid amount in the amendment and can be used if -1A or -2A is not used and a benefit improvement remains in the bill.

**A motion to delete Section 3** would leave state aid unchanged from current law and can be used if -1A or -2A is not used and a benefit improvement remains in the bill.

**A motion to delete Section 4** would leave the aid redirection provision unchanged from current law and can be used if -2A is not used and the SPTRFA remains freestanding.

**Amendment SF2404-6A** is an alternative to deleting Section 4. Aids would continue to go to the SPTRFA indefinitely (until the SPTRFA is fully funded).

## Investment Authority/Fiduciary Amendments:

**Amendment SF2404-7A** removes all the provisions in the bill dealing with investment authority and fiduciary matters. If this amendment is not used, the Commission can consider separate sections using the following amendments:

- **A motion to delete Section 6** would delete the fiduciary status provision. The Commission may wish to do this because there is insufficient time to specify appropriate treatment of custodians and investment managers. Under the bill, these individuals are only held to a prudent person standard.
- **A motion to delete Section 9** would delete the addition of language clearly prohibiting social investing. An argument for this treatment is that other statements already in law, which require plan assets to be used and invested solely in the interest of plan members and contributors effectively rule out social investing, even without an explicit statement. Also, the provision to which this statement would be added may not be the best place for the language.
- **Amendment SF2404-8A**, an alternative to deleting Section 9, adds a new subdivision to the general-standard-of-fiduciary-conduct provision to explicitly prohibit social investing.
- **Amendment SF2404-9A** deletes the revised large plan authority provision and all related provisions. There are many arguments made for this amendment in previous discussion.
- **A motion to delete Section 12** would delete the disclosure of investment authority provision and retains the existing law version of that provision.
- **Amendment SF2404-10A** removes the repeal of the economic interest statement and investment business disclosure requirements.
- **A motion to delete Section 13**, an alternative to -10A, would remove the entire repealer section, retaining the existing law first class city teacher plan real estate investment authority provision and the economic interest statement and investment business disclosure requirements.



TO: Members of the Legislative Commission on Pensions and Retirement

FROM: Ed Burek, Deputy Director *EB*

RE: S.F. 2404 (Pappas); H.F. 2951 (Kahn): SPTRFA, Various Plans; Increasing Benefits and State Aid, Revising Fiduciary Provisions and Large Plan Investment Authority

DATE: February 22, 2010

General Summary of S.F. 2404 (Pappas); H.F. 2951 (Kahn)

S.F. 2404 (Pappas); H.F. 2951 (Kahn) increases St. Paul Teachers Retirement Fund Association (SPTRFA) benefits similar to those provided to the Teachers Retirement Association (TRA) in 2006, and makes unspecified changes in contribution rates to the plan while increasing aid to SPTRFA and revising aid procedures; removes all investment authority restrictions applicable to the SPTRFA, the Duluth Teachers Retirement Fund Association (DTRFA), the Minneapolis Employees Retirement Fund (MERF), local police relief associations, local paid fire relief associations, and dozens or possible hundreds of volunteer fire plans, and replaces these investment authority provisions with a requirement that the plans must follow a prudent person standard and develop an investment policy statement; and revises numerous fiduciary provisions applicable to all Minnesota public pension plans.

Section-by-Section Summary of S.F. 2404 (Pappas); H.F. 2951 (Kahn)

- Sections 1-2 revise SPTRFA employee and employer contribution rates by amounts to be determined.
- Section 3 increases SPTRFA special direct state aid from \$2.8 million to \$8 million annually.
- Section 4 requires that any SPTRFA special direct state aid, and any amortization aid and supplemental amortization aid redirected to SPTRFA, will end when the SPTRFA is fully funded (or in 2037, whichever is earlier) rather than when the SPTRFA funding ratio equals or exceeds that of TRA, and ends any redirection of SPTRFA special state aid to TRA.
- Section 5 provides a benefit improvement comparable to the TRA 2006 benefit increases. For SPTRFA coordinated members, for pre-July 1, 1989, hires who retire early (Rule of 90 or other early retirement) for service after July 1, 2011, the accrual rate for the first ten years of service will be 1.4 percent rather than 1.2 percent per year, and for service in excess of ten years the accrual rate will be 1.9 percent rather than 1.7 percent. For all others (post-June 30, 1989, hires and for pre-July 1, 1989, hires taking a level benefit) the level benefit formula will use an accrual rate of 1.9 percent for post-July 1, 2011, service, rather than 1.7 percent (with an actuarial reduction for early retirement).
- Sections 6-13 apply to all expanded list plans, which includes the first class city teacher plans and many others. Under definition in law, an expanded list plan is any plan other than the State Board of Investment (SBI) which has at least \$1 million in assets, or which uses SBI or the services of a registered investment advisor to invest at least 60 percent of its assets, or uses SBI and a registered investment advisor in some combination to invest at least 75 percent of its assets (Minnesota Statutes, Section 356A.06, Subdivisions 6 and 7). Many of the provisions also apply to SBI and to "limited list plans," those that do not qualify as expanded list plans.
  - Section 6 revises Minnesota Statutes, Chapter 356A, Public Pension Fiduciary Responsibility, a chapter applicable to all public pension programs in the state, the fiduciary status provision is by adding as fiduciaries any person or entity which maintains, controls, or invests pension plan assets.
  - Section 7 revises the authorized-holder-of-assets provision in chapter 356A by explicitly permitting an investment manager to hold assets of a pension fund.
  - Section 8 clarifies the Chapter 356A diversification provision.
  - Section 9 revises the Chapter 356A absence-of-personal profit provision by stating that pension plan assets cannot be used to support any social, political, partisan, economic development, or other objective unrelated to the primary purposes for which the pension fund was created.
  - Section 10 replaces the expanded list investment authority provision in Chapter 356A, applicable to all large pension funds in the state including perhaps hundreds of small and large volunteer fire plans, and which specifies permissible types of investments, including minimum quality restrictions for bonds, with a requirement that a plan's assets must be invested consistent with the

prudent person standard. The section also includes a new requirement that the plan's investment policy statement has specified standards.

- Section 11 revises the Chapter 356A investment restrictions provision by including language, moved from the existing law expanded list authorized investment provision, that a plan must not take on a general partnership interest.
- Section 12 revises the disclosure of investment authority provision in Chapter 356A by eliminating the requirement that the plan provide the investment broker/manager with a statement of investment restrictions under state law and that the broker acknowledge receipt of that statement.
- Section 13 repeals Minnesota Statutes, Section 345A.08, the provision authorizing first class city teacher plans to invest in junk bonds and certain real estate investments, and repeals the economic interest statement and investment business disclosure provisions in Chapter 356A.

### Discussion and Analysis

S.F. 2404 (Pappas); H.F. 2951 (Kahn) raises many pension and related public policy issues for Commission consideration and discussion, as follows:

1. Issue of Need for Benefit Improvement Based on Labor Force Needs. The issue is whether any benefit improvement in the SPTRFA, a defined benefit plan, can be justified based on labor force needs. What would be useful for the Commission's consideration of the benefit improvement in this bill is documentation provided by the SPTRFA, the St. Paul school system, or some other party indicating that the school system is unable to attract and retain capable teachers. Regarding ability to attract capable workers, if there are fewer capable candidates than there are available teaching positions, then a pension benefit improvement might be part of the answer, but better pay or working conditions are likely to be a better solution. Young employees and those seeking to enter any given profession are not particularly motivated by having a pension plan. Regarding retaining existing employees, what we do know from actuarial work and experience studies over the years is that teachers have lower turnover rates than other general plan public employees. Individuals who have been teachers for a few years tend to stay. That would suggest that further enhancement is not needed to retain existing employees. If the concern is that the St. Paul school district would be at a competitive disadvantage compared to TRA-covered districts in attracting and retaining capable teachers, that is not clear. Without the accrual rate increase, money will not be spent paying for an increase, allowing the district to offer somewhat higher salaries than would otherwise be the case, giving teachers greater take-home pay which they could use for any purpose, including putting the money in a deferred compensation plan or tax-sheltered annuity if that is their preference.
2. Issue of Need for Benefit Improvement; Extensive Ability to Use Supplemental Defined Contribution Savings Plans. The issue is whether a benefit improvement in the SPTRFA plan (a defined benefit plan) can be justified given the extensive authority already in state and federal law permitting teachers to use tax-deferred savings plans to complement the main defined benefit plan to suit each teacher's personal needs. The Commission may wish to consider that teachers have extensive authority to use tax-sheltered or deferred savings vehicles to save for retirement. Any teacher with sufficient initiative who wants to create the equivalent additional benefit provided by this bill could do so, simply by saving more to create the additional value in a defined contribution account.

Teachers have extensive access to tax-deferred savings accounts. In addition to mandatory coverage under the defined benefit plan, teachers can contribute to a 403(b) tax-sheltered annuity program. The contribution maximum is \$16,500 per year, and \$22,000 per year if the teacher is age 50 or older. Teachers may also contribute similar annual amounts to a Section 457 deferred compensation plan in addition to the contributions to the 403(b) plan, for a total combined maximum contribution of \$33,000 per year for teacher under age 55, or \$44,000 per year for teachers age 50 or above. Teachers may also receive lump sum payments from a school district for retiring prior to normal retirement age.

Teachers, as well as other public employees, may benefit further from additional authority provided in 2008. Due to changes enacted that year, Minnesota Statutes, Section 356.24, currently permits the employer under a collective bargaining agreement to make an employer contribution to a deferred compensation plan of up to half the maximum annual contribution. For teachers, this employer-match authority would also apply to contributions to a 403(b) tax-sheltered annuity plan. This maximum is considerably in excess of the required employer contribution to the defined benefit plan, which in theory is supposed to provide the primary coverage.

Teachers, like any taxpayer, also can use an Individual Retirement Account (IRA), for further tax deferred savings, or they could use a Roth IRA to create tax-free withdrawals.

Thus, any teacher, who wants to retire early or who simply wants higher benefits during retirement, has more than ample ability to create sufficient retirement assets to meet his or her goals without a further increase in benefits from the defined benefit plan. The Commission may conclude that any further benefit enhancement in the defined benefit plan is unnecessary.

3. Funding Benefit Improvement in Current Recession. The issue is whether the state, school district, or teachers can afford a benefit improvement given the depressed state of the economy, large budget deficits, and other pressing needs of state and local governments. It will be a challenge for the state to provide the requested aid increase to boost direct state aid to \$8 million annually.
4. Alternative of Consolidating into the Teachers Retirement Association (TRA). The benefit improvement request is to provide benefits similar, although not quite identical, to those of the TRA plan. If the Commission were to conclude that such a benefit improvement is appropriate, a simpler and more cost-efficient alternative is to provide the improvement through a consolidation into TRA. This would provide administrative savings by removing the expenses for an executive director, pension plan staff, an actuary, asset custodian, investment advisors, investment managers, lobbying costs and other expenses, and would eliminate any need for the specific state aid revisions included in this draft to further support the SPTRFA.
5. Cost. The issue is the cost of the benefit improvements. Below is a presentation of the cost of this proposal, compiled from actuarial work provided by the SPTRFA actuary, Gabriel Roeder Smith and Company.

- The starting point is the summary presentation of the July 1, 2009, SPTRFA actuarial valuation.
- The next columns indicate the change due to the additional direct state aid, an additional \$5,173,000 to bring the annual total direct state aid up to \$8 million. With that change, the contribution deficiency shown in the July 1, 2009, actuarial valuation, 2.76 percent of payroll, would be reduced to .71 percent of payroll.
- The next columns show the impact to the baseline actuarial valuation of the second change proposed in this bill, the increase in prospective accrual rates for coordinated members. Those columns show very modest changes in the normal cost for disability benefit, surviving spouse benefits, and withdrawals, but a larger increase in the retirement benefit normal cost, an increase of .5 percent of payroll. The amortization requirement also increases, by .41 percent of payroll. These would add a total of .96 percent of payroll to the contributions deficiency.
- The next columns show the actuarial valuation if the only change were the increase in accrual rates. The contribution deficiency would be 3.72 percent of payroll rather than 2.76 percent of payroll as in the baseline valuation.
- The final columns show the resulting actuarial valuation including both the proposed additional direct state aid and the accrual rate increase. Even with direct state aid of \$8 million, the plan would have a contribution deficiency of 1.67 percent of payroll, or \$4.221 million. This would imply a need to increase the employee and employer contribution rate in some combination by an additional 1.67 percent of payroll to eliminate the contribution deficiency.

	July 1, 2009 SPTRFA Actuarial Valuation (Baseline Valuation Results)		Change in Baseline Valuation Due to Additional State Aid		Actuarial Valuation with the Additional State Aid		Change in Baseline Valuation Due to Increase in Accrual Rates for Coordinated members		Actuarial Valuation with Accrued Rate Increase for Coordinated Members		Actuarial Valuation with Accrual Rate Increase for Coordinated Members and Additional State Aid	
	% of Pay	\$ Amt.	% of Pay	\$ Amt.	% of Pay	\$ Amt.	% of Pay	\$ Amt.	% of Pay	\$ Amt.	% of Pay	\$ Amt.
<b>A. Statutory Contributions – Chapter 354A</b>												
1. Employee contrib.	5.58	14,108	0.00	--	5.58	14,108	0.00	--	5.58	14,108	5.58	14,108
2. Employer contrib.	8.45	21,351	0.00	--	8.45	21,351	0.00	--	8.45	21,351	8.45	21,351
3. Supplemental contrib.												
(a) 1996 legislation	0.49	1,230	0.00	--	0.49	1,230	0.00	--	0.49	1,230	0.49	1,230
(b) 1997 legislation plus proposed aid incr.	1.12	2,827	2.05	5,173	3.17	8,000	0.00	--	1.12	2,827	3.17	8,000
4. Admin. exp. assessment	--	--	--	--	--	--	--	--	--	--	--	--
5. Total	15.64	39,516	2.05	5,173	17.69	44,689	0.00	--	15.64	39,516	17.89	44,689

	July 1, 2009 SPTRFA Actuarial Valuation (Baseline Valuation Results)		Change in Baseline Valuation Due to Additional State Aid		Actuarial Valuation with the Additional State Aid		Change in Baseline Valuation Due to Increase in Accrual Rates for Coordinated members		Actuarial Valuation with Accrued Rate Increase for Coordinated Members		Actuarial Valuation with Accrual Rate Increase for Coordinated Members and Additional State Aid	
	% of Pay	\$ Amt.	% of Pay	\$ Amt.	% of Pay	\$ Amt.	% of Pay	\$ Amt.	% of Pay	\$ Amt.	% of Pay	\$ Amt.
<b>B. Required Contributions – Chapter 356</b>												
1. Normal Cost:												
(a) Retirement Benefits	7.11	17,980	0.00	--	7.11	17,980	0.50	1,264	7.61	19,244	7.61	19,244
(b) Disability Benefits	0.13	337	0.00	--	0.13	337	0.01	21	0.14	358	0.14	358
(c) Surviving Spouse and Child Benefits	0.16	406	0.00	--	0.16	406	0.01	27	0.17	433	0.17	433
(d) Withdrawals	1.12	2,835	0.00	--	1.12	2,835	0.03	62	1.15	2,897	1.15	2,897
(e) Total	8.52	21,558	0.00	--	8.52	21,558	0.55	1,374	9.07	22,932	9.07	22,932
2. Supplemental contrib. amortization*	9.64	24,363	0.00	--	9.64	24,363	0.41	1,036	10.05	25,399	10.05	25,399
3. Allowance for administrative expenses	0.24	607	0.00	--	0.24	607	0.00	--	0.24	607	0.24	607
4. Total	18.40	46,528	0.00	--	18.40	46,528	0.96	2,410	19.36	48,938	19.36	48,938
<b>C. Contribution Excess/ (Deficiency): (A.5) – B.4</b>	(2.76)	(7,012)	2.05	5,173	(0.71)	(1,839)	(0.96)	(2,410)	(3.72)	(9,422)	(1.67)	(4,221)
<b>Projected annual payroll for fiscal year following the valuation date</b>		252,726										

\* 25-year open amortization period

6. Added Long-Term Cost of Using Rolling Amortization Period. The issue is the long-term added cost of financing this plan given the use of rolling amortization periods. The SPTRFA is the only major plan that has rolling amortization periods. At the request of SPTRFA in 2008 (Laws 2008, Chapter 349, Article 10, Section 14), the Legislature revised the SPTRFA amortization date from a July 1, 2021, to a rolling 25-year amortization period. Under this system, the amortization period for the SPTRFA is revised each year to be 25 years from the current July 1 actuarial valuation date. In the last actuarial valuation prior to this 2008 change, the July 1, 2007, SPTRFA actuarial valuation, the contribution deficiency for this plan had reached 8.03 percent of payroll, or \$18.7 million. Following the change to the rolling amortization period, a year later the reported contribution deficiency was only 1.9 percent of pay, or \$4.7 million. Little had actually changed, other than appearance. Kicking the amortization date out a few years and making the amortization period a rolling period rather than a fixed period acted to mask the weak condition of this pension fund, reducing pressure to consolidate this pension fund into TRA.

Use of rolling amortization periods increases the cost over time of meeting the actual liabilities of the pension fund. Paying off unfunded liabilities is similar to a house mortgage. A home owner with a 25-year mortgage will pay considerable interest on the loan over time, but after 25 years the debt is paid off. If instead the terms of the loan were constantly revised so that the homeowner always had 25 years left on the loan, the amount paid in interest in any given year is lowered but the total interest paid overtime will be much greater than with a straightforward 25-year loan. With the rolling 25-year period, the loan is never paid off.

Similarly, with the SPTRFA and its rolling 25-year amortization, the unfunded liability is unlikely to ever be retired. While the use of this approach creates a lower computed annual contribution requirement for the fund, at least in the short term, compared to continuing to use the pre-July 1, 2008, amortization date of 2021, the need is likely to never end. And this constant burden of unfunded liability leads to costly, inefficient financing of the pension plan. The actuarial work for the pension plan uses an 8.5 percent investment return assumption. In other words, even if a plan were fully funded, the plan's assets need to earn an 8.5 percent return each year to remain fully funded. If instead of a dollar of assets we have a dollar of unfunded liability, because we failed to add sufficient assets to retire that dollar of unfunded liability, we will have in the following year \$1.085 of unfunded liability. Alternatively, consider that in a well-functioning pension plan about 70 percent of the assets needed to pay the liabilities created by the plan come from investment returns. If, instead of getting assets into the pension fund so that investment returns can be generated by those assets, we allow unfunded liabilities to remain or build up, over the long term the contributions and aid going to the plan will need to be greater, to make up for the forgone investment returns the fund did not earn.

Rather than investment returns covering 70 percent of all liabilities generated by the plan, investment returns may cover 60 percent, or 50 percent, or less, with the remainder required to be made up by additional contributions or aid. Thus, while rolling 25-year amortization may have had some short-term appeal, the approach will over time place a greater burden on contributors and taxpayer than if a fixed amortization date had been retained.

7. Inconsistency Between Aid Request Drafting and Use of Rolling Amortization. The issue is the rather misleading revisions in the aid provision, Section 4 of the bill. Under that section, redirected amortization and supplemental amortization aid that the SPTRFA may receive, the direct state aid to the SPTRFA must continue until the SPTRFA is fully funded or until 2037, whichever is earlier, rather than until the SPTRFA funding ratio matches that of TRA. With rolling amortization periods it is very unlikely that the SPTRFA will ever be fully funded. A more straightforward request would be to revise this section so that aid goes to the SPTRFA indefinitely, with no cutoff. Why the year 2037 appears in the draft language (on page 3, line 28) is unclear. That happens to be the current full funding date for TRA, but that seems to be irrelevant to the SPTRFA's situation. In any event, that date is decades into the future. If the SPTRFA continues to exist as a freestanding entity and that date approaches, there will be legislative proposals to revise it. The 2008 SPTRFA proposal which created the rolling 25-year amortization should have included changes needed long-term in aid or contribution provisions to support that change in amortization policy, rather than requesting it piecemeal over the course of a few legislative sessions. The Legislature would have had a better understanding of the drawbacks of the rolling amortization period proposal.
8. Lack of Specified New Employee and Employer Contribution Rate. The issue is the lack of a specified new employee and employer contribution rate. The bill contains blanks which the Commission or the Legislature will have to fill in.
9. Bill Fails to Comply with Administrative Provisions Law. The SPTRFA has described at least part of the bill as containing administrative provisions. To the extent that some of the provisions could be considered as administrative, the bill fails to comply with law. Minnesota Statutes, Section 356B.05, requires all administrative legislation to be submitted to the Legislative Commission on Pensions and Retirement and to the House and Senate committees dealing with government operations before October 1, if the provisions are to be considered in the next legislative session. The "administrative" provisions in this bill were not submitted at all, and were not public until this bill was drafted after the session had already started. The changes proposed in this bill regarding investment authority are a radical departure from present law, create irrational outcomes, and may expose taxpayers to considerable risk if investment losses occur in the pension funds. These provisions require extensive review and discussion, which is not possible during a legislative session. Adding to concern is that many of these revisions apply to many Minnesota pension funds, including the State Board of Investment (SBI), and some provisions apply to all public pension funds. Generally, when a pension plan administration submits provisions it deems to be administrative, those provisions apply to that plan and only that plan. When a plan administration begins to suggest revisions applicable to Minnesota plans in general, the plan administration is wading into an area in which it does not have expertise, and mistakes and unintended consequences are likely. That is definitely true from Section 6 to the end of this bill.
10. Lowering Fiduciary Standards for Custodians and Asset Managers, Section 6. The issue is language in Section 6 of the bill, which has the effect of holding investment managers and asset custodians for every public pension plan in the state to a prudent person standard, rather than a prudent expert standard. Pension plan asset custodians and investment managers are hired by a pension plan administration because they are experts in their field. No pension plan administration would knowingly hire an investment manager who is a prudent person, a person with no particular expertise in investment matters, but who is at least expected to act sensibly and use reasonable judgment. Rather, they would hire an expert, a person or firm with extensive training and experience in investment matters and who is expected to use that extensive knowledge in the course of making prudent decisions on the fund's behalf. Unfortunately, adding asset custodians and investment managers to the fiduciary status provision, as is proposed in Section 6 of this bill, would only hold these individuals to a prudent person standard. That is because Minnesota Statutes, Section 356A.04, General Standard of Fiduciary Conduct, states that any person with fiduciary status under Section 6 of this bill will only to held to a prudent person standard. Section 6 ought to be removed.
11. Language Placement; Implications of New Language Prohibiting Social Investing, Section 9. Section 9 revises an absence-of-personal-profit subdivision by adding language prohibiting pension plan social investing. Plan assets ought to be invested with the intent of maximizing returns subject to prudent risk. Social investing introduces other aims, investing plan assets to achieve some social,

economic development, or political ends rather than investing plan assets solely in the best interest of plan members and taxpayers.

The first issue is the placement of the social investing prohibition language. The subdivision in which it is to be placed is a subdivision prohibiting plan fiduciaries from profiting directly or indirectly from the investing of plan assets. That is a somewhat different topic than absence of personal profit. At a minimum, the new language might better be placed in a separate paragraph, or preferably in a separate new subdivision.

The second issue regarding this new language is that although pension plan prohibitions against social investing is reasonable (and is quite likely a logical implication of existing state law in Minnesota Statutes, Chapter 356A, and elsewhere, and in federal law), some may argue against this exact statement. They may argue it goes too far by prohibiting investment in economic development projects, for example, even if the investment is sound, and at least as good in terms of diversification and rate of return characteristics as the best other investments available to the pension fund. The issue of social investing received considerable debate in the 1970s and 1980s. Some argued that pension funds ought to engage in social investing, with minimal restriction, in the local or regional economy because these investments would improve the local economy and tax base. This helps the pension fund in the long run because this expanded economy and tax base makes it easier for taxpayers to support the plan. Others recognized that while there is some truth to this statement, all too often social investment compromised the mission of pension plan fiduciaries, which is to invest plan assets for maximum gain subject to prudent risk. A compromise position some advocated was to permit pension fund social investing if study of the potential investment indicated that the rate of return and diversification implications of the investment were at least as preferable as the best other investment available to the pension fund. While this sounds reasonable, it rarely works in practice. In any realistic situation, the plan administrators and their advisors are trying to predict the future, to determine, for instance, the expected return of one investment alternative compared to another, when no one can know how future events will impact the real rate of return on any assets. The returns will change due to economic conditions that arise over time and which were not predicted, or because of the impact of inflation of the asset's true value. The best anyone can do is to compare educated guesses. In this process of creating and comparing educated guesses, there is often pressure to be overly optimistic about the risk and return of projects which local or state officials, some of whom may be on the pension plan board, want to undertake.

A third issue is that this prohibition might be read as prohibiting certain SBI investments, such as the SBI's authority to purchase pooled mortgages from the Minnesota Housing Finance Agency under the SBI investment authority provision, Minnesota Statutes, Section 11A.24.

12. Unreasonable Impact of Revision of "Large Plan" Investment Authority, Section 10. The issue is the unreasonable nature of the proposed changes in investment authority in Section 10. This revision to Minnesota Statutes, Section 356A.06, Subdivision 7, would replace the "large plan" investment authority provision as now found in statute with a simple statement that plan assets must be invested and managed consistent with a prudent person standard, and by adherence to new investment policy statement requirements included in this section. A prudent person standard would require that the plan's assets be invested with the same standard of care that a person with no investment expertise would provide in the management of their own affairs. This change would replace a provision which states the permissible investments of a plan, including investments in foreign and domestic equity, real estate, venture capital and other alternative investments, cash securities, and debt securities, and which places a restriction on the maximum percentage of equities a covered pension fund would hold (no more than 85 percent equities). There are several issues regarding this proposal:

The first issue with this proposal is the need to justify throwing out the existing approach, which has been used for decades. The existing approach has worked reasonably well. The argument has been made that the existing law's use of an authorized list of permissible securities does not permit plan investment managers to use the latest investment forms or techniques that have been developed, because they are not yet included in the authorized list. Presumably, the contention is that this somehow harms the pension fund's return because it is not "on the cutting edge" of investment techniques. Any losses due to the inability to use the latest derivative, synthetic security, or bundling technique thought of by Wall Street are miniscule, and they are likely to be dwarfed by the assets that have been saved because the latest idea or fad is not included in the list. As investment markets and techniques have evolved over time, pension plan administrators have had bills introduced to add to the permissible investment list. That process has worked reasonably well and has provided time for reasoned discussion, time to permit bad investment ideas to fall by the wayside before being added to the list, and time for other approaches to have the bugs worked out of them before Minnesota pension



plans started using them. At times Minnesota public pension plans have suffered major losses compared to the return offered by the markets, losses which very conservatively have amounted to many hundreds of millions of dollars over time. These losses were not due to an inability to be on the "cutting edge," but because fund administrators lost sight of fundamental investment principles. Due to poor monitoring of investment managers they fell victim to investment managers who failed to follow investment guidelines. At times pension plans have fallen victim to fraud and theft of assets, in some cases by employees of the pension fund. By far the largest source of losses are failed attempts to beat efficient markets. The plan assets have been invested in the wrong securities at the wrong time. As a result, plan administrators failed to capture the return offered by the markets and available by a simple strategy of using index funds.

The second problem is created by the scope of plans to which this change would apply. There are too many plans, greatly varying in sophistication. The investment authority changes would apply not just to the St. Paul Teachers Retirement Fund Association (SPTRFA). It applies to both first class city teacher plans, to the Minneapolis Employees Retirement Fund (MERF), to the remaining local police and paid fire plans, and to dozens and possibly hundreds of Minnesota volunteer fire pension plans. The revision as specified in this section of the bill applies to "expanded list plans," which are all Minnesota public pension plans except the plans invested by SBI (primarily MSRS, PERA, and TRA) and some of the smallest volunteer fire plans. Regarding application to volunteer fire plans, my reading of law (Minnesota Statutes, Section 356A.06, Subdivision 6) is that any volunteer fire plan which has at least \$1 million in assets is automatically an expanded list plan. A review of the State Auditor's report, *Financial and Investment Report of Volunteer Fire Relief Associations for the Year Ended December 31, 2007*, the most recent available, indicates that 64 volunteer fire relief associations had at least \$1 million in assets. Volunteer fire plans with less than \$1 million in assets are also classified as expanded list plans if they use a registered investment advisor, or the SBI and a registered investment advisor in combination, to invest at least 60 percent of their assets. I do not have information on how many relief associations meet that requirement. It could be a few plans, or it could be a few hundred of our more than 700 volunteer fire relief associations. Thus, at a minimum, the investment authority changes in this section apply to dozens of pension funds, while the maximum may be in the hundreds. The Commission may conclude that permitting these organizations to invest public pension assets guided by nothing more than an investment policy statement and a requirement that they invest with the skill of a nonprofessional is not reasonable.

The third problem is that many of the plans covered under this new investment authority standard will not be able to make some of the comparisons expected under the new investment policy statement. The plans are supposed to measure their asset class and total portfolio time-weighted returns against performance standards. (For example, comparing the fund's domestic stock return to the return of the total stock market.) This is entirely appropriate and is intended to give the plan administrators valuable feedback regarding the fund's performance, letting the plan administrators know if the approaches they are using are working, or whether they need to rethink their strategies. The problem is that many of the pension plans covered by this revised investment authority provision will not be able to compute the returns needed in these comparisons. The inability of volunteer fire plans to compute their returns, so that they have some sense of their investment performance, is what led to a requirement in 1994 that all pension funds provide data to the State Auditor's office to enable that office to compute returns for the pension funds, which are then compiled into a report (Minnesota Statutes, Section 356.219). However, for any plan with less than \$25 million in assets only a total portfolio return is computed. There is no information regarding the asset classes. Thus, a law can be enacted which states that the applicable pension fund must, or ought to, compare its asset class and total portfolio time-weighted returns to those of the broader market and to those of other plans, but nothing will happen. While the concept has considerable merit in theory, it will not work in practice.

The fourth problem is the inconsistency between this proposed investment authority provision, and that which would continue to apply to the smallest volunteer fire plans who are not using an investment advisor, and to the largest, the State Board of Investment (SBI). The smallest plans (the "limited list" plans under our laws) continue to be under an investment permissible list approach stated in Minnesota Statutes, Section 356A.06, Subdivision 6. That provision lists the government and corporate debt security quality grades which are permissible investments. (These relief association may also invest in stocks and bonds through mutual funds, under authority provided in Minnesota Statutes, Section 69.775.) On the other end of the spectrum is the SBI, the largest and most sophisticated public investment operation in the state, which will continue using a permissible investment approach. SBI's permissible investments are detailed in Minnesota Statutes, Section 11A.24. If this section of the bill is enacted, the smallest and least sophisticated plans, and at the other end of the spectrum the SBI, the most sophisticated public investment operation in the state, would continue being governed by a list of permissible investment types with a cap on the maximum

percentage of equities. Meanwhile, every plan in between these two extremes would simply be required to invest reasonably, with the care of a prudent person, but one without investment training or experience. This proposal needs more work.

13. Inconsistency of Removing Requirements Which Continue to Apply to Small “Limited List” Plans, Section 12. The issue is the removal of investment authority requirements, and the likely inconsistency of that removal with requirements which continue to apply to the small “limited list” plans. Under the existing law language of this provision, before a pension plan administration can do business with an investment broker, investment manager, or investment advisor, the plan administration must provide that person with a written statement of investment restrictions applicable to the pension plan, and that person must acknowledge receipt of the statement of restrictions. These requirements are being eliminated (see the stricken language on page 12.1 to 12.11). It is unclear why these requirements are being removed. Perhaps the thinking was that since all prohibitions in law regarding permissible investments would be stricken in the bill for “expanded list” or large pension plans, this language is unnecessary. However, every plan, in its investment policy statement, is likely to specify investment types or investment arrangements in which the plan does not wish to engage. Presumably, those restrictions need to be conveyed to the investment managers and advisors. Instead of striking this language, with minor modification it could be transformed into a useful requirement that the restrictions found in the plan’s investment policy statement must be conveyed to the managers who will be doing the actual investing.

The other problem with striking this language is that there are hundreds of small, “limited list” plans, and nothing in this bill does away with or in any way revises the permissible investment list that applies to these plans. The language proposed to be stricken on page 12 is still needed for these plans.

14. Repealer Issues, Section 13. One of the repealed sections is Minnesota Statutes Section 354A.08, an investment authority provision applicable only to first class city teacher plans and which provides authority to engage in certain real estate investments. If the Commission decides to retain the existing investment authority provisions for expanded list plans, this section should not be repealed. The repealer also repeals economic interest statement requirements (Minnesota Statutes, Section 356A.06, subdivision 4) and investment business recipient disclosure requirements (Minnesota Statutes, Section 356A.06, subdivision 5). These provisions are intended to promote disclosure of arrangements which could involve conflicts of interest, and they apply to all pension plans, not just expanded list plans. The Commission may wish to discuss these provisions and decide if they should remain unchanged in law, or be revised rather than repealed.

#### Potential Amendments for Commission Consideration

- **Amendment SF2404-1A** removes all benefit-related provisions from the bill, including the benefit increase, contribution rate increase, and aid increase.
- **Amendment SF2404-2A** merges SPTRFA into TRA effective July 1, 2011.
- **Amendment SF2404-3A** replaces the rolling 25-year amortization used by SPTRFA with a fixed amortization date of 25 years, and can be used if -1A or -2A is not used. The amortization date would be June 30, 2035. If the Commission prefers a different date, that could be done by a verbal amendment to page 2, line 7, of the amendment.
- **Amendment SF2404-4A** specifies the revised contribution rates and can be used if -1A or -2A is not used and a benefit improvement remains in the bill. Those rates are left blank in the bill.

#### State Aid Amendments:

- **Amendment SF2404-5A** revises the state aid amount by filling in the revised aid amount in the amendment and can be used if -1A or -2A is not used and a benefit improvement remains in the bill.
- **A motion to delete Section 3** would leave state aid unchanged from current law and can be used if -1A or -2A is not used and a benefit improvement remains in the bill.
- **A motion to delete Section 4** would leave the aid redirection provision unchanged from current law and can be used if -2A is not used and the SPTRFA remains freestanding.
- **Amendment SF2404-6A** is an alternative to deleting Section 4. Aids would continue to go to the SPTRFA indefinitely (until the SPTRFA is fully funded).

Investment Authority/Fiduciary Amendments:

- **Amendment SF2404-7A** removes all the provisions in the bill dealing with investment authority and fiduciary matters. If this amendment is not used, the Commission can consider separate sections using the following amendments:
  - **A motion to delete Section 6** would delete the fiduciary status provision. The Commission may wish to do this because there is insufficient time to specify appropriate treatment of custodians and investment managers. Under the bill, these individuals are only held to a prudent person standard.
  - **A motion to delete Section 9** would delete the addition of language clearly prohibiting social investing. An argument for this treatment is that other statements already in law, which require plan assets to be used and invested solely in the interest of plan members and contributors effectively rule out social investing, even without an explicit statement. Also, the provision to which this statement would be added may not be the best place for the language.
  - **Amendment SF2404-8A**, an alternative to deleting Section 9, adds a new subdivision to the general-standard-of-fiduciary-conduct provision to explicitly prohibit social investing.
  - **Amendment SF2404-9A** deletes the revised large plan authority provision and all related provisions. There are many arguments made for this amendment in previous discussion.
  - **A motion to delete Section 12** would delete the disclosure of investment authority provision and retains the existing law version of that provision.
  - **Amendment SF2404-10A** removes the repeal of the economic interest statement and investment business disclosure requirements.
  - **A motion to delete Section 13**, an alternative to -10A, would remove the entire repealer section, retaining the existing law first class city teacher plan real estate investment authority provision and the economic interest statement and investment business disclosure requirements.

- 1.1 ..... moves to amend S.F. No. 2404; H.F. No. 2951, as follows:
- 1.2 Page 1, delete section 1
- 1.3 Page 2, delete sections 2 and 3
- 1.4 Page 3, delete section 5
- 1.5 Renumber the sections in sequence and correct the internal references
- 1.6 Amend the title accordingly

1.1 ..... moves to amend S.F. No. 2404; H.F. No. 2951, as follows:

1.2 Delete everything after the enacting clause and insert:

1.3 "Section 1. **MERGER OF THE ST. PAUL TEACHERS RETIREMENT FUND**  
1.4 **ASSOCIATION INTO THE TEACHERS RETIREMENT ASSOCIATION.**

1.5 Subdivision 1. **Relation to other law.** This section supersedes any other law to the  
1.6 contrary.

1.7 Subd. 2. **Abolition; membership transfer.** The St. Paul Teachers Retirement Fund  
1.8 Association is abolished on July 1, 2011. All active, deferred, inactive, disabled, survivor,  
1.9 and retired members of the St. Paul Teachers Retirement Fund Association on July 1,  
1.10 2011, are transferred to the Teachers Retirement Association and are no longer members  
1.11 of the St. Paul Teachers Retirement Fund Association as of that date.

1.12 Subd. 3. **Membership coverage for new hires.** A person first hired as a teacher  
1.13 by Independent School District No. 625, St. Paul, after June 30, 2011, or who under  
1.14 law in effect immediately prior to that date would be required to be a member of the St.  
1.15 Paul Teachers Retirement Fund Association, is a member of the Teachers Retirement  
1.16 Association.

1.17 Subd. 4. **Membership of transferred active members.** Each active teacher  
1.18 transferred under subdivision 2 shall be a member of the Teachers Retirement Association  
1.19 for prospective service. The Teachers Retirement Association must grant allowable service  
1.20 and salary credit in the Teachers Retirement Association for all previous service and salary  
1.21 credit on the records of the St. Paul Teachers Retirement Fund Association for the teacher.

1.22 Subd. 5. **Treatment of benefit recipients.** For every disabled member, retired  
1.23 member, or survivor transferred under subdivision 2, the monthly benefit paid to the  
1.24 applicable person on the date of transfer must continue to be paid by the Teachers  
1.25 Retirement Association. Any postretirement adjustments to those benefits after the date of  
1.26 transfer must be determined under law applicable to the Teachers Retirement Association.

1.27 Subd. 6. **Treatment of deferred members.** For deferred members transferred under  
1.28 subdivision 2, the Teachers Retirement Association must apply the St. Paul Teachers  
1.29 Retirement Fund Association laws or bylaws that applied to the person on the date of  
1.30 termination of service covered by the St. Paul Teachers Retirement Fund Association.  
1.31 Upon commencement of the annuity, postretirement adjustments must be determined  
1.32 under laws applicable to the Teachers Retirement Association.

2.1 Subd. 7. **Asset and liability transfer.** (a) The liability to provide retirement  
2.2 annuities, refunds, and other retirement benefits related to the transfer in subdivision 2 is a  
2.3 liability of the Teachers Retirement Association. This liability must be reflected in the  
2.4 actuarial valuations of the Teachers Retirement Association, effective July 1, 2011.

2.5 (b) No later than July 1, 2011, the executive director of the St. Paul Teachers  
2.6 Retirement Fund Association abolished in this section must transfer all assets of the  
2.7 association to the executive director of the Teachers Retirement Association for deposit  
2.8 in the teachers retirement fund.

2.9 Subd. 8. **Effect of transfer of power.** Minnesota Statutes, section 15.039,  
2.10 subdivisions 1 to 6, but not 7, apply to the transfer from the St. Paul Teachers Retirement  
2.11 Fund Association to the Teachers Retirement Association under this section.

2.12 Subd. 9. **Effect on aid.** Any aid amounts payable to the St. Paul Teachers  
2.13 Retirement Fund Association under law in effect immediately prior to July 1, 2011, must  
2.14 be paid to the Teachers Retirement Association."

2.15 Amend the title accordingly

1.1 ..... moves to amend S.F. No. 2404; H.F. No. 2951, as follows:

1.2 Page 4, after line 37, insert:

1.3 "Sec. 6. Minnesota Statutes 2009 Supplement, section 356.215, subdivision 11,  
1.4 is amended to read:

1.5 Subd. 11. **Amortization contributions.** (a) In addition to the exhibit indicating  
1.6 the level normal cost, the actuarial valuation of the retirement plan must contain an  
1.7 exhibit for financial reporting purposes indicating the additional annual contribution  
1.8 sufficient to amortize the unfunded actuarial accrued liability and must contain an exhibit  
1.9 for contribution determination purposes indicating the additional contribution sufficient  
1.10 to amortize the unfunded actuarial accrued liability. For the retirement plans listed in  
1.11 subdivision 8, paragraph (c), the additional contribution must be calculated on a level  
1.12 percentage of covered payroll basis by the established date for full funding in effect when  
1.13 the valuation is prepared, assuming annual payroll growth at the applicable percentage  
1.14 rate set forth in subdivision 8, paragraph (c). For all other retirement plans, the additional  
1.15 annual contribution must be calculated on a level annual dollar amount basis.

1.16 (b) ~~For any retirement plan other than the Minneapolis Employees Retirement Fund,~~  
1.17 ~~the general employees retirement plan of the Public Employees Retirement Association,~~  
1.18 ~~and the St. Paul Teachers Retirement Fund Association,~~ If there has not been a change in  
1.19 the actuarial assumptions used for calculating the actuarial accrued liability of the fund, a  
1.20 change in the benefit plan governing annuities and benefits payable from the fund, a  
1.21 change in the actuarial cost method used in calculating the actuarial accrued liability of all  
1.22 or a portion of the fund, or a combination of the three, which change or changes by itself  
1.23 or by themselves without inclusion of any other items of increase or decrease produce a  
1.24 net increase in the unfunded actuarial accrued liability of the fund, the established date  
1.25 for full funding of the plan ~~is the first actuarial valuation date occurring after June 1,~~  
1.26 ~~2020.~~ as follows:

<u>plan</u>	<u>established date for full funding: the first actuarial valuation date occurring after</u>
1.30 <u>Minneapolis Employees Retirement Fund</u>	<u>June 30, 2020</u>
1.31 <u>general employees retirement plan of the Public</u>	<u>June 30, 2031</u>
1.32 <u>Employees Retirement Association</u>	
1.33 <u>public employees police and fire plan</u>	<u>June 30, 2038</u>
1.34 <u>general employees retirement plan of the</u>	<u>June 30, 2020</u>
1.35 <u>Minnesota State Retirement System</u>	
1.36 <u>local government correctional service plan</u>	<u>June 30, 2023</u>
1.37 <u>correctional state employees retirement plan of</u>	<u>June 30, 2038</u>
1.38 <u>the Minnesota State Retirement System</u>	

2.1	<u>judges retirement plan</u>	<u>June 30, 2038</u>
2.2	<u>legislators retirement plan</u>	<u>June 30, 2021</u>
2.3	<u>elected state officers plan</u>	<u>June 30, 2017</u>
2.4	<u>State Patrol retirement plan</u>	<u>June 30, 2036</u>
2.5	<u>Teachers Retirement Association</u>	<u>June 30, 2037</u>
2.6	<u>Duluth Teachers Retirement Fund Association</u>	<u>June 30, 2035</u>
2.7	<u>St. Paul Teachers Retirement Fund Association</u>	<u>June 30, 2035</u>
2.8	<u>all other plans</u>	<u>June 1, 2020</u>

2.9 (c) Except as specified in paragraph (d), for any retirement plan other than the  
 2.10 ~~Minneapolis Employees Retirement Fund and the general employees retirement plan of~~  
 2.11 ~~the Public Employees Retirement Association,~~ if there has been a change in any or all of  
 2.12 the actuarial assumptions used for calculating the actuarial accrued liability of the fund, a  
 2.13 change in the benefit plan governing annuities and benefits payable from the fund, a  
 2.14 change in the actuarial cost method used in calculating the actuarial accrued liability of all  
 2.15 or a portion of the fund, or a combination of the three, and the change or changes, by itself  
 2.16 or by themselves and without inclusion of any other items of increase or decrease, produce  
 2.17 a net increase in the unfunded actuarial accrued liability in the fund, the established date  
 2.18 for full funding must be determined using the following procedure:

2.19 (i) the unfunded actuarial accrued liability of the fund must be determined in  
 2.20 accordance with the plan provisions governing annuities and retirement benefits and the  
 2.21 actuarial assumptions in effect before an applicable change;

2.22 (ii) the level annual dollar contribution or level percentage, whichever is applicable,  
 2.23 needed to amortize the unfunded actuarial accrued liability amount determined under item  
 2.24 (i) by the established date for full funding in effect before the change must be calculated  
 2.25 using the interest assumption specified in subdivision 8 in effect before the change;

2.26 (iii) the unfunded actuarial accrued liability of the fund must be determined in  
 2.27 accordance with any new plan provisions governing annuities and benefits payable from  
 2.28 the fund and any new actuarial assumptions and the remaining plan provisions governing  
 2.29 annuities and benefits payable from the fund and actuarial assumptions in effect before  
 2.30 the change;

2.31 (iv) the level annual dollar contribution or level percentage, whichever is applicable,  
 2.32 needed to amortize the difference between the unfunded actuarial accrued liability amount  
 2.33 calculated under item (i) and the unfunded actuarial accrued liability amount calculated  
 2.34 under item (iii) over a period of 30 years from the end of the plan year in which the  
 2.35 applicable change is effective must be calculated using the applicable interest assumption  
 2.36 specified in subdivision 8 in effect after any applicable change;



3.1 (v) the level annual dollar or level percentage amortization contribution under item  
3.2 (iv) must be added to the level annual dollar amortization contribution or level percentage  
3.3 calculated under item (ii);

3.4 (vi) the period in which the unfunded actuarial accrued liability amount determined  
3.5 in item (iii) is amortized by the total level annual dollar or level percentage amortization  
3.6 contribution computed under item (v) must be calculated using the interest assumption  
3.7 specified in subdivision 8 in effect after any applicable change, rounded to the nearest  
3.8 integral number of years, but not to exceed 30 years from the end of the plan year in  
3.9 which the determination of the established date for full funding using the procedure set  
3.10 forth in this clause is made and not to be less than the period of years beginning in the  
3.11 plan year in which the determination of the established date for full funding using the  
3.12 procedure set forth in this clause is made and ending by the date for full funding in effect  
3.13 before the change; and

3.14 (vii) the period determined under item (vi) must be added to the date as of which  
3.15 the actuarial valuation was prepared and the date obtained is the new established date  
3.16 for full funding.

3.17 (d) ~~For the Paragraph (c) does not apply to the elected state officers plan or to the~~  
3.18 ~~Minneapolis Employees Retirement Fund, the established date for full funding is June~~  
3.19 ~~30, 2020.~~

3.20 (e) ~~For the general employees retirement plan of the Public Employees Retirement~~  
3.21 ~~Association, the established date for full funding is June 30, 2031.~~

3.22 (f) ~~For the Teachers Retirement Association, the established date for full funding is~~  
3.23 ~~June 30, 2037.~~

3.24 (g) ~~For the correctional state employees retirement plan of the Minnesota State~~  
3.25 ~~Retirement System, the established date for full funding is June 30, 2038.~~

3.26 (h) ~~For the judges retirement plan, the established date for full funding is June~~  
3.27 ~~30, 2038.~~

3.28 (i) ~~For the public employees police and fire retirement plan, the established date~~  
3.29 ~~for full funding is June 30, 2038.~~

3.30 (j) ~~For the St. Paul Teachers Retirement Fund Association, the established date for~~  
3.31 ~~full funding is June 30 of the 25th year from the valuation date.~~ (e) In addition to other  
3.32 requirements of this chapter, for the St. Paul Teachers Retirement Fund Association the  
3.33 annual actuarial valuation shall contain an exhibit indicating the funded ratio and the  
3.34 deficiency or sufficiency in annual contributions when comparing liabilities to the market  
3.35 value of the assets of the fund as of the close of the most recent fiscal year.

4.1           ~~(k)~~ (f) For the retirement plans for which the annual actuarial valuation indicates  
4.2           an excess of valuation assets over the actuarial accrued liability, the valuation assets in  
4.3           excess of the actuarial accrued liability must be recognized as a reduction in the current  
4.4           contribution requirements by an amount equal to the amortization of the excess expressed  
4.5           as a level percentage of pay over a 30-year period beginning anew with each annual  
4.6           actuarial valuation of the plan.

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

4.8           Renumber the sections in sequence

4.9           Amend the title accordingly

1.1 ..... moves to amend S.F. No. 2404; H.F. No. 2951, as follows:

1.2 Page 1, line 23, delete "... " insert " (insert appropriate percentage here) "

1.3 Page 2, line 17, delete "... " insert " (insert appropriate percentage here) "

1.1 ..... moves to amend S.F. No. 2404; H.F. No. 2951, as follows:

1.2 Page 3, line 3, delete "\$8,000,000" and insert "\$....."

1.1 ..... moves to amend S.F. No. 2404; H.F. No. 2951, as follows:

1.2 Page 3, line 28, delete "or until 2037, whichever occurs earlier"

- 1.1 ..... moves to amend S.F. No. 2404; H.F. No. 2951, as follows:
- 1.2 Page 5, delete sections 6 to 9
- 1.3 Page 6, delete section 10
- 1.4 Page 11, delete sections 11 and 12
- 1.5 Page 12, delete section 13
- 1.6 Renumber the sections in sequence
- 1.7 Amend the title accordingly

1.1 ..... moves to amend S.F. No. 2404; H.F. No. 2951, as follows:

1.2 Page 5, after line 10, insert:

1.3 "Sec. 7. Minnesota Statutes 2008, section 356A.04, is amended by adding a subdivision  
1.4 to read:

1.5 Subd. 3. **Social investment prohibition.** The assets of a covered pension plan must  
1.6 not be invested or expended with the intent to support any social, political, partisan,  
1.7 economic development, or other objective unrelated to the primary purpose for which  
1.8 the fund was created.

1.9 **EFFECTIVE DATE.** This section is effective July 1, 2010."

1.10 Page 5, delete section 9

1.11 Renumber the sections in sequence

1.12 Amend the title accordingly

- 1.1 ..... moves to amend S.F. No. 2404; H.F. No. 2951, as follows:
- 1.2 Page 6, delete section 10
- 1.3 Page 11, delete section 11
- 1.4 Page 12, line 20, delete "sections 354A.08; and" and insert "section"
- 1.5 Renumber the sections in sequence
- 1.6 Amend the title accordingly



1.1 ..... moves to amend S.F. No. 2404; H.F. No. 2951, as follows:

1.2 Page 12, line 20, delete "sections" and insert "section" and delete "; and 356A.06,  
1.3 subdivisions 4 and 5, are" and insert ", is"

**Senator Pappas introduced—**

**S.F. No. 2404:** Referred to the Committee on State and Local Government Operations and Oversight.

1.1 A bill for an act  
 1.2 relating to retirement; regulating certain teachers retirement funds; adjusting  
 1.3 contribution rates; adjusting state aid amounts; adjusting annuity formulas;  
 1.4 amending fiduciary responsibilities; regulating investments; appropriating  
 1.5 money; amending Minnesota Statutes 2008, sections 354A.12, subdivisions 1,  
 1.6 3a, 3c; 354A.31, subdivision 4; 356A.02, subdivision 1; 356A.06, subdivisions  
 1.7 1, 2, 3, 7, 7a, 8b; Minnesota Statutes 2009 Supplement, section 354A.12,  
 1.8 subdivision 2a; repealing Minnesota Statutes 2008, sections 354A.08; 356A.06,  
 1.9 subdivisions 4, 5.

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

1.11 Section 1. Minnesota Statutes 2008, section 354A.12, subdivision 1, is amended to  
 1.12 read:

1.13 Subdivision 1. **Employee contributions.** The contribution required to be paid by  
 1.14 each member of a teachers retirement fund association shall not be less than the percentage  
 1.15 of total salary specified below for the applicable association and program:

1.16 Association and Program	Percentage of Total Salary
1.17 Duluth Teachers Retirement Fund Association	
1.18 old law and new law	
1.19 coordinated programs	5.5 percent
1.20 St. Paul Teachers Retirement Fund Association	
1.21 basic program	8 percent
1.22 coordinated program <u>before July 1, 2011</u>	5.5 percent
1.23 <u>coordinated program after June 30, 2011</u>	<u>... percent</u>

1.24 Contributions shall be made by deduction from salary and must be remitted directly  
 1.25 to the respective teachers retirement fund association at least once each month.

2.1 Sec. 2. Minnesota Statutes 2009 Supplement, section 354A.12, subdivision 2a, is  
2.2 amended to read:

2.3 Subd. 2a. **Employer regular and additional contributions.** (a) The employing  
2.4 units shall make the following employer contributions to teachers retirement fund  
2.5 associations:

2.6 (1) for any coordinated member of one of the following teachers retirement fund  
2.7 associations in a city of the first class, the employing unit shall make a regular employer  
2.8 contribution to the respective retirement fund association in an amount equal to the  
2.9 designated percentage of the salary of the coordinated member as provided below:

2.10	Duluth Teachers Retirement	
2.11	Fund Association	4.50 percent
2.12	St. Paul Teachers Retirement	
2.13	Fund Association <u>before July</u>	
2.14	<u>1, 2011</u>	4.50 percent
2.15	<u>St. Paul Teachers Retirement</u>	
2.16	<u>Fund Association after June</u>	
2.17	<u>30, 2011</u>	<u>... percent</u>

2.18 (2) for any basic member of the St. Paul Teachers Retirement Fund Association, the  
2.19 employing unit shall make a regular employer contribution to the respective retirement  
2.20 fund in an amount equal to 8.00 percent of the salary of the basic member;

2.21 (3) for a basic member of the St. Paul Teachers Retirement Fund Association, the  
2.22 employing unit shall make an additional employer contribution to the respective fund in  
2.23 an amount equal to 3.64 percent of the salary of the basic member;

2.24 (4) for a coordinated member of a teachers retirement fund association in a city  
2.25 of the first class, the employing unit shall make an additional employer contribution to  
2.26 the respective fund in an amount equal to the applicable percentage of the coordinated  
2.27 member's salary, as provided below:

2.28	Duluth Teachers Retirement	
2.29	Fund Association	1.29 percent
2.30	St. Paul Teachers Retirement	
2.31	Fund Association	3.84 percent

2.32 (b) The regular and additional employer contributions must be remitted directly to  
2.33 the respective teachers retirement fund association at least once each month. Delinquent  
2.34 amounts are payable with interest under the procedure in subdivision 1a.

2.35 (c) Payments of regular and additional employer contributions for school district  
2.36 or technical college employees who are paid from normal operating funds must be made  
2.37 from the appropriate fund of the district or technical college.

2.38 Sec. 3. Minnesota Statutes 2008, section 354A.12, subdivision 3a, is amended to read:

3.1 Subd. 3a. **Special direct state aid to first class city teachers retirement fund**  
 3.2 **associations.** (a) The state shall pay \$346,000 to the Duluth Teachers Retirement Fund  
 3.3 Association, ~~\$2,827,000~~ \$8,000,000 to the St. Paul Teachers Retirement Fund Association  
 3.4 and, for the former Minneapolis Teachers Retirement Fund Association, \$12,954,000  
 3.5 to the Teachers Retirement Association.

3.6 (b) The direct state aids under this subdivision are payable October 1 annually. The  
 3.7 commissioner of management and budget shall pay the direct state aid. The amount  
 3.8 required under this subdivision is appropriated annually from the general fund to the  
 3.9 commissioner of management and budget.

3.10 Sec. 4. Minnesota Statutes 2008, section 354A.12, subdivision 3c, is amended to read:

3.11 Subd. 3c. **Termination of supplemental contributions and direct matching**  
 3.12 **and state aid.** (a) The supplemental contributions payable to the Minneapolis Teachers  
 3.13 Retirement Fund Association by Special School District No. 1 and the city of Minneapolis  
 3.14 under section 423A.02, subdivision 3, must be paid to the Teachers Retirement  
 3.15 Association and must continue until the current assets of the fund equal or exceed the  
 3.16 actuarial accrued liability of the fund as determined in the most recent actuarial report  
 3.17 for the fund by the actuary retained under section 356.214, or 2037, whichever occurs  
 3.18 earlier. The supplemental contributions payable to the St. Paul Teachers Retirement Fund  
 3.19 Association by Independent School District No. 625 under section 423A.02, subdivision  
 3.20 3, or the direct state aid under subdivision 3a to the St. Paul Teachers Retirement Fund  
 3.21 Association ~~terminate at the end of the fiscal year in which the accrued liability funding~~  
 3.22 ~~ratio for that fund, as determined in the most recent actuarial report for that fund by the~~  
 3.23 ~~actuary retained under section 356.214, equals or exceeds the accrued liability funding~~  
 3.24 ~~ratio for the Teachers Retirement Association, as determined in the most recent actuarial~~  
 3.25 ~~report for the Teachers Retirement Association by the actuary retained under section~~  
 3.26 ~~356.214. must continue until the current assets of the fund equal or exceed the actuarial~~  
 3.27 ~~accrued liability of the fund as determined in the most recent actuarial report for the fund~~  
 3.28 ~~by the actuary retained under section 356.214 or until 2037, whichever occurs earlier.~~

3.29 ~~(b) If the St. Paul Teachers Retirement Fund Association is funded at an amount~~  
 3.30 ~~equal to or greater than the funding ratio applicable to the Teachers Retirement~~  
 3.31 ~~Association, then any future state aid under subdivision 3a is payable to the Teachers~~  
 3.32 ~~Retirement Association.~~

3.33 Sec. 5. Minnesota Statutes 2008, section 354A.31, subdivision 4, is amended to read:

4.1 Subd. 4. **Computation of normal coordinated retirement annuity; St. Paul**  
 4.2 **fund.** (a) This subdivision applies to the coordinated program of the St. Paul Teachers  
 4.3 Retirement Fund Association.

4.4 (b) The normal coordinated retirement annuity is an amount equal to a retiring  
 4.5 coordinated member's average salary under section 354A.011, subdivision 7a, multiplied  
 4.6 by the retirement annuity formula percentage.

4.7 (c) This paragraph, in conjunction with subdivision 6, applies to a person who first  
 4.8 became a member or a member in a pension fund listed in section 356.30, subdivision 3,  
 4.9 before July 1, 1989, unless paragraph (d), in conjunction with subdivision 7, produces a  
 4.10 higher annuity amount, in which case paragraph (d) will apply. ~~The retirement annuity~~  
 4.11 ~~formula percentage for purposes of this paragraph is the percent specified in section~~  
 4.12 ~~356.315, subdivision 1, per year for each year of coordinated service for the first ten years~~  
 4.13 ~~and the percent specified in section 356.315, subdivision 2, for each year of coordinated~~  
 4.14 ~~service thereafter. The average salary multiplied by the following retirement annuity~~  
 4.15 formula percentage per year of allowable service determines the amount of the annuity to  
 4.16 which the member is entitled for service rendered before July 1, 2011:

4.17	<u>Each year of service during first</u>	<u>the percentage specified in section 356.315,</u>
4.18	<u>ten years</u>	<u>subdivision 1, per year</u>
4.19	<u>Each year of service after ten</u>	<u>the percentage specified in section 356.315,</u>
4.20	<u>years</u>	<u>subdivision 2, per year</u>

4.21 For service rendered on or after July 1, 2011, the average salary multiplied by the  
 4.22 following retirement annuity formula percentage per year of allowable service determines  
 4.23 the amount of the annuity to which the member is entitled:

4.24	<u>Each year of service during first</u>	<u>the percentage specified in section 356.315,</u>
4.25	<u>ten years</u>	<u>subdivision 1a, per year</u>
4.26	<u>Each year of service after ten</u>	<u>the percentage specified in section 356.315,</u>
4.27	<u>years</u>	<u>subdivision 2b, per year</u>

4.28 (d) This paragraph applies to a person who has become at least 55 years old and who  
 4.29 first becomes a member after June 30, 1989, and to any other member who has become  
 4.30 at least 55 years old and whose annuity amount, when calculated under this paragraph  
 4.31 and in conjunction with subdivision 7 is higher than it is when calculated under paragraph  
 4.32 (c), in conjunction with the provisions of subdivision 6. The retirement annuity formula  
 4.33 percentage for purposes of this paragraph is the percent specified in section 356.315,  
 4.34 subdivision 2, for each year of coordinated service before July 1, 2011, and the percentage  
 4.35 specified in section 356.315, subdivision 2b, for each year of service rendered after  
 4.36 June 30, 2011. If the member has 30 or more years of service credit, the minimum age  
 4.37 requirement of this paragraph does not apply.

5.1 Sec. 6. Minnesota Statutes 2008, section 356A.02, subdivision 1, is amended to read:

5.2 Subdivision 1. **Fiduciary status.** For purposes of this chapter, the following persons  
5.3 are fiduciaries:

5.4 (1) any member of the governing board of a covered pension plan;

5.5 (2) the chief administrative officer of a covered pension plan or of the State Board  
5.6 of Investment;

5.7 (3) any member of the State Board of Investment; ~~and~~

5.8 (4) any member of the Investment Advisory Council; and

5.9 (5) any person or entity under contract with the pension plan that exercises control  
5.10 over the safekeeping or the investment of pension plan assets.

5.11 Sec. 7. Minnesota Statutes 2008, section 356A.06, subdivision 1, is amended to read:

5.12 Subdivision 1. **Authorized holder of assets; title to assets.** (a) Assets of a covered  
5.13 pension plan may be held only by:

5.14 (1) the plan treasurer;

5.15 (2) the State Board of Investment;

5.16 (3) ~~the~~ a depository or custodial agent of the plan or an investment manager under  
5.17 contract with the pension plan;

5.18 (4) a security broker or the broker's agent with, in either case, insurance equal to or  
5.19 greater than the plan assets held from the Securities Investor Protection Corporation or  
5.20 from excess insurance coverage; or

5.21 (5) the depository agent of the State Board of Investment.

5.22 (b) Legal title to plan assets must be vested in the plan, the State Board of  
5.23 Investment, the governmental entity that sponsors the plan, the nominee of the plan, or  
5.24 the depository agent. The holder of legal title shall function as a trustee for a person or  
5.25 entity with a beneficial interest in the assets of the plan.

5.26 Sec. 8. Minnesota Statutes 2008, section 356A.06, subdivision 2, is amended to read:

5.27 Subd. 2. **Diversification.** The investment of plan assets must be diversified to  
5.28 minimize the risk of substantial investment losses and to reduce the volatility of overall  
5.29 fund asset values, unless the circumstances at the time an investment is made clearly  
5.30 indicate that diversification would not be prudent.

5.31 Sec. 9. Minnesota Statutes 2008, section 356A.06, subdivision 3, is amended to read:

5.32 Subd. 3. **Absence of personal profit or unrelated purpose.** No fiduciary may  
5.33 personally profit, directly or indirectly, as a result of the investment or management of

6.1 plan assets. The assets must not be deployed, allocated, or expended with the intent to  
 6.2 support any social, political, partisan, economic development, or other objective unrelated  
 6.3 to the primary purposes for which the fund was created. This subdivision, however, does  
 6.4 not preclude the receipt by a fiduciary of reasonable compensation, including membership  
 6.5 in or the receipt of benefits from a pension plan, for the fiduciary's position with respect to  
 6.6 the plan.

6.7 Sec. 10. Minnesota Statutes 2008, section 356A.06, subdivision 7, is amended to read:

6.8 Subd. 7. ~~Expanded list of authorized~~ Large plan investment securities authority.

6.9 (a) **Authority.** Except to the extent otherwise authorized by law, a covered pension plan  
 6.10 not described by subdivision 6, paragraph (a), ~~shall~~ must formulate investment policies  
 6.11 and invest its assets only in accordance with this subdivision.

6.12 ~~(b) Securities generally.~~ The covered pension plan has the authority to purchase,  
 6.13 sell, lend, or exchange the securities specified in paragraphs (c) to (i), including puts and  
 6.14 call options and future contracts traded on a contract market regulated by a governmental  
 6.15 agency or by a financial institution regulated by a governmental agency. These securities  
 6.16 may be owned as units in commingled trusts that own the securities described in  
 6.17 paragraphs (c) to (i), including real estate investment trusts and insurance company  
 6.18 commingled accounts, including separate accounts.

6.19 ~~(c) Government obligations.~~ The covered pension plan may invest funds in  
 6.20 governmental bonds, notes, bills, mortgages, and other evidences of indebtedness if the  
 6.21 issue is backed by the full faith and credit of the issuer or the issue is rated among the top  
 6.22 four quality rating categories by a nationally recognized rating agency. The obligations in  
 6.23 which funds may be invested under this paragraph include guaranteed or insured issues  
 6.24 of (1) the United States, its agencies, its instrumentalities, or organizations created and  
 6.25 regulated by an act of Congress; (2) Canada and its provinces, provided the principal and  
 6.26 interest is payable in United States dollars; (3) the states and their municipalities, political  
 6.27 subdivisions, agencies, or instrumentalities; (4) the International Bank for Reconstruction  
 6.28 and Development, the Inter-American Development Bank, the Asian Development Bank,  
 6.29 the African Development Bank, or any other United States government sponsored  
 6.30 organization of which the United States is a member, provided the principal and interest is  
 6.31 payable in United States dollars.

6.32 ~~(d) Corporate obligations.~~ The covered pension plan may invest funds in bonds,  
 6.33 notes, debentures, transportation equipment obligations, or any other longer term  
 6.34 evidences of indebtedness issued or guaranteed by a corporation organized under the laws

7.1 of the United States or any state thereof, or the Dominion of Canada or any province  
7.2 thereof if they conform to the following provisions:

7.3 (1) the principal and interest of obligations of corporations incorporated or organized  
7.4 under the laws of the Dominion of Canada or any province thereof must be payable in  
7.5 United States dollars; and

7.6 (2) obligations must be rated among the top four quality categories by a nationally  
7.7 recognized rating agency.

7.8 (c) ~~Other obligations.~~ (1) The covered pension plan may invest funds in  
7.9 bankers acceptances, certificates of deposit, deposit notes, commercial paper, mortgage  
7.10 participation certificates and pools, asset backed securities, repurchase agreements and  
7.11 reverse repurchase agreements, guaranteed investment contracts, savings accounts, and  
7.12 guaranty fund certificates, surplus notes, or debentures of domestic mutual insurance  
7.13 companies if they conform to the following provisions:

7.14 (i) bankers acceptances and deposit notes of United States banks are limited to those  
7.15 issued by banks rated in the highest four quality categories by a nationally recognized  
7.16 rating agency;

7.17 (ii) certificates of deposit are limited to those issued by (A) United States banks and  
7.18 savings institutions that are rated in the highest four quality categories by a nationally  
7.19 recognized rating agency or whose certificates of deposit are fully insured by federal  
7.20 agencies; or (B) credit unions in amounts up to the limit of insurance coverage provided  
7.21 by the National Credit Union Administration;

7.22 (iii) commercial paper is limited to those issued by United States corporations or  
7.23 their Canadian subsidiaries and rated in the highest two quality categories by a nationally  
7.24 recognized rating agency;

7.25 (iv) mortgage participation or pass-through certificates evidencing interests in pools  
7.26 of first mortgages or trust deeds on improved real estate located in the United States where  
7.27 the loan to value ratio for each loan as calculated in accordance with section 61A.28,  
7.28 subdivision 3, does not exceed 80 percent for fully amortizable residential properties and  
7.29 in all other respects meets the requirements of section 61A.28, subdivision 3;

7.30 (v) collateral for repurchase agreements and reverse repurchase agreements is  
7.31 limited to letters of credit and securities authorized in this section;

7.32 (vi) guaranteed investment contracts are limited to those issued by insurance  
7.33 companies or banks rated in the top four quality categories by a nationally recognized  
7.34 rating agency or to alternative guaranteed investment contracts where the underlying  
7.35 assets comply with the requirements of this subdivision;

7.36 (vii) savings accounts are limited to those fully insured by federal agencies; and



8.1 ~~(viii) asset backed securities must be rated in the top four quality categories by a~~  
8.2 ~~nationally recognized rating agency.~~

8.3 ~~(2) Sections 16A.58, 16C.03, subdivision 4, and 16C.05 do not apply to certificates~~  
8.4 ~~of deposit and collateralization agreements executed by the covered pension plan under~~  
8.5 ~~clause (1), item (ii).~~

8.6 ~~(3) In addition to investments authorized by clause (1), item (iv), the covered~~  
8.7 ~~pension plan may purchase from the Minnesota Housing Finance Agency all or any part of~~  
8.8 ~~a pool of residential mortgages, not in default, that has previously been financed by the~~  
8.9 ~~issuance of bonds or notes of the agency. The covered pension plan may also enter into~~  
8.10 ~~a commitment with the agency, at the time of any issue of bonds or notes, to purchase~~  
8.11 ~~at a specified future date, not exceeding 12 years from the date of the issue, the amount~~  
8.12 ~~of mortgage loans then outstanding and not in default that have been made or purchased~~  
8.13 ~~from the proceeds of the bonds or notes. The covered pension plan may charge reasonable~~  
8.14 ~~fees for any such commitment and may agree to purchase the mortgage loans at a price~~  
8.15 ~~sufficient to produce a yield to the covered pension plan comparable, in its judgment,~~  
8.16 ~~to the yield available on similar mortgage loans at the date of the bonds or notes. The~~  
8.17 ~~covered pension plan may also enter into agreements with the agency for the investment~~  
8.18 ~~of any portion of the funds of the agency. The agreement must cover the period of the~~  
8.19 ~~investment, withdrawal privileges, and any guaranteed rate of return.~~

8.20 ~~(f) **Corporate stocks.** The covered pension plan may invest funds in stocks or~~  
8.21 ~~convertible issues of any corporation organized under the laws of the United States or the~~  
8.22 ~~states thereof, any corporation organized under the laws of the Dominion of Canada or its~~  
8.23 ~~provinces, or any corporation listed on an exchange regulated by an agency of the United~~  
8.24 ~~States or of the Canadian national government, if they conform to the following provisions:~~

8.25 ~~(1) the aggregate value of investments under this paragraph, plus paragraphs (g) and~~  
8.26 ~~(k), plus equity investments under paragraphs (h), (i), and (j), as adjusted for realized~~  
8.27 ~~gains and losses, must not exceed 85 percent of the market or book value, whichever is~~  
8.28 ~~less, of a fund; and~~

8.29 ~~(2) investments must not exceed five percent of the total outstanding shares of~~  
8.30 ~~any one corporation.~~

8.31 ~~(g) **Developed market foreign stocks investments.** In addition to investments~~  
8.32 ~~authorized under paragraph (f), the covered pension fund may invest in foreign stock sold~~  
8.33 ~~on an exchange in any developed market country that is included in the Europe, Australia,~~  
8.34 ~~and Far East Index.~~

8.35 ~~(h) **Commingled or mutual investments.** The covered pension plan may invest~~  
8.36 ~~in index funds or mutual funds, including index mutual funds, through bank-sponsored~~

9.1 ~~collective funds and shares of open-end investment companies registered under the~~  
 9.2 ~~Federal Investment Company Act of 1940, to the extent that these funds comply with~~  
 9.3 ~~paragraphs (c) to (j):~~

9.4 ~~(i) Real estate investment trust; related investments. The covered pension plan~~  
 9.5 ~~may invest in real estate investment trusts secured by mortgages or deeds of trust and~~  
 9.6 ~~sold on an exchange, and insurance company commingled accounts, including separate~~  
 9.7 ~~accounts, of a debt or equity nature:~~

9.8 ~~(j) Exchange traded funds. The covered pension plan may invest funds in exchange~~  
 9.9 ~~traded funds, subject to the maximums, the requirements, and the limitations set forth in~~  
 9.10 ~~paragraphs (c) to (i), as applicable:~~

9.11 ~~(k) Other investments. (1) In addition to the investments authorized in paragraphs~~  
 9.12 ~~(b) to (j), and subject to the provisions in clause (2), the covered pension plan may invest~~  
 9.13 ~~funds in:~~

9.14 ~~(i) venture capital investment businesses through participation in limited partnerships~~  
 9.15 ~~and corporations;~~

9.16 ~~(ii) real estate ownership interests or loans secured by mortgages or deeds of trust~~  
 9.17 ~~through investment in limited partnerships or bank sponsored collective funds;~~

9.18 ~~(iii) regional and mutual funds through bank sponsored collective funds and~~  
 9.19 ~~open-end investment companies registered under the Federal Investment Company Act of~~  
 9.20 ~~1940 to the extent that a fund or a portion of a fund does not qualify under paragraph (h);~~

9.21 ~~(iv) resource investments through limited partnerships, private placements, and~~  
 9.22 ~~corporations; and~~

9.23 ~~(v) international debt securities and emerging market equity securities.~~

9.24 ~~(2) The investments authorized in clause (1) must conform to the following~~  
 9.25 ~~provisions:~~

9.26 ~~(i) the aggregate value of all investments made according to clause (1), including~~  
 9.27 ~~allocated amounts of index and mutual funds, may not exceed 20 percent of the market~~  
 9.28 ~~value of the fund for which the covered pension plan is investing;~~

9.29 ~~(ii) there must be at least four unrelated owners of the investment other than the~~  
 9.30 ~~covered pension plan for investments made under clause (1), item (i), (ii), (iii), or (iv);~~

9.31 ~~(iii) covered pension plan participation in an investment vehicle is limited to 20~~  
 9.32 ~~percent thereof for investments made under clause (1), item (i), (ii), (iii), or (iv); and~~

9.33 ~~(iv) covered pension plan participation in a limited partnership does not include a~~  
 9.34 ~~general partnership interest or other interest involving general liability. The covered~~  
 9.35 ~~pension plan may not engage in any activity as a limited partner which creates general~~  
 9.36 ~~liability.~~

10.1 (b) Standard of diligence and investment policy. Plan assets must be invested and  
10.2 managed in a manner at all times consistent with the prudent person standard, defined  
10.3 under section 356A.04, subdivision 2. The trustees for the plan must adopt and maintain  
10.4 an investment policy, a copy of which must be provided annually to the Legislative  
10.5 Commission on Pensions and Retirement and the state auditor. The policy must, at a  
10.6 minimum, satisfy the objectives enumerated under paragraph (c).

10.7 (c) Investment policy components. The investment policy must include  
10.8 information listed under clauses (1) to (12):

10.9 (1) the purposes and goals for investing assets and how those goals are to be reflected  
10.10 in the criteria and strategies chosen to govern the allocation of assets, the investment  
10.11 management process, how the overall portfolio, specific strategies, custodial, consulting,  
10.12 and investment management relationships will be researched, evaluated, and administered;

10.13 (2) the roles of all parties with significant policy, discretionary, or ministerial  
10.14 responsibility with respect to the investment-related activities of the fund including,  
10.15 but not limited to, the board of trustees, the board's officers and committees; the chief  
10.16 administrative officer of the fund; other fund administrative staff; investment consultants;  
10.17 investment management firms under contract to the pension plan; custodial or depository  
10.18 agents; brokers; and any other parties with policy, advisory, or administrative roles in the  
10.19 investment of plan assets;

10.20 (3) the types of assets and investment management strategies that may and may not  
10.21 be used in the implementation of the investment program and how diversification will be  
10.22 applied to protect principle and reduce portfolio volatility;

10.23 (4) actuarial, absolute, and relative return targets at the total fund, asset class, and  
10.24 investment account level against which performance will be measured on a time-weighted  
10.25 rate of return basis and the periods over which performance will be monitored on an  
10.26 ongoing basis;

10.27 (5) investment allocation targets or limits by active and index-matching portfolio  
10.28 strategies, asset class, subasset class, capitalization ranges and style specialties, sector or  
10.29 industry limits or ranges, individual issuer or investment vehicle participation limits,  
10.30 country or regional allocations, and criteria for decisions regarding use of commingled,  
10.31 separate accounts, or partnerships as participation vehicles;

10.32 (6) liquidity needs of the pension plan and how those needs will be met through the  
10.33 management of cash and other readily liquidated assets of the plan;

10.34 (7) the process and criteria that will apply in the identification, selection, ongoing  
10.35 assessment, retention, or termination of investment management firms;

11.1 (8) the extent and any general limitations that normally will apply, subject to specific  
 11.2 mandate and contract terms, on the control, discretion, and judgment delegated to any  
 11.3 external investment advisor, management firm, consultant, broker, or dealer;

11.4 (9) benchmarks for investment performance at the total fund and asset class or  
 11.5 account level;

11.6 (10) the criteria, process, frequency, and level of operations at which actions to  
 11.7 rebalance the allocation of assets to ensure that policy targets are adhered to within  
 11.8 reasonable ranges of precision, to avoid tactical allocation or market timing activity that  
 11.9 risk undermining the benefits intended by the asset allocation targets and diversification  
 11.10 strategy of the policy;

11.11 (11) whether and how securities lending will be employed, subject to collateralization  
 11.12 requirements under subdivision 7a; and

11.13 (12) a description of how any proxy voting of security interests will be administered  
 11.14 or delegated.

11.15 Sec. 11. Minnesota Statutes 2008, section 356A.06, subdivision 7a, is amended to read:

11.16 Subd. 7a. **Restrictions.** Any agreement to lend securities must be concurrently  
 11.17 collateralized with cash or securities with a market value of not less than 100 percent of the  
 11.18 market value of the loaned securities at the time of the agreement. For a covered pension  
 11.19 authorized to purchase put and call options and futures contracts under subdivision 7, any  
 11.20 agreement for put and call options and futures contracts may only be entered into with a  
 11.21 fully offsetting amount of cash or securities. Only securities authorized by this section,  
 11.22 excluding those under subdivision 7, paragraph (g), clause (1), items (i) to (iv), may  
 11.23 be accepted as collateral or offsetting securities. Covered pension plan participation  
 11.24 in a limited partnership does not include a general partnership interest or other interest  
 11.25 involving general liability. The covered pension plan must not engage in any activity as  
 11.26 a limited partner which creates general liability. Sections 16A.58, 16C.03, subdivision  
 11.27 4, and 16C.05 do not apply to certificates of deposit and collateralization agreements  
 11.28 executed by the covered pension plan.

11.29 Sec. 12. Minnesota Statutes 2008, section 356A.06, subdivision 8b, is amended to read:

11.30 Subd. 8b. ~~Disclosure of investment authority; receipt of statement~~ **Broker.** (a)  
 11.31 For this subdivision, the term "broker" means a broker, broker-dealer, investment advisor,  
 11.32 investment manager, or third party agent who transfers, purchases, sells, or obtains  
 11.33 investment securities for, or on behalf of, a covered pension plan.

12.1 ~~(b) Before a covered pension plan may complete an investment transaction with or~~  
12.2 ~~in accord with the advice of a broker, the covered pension plan shall provide annually to~~  
12.3 ~~the broker a written statement of investment restrictions applicable under state law to the~~  
12.4 ~~covered pension plan or applicable under the pension plan governing board investment~~  
12.5 ~~policy.~~

12.6 ~~(c) A broker must acknowledge in writing annually the receipt of the statement of~~  
12.7 ~~investment restrictions and must agree to handle the covered pension plan's investments~~  
12.8 ~~and assets in accord with the provided investment restrictions. A covered pension plan~~  
12.9 ~~may not enter into or continue a business arrangement with a broker until the broker has~~  
12.10 ~~provided this written acknowledgment to the chief administrative officer of the covered~~  
12.11 ~~pension plan.~~

12.12 ~~(d)~~ (b) If any portion of the plan's assets are held by a security broker or its agent, the  
12.13 security broker or its agent must acknowledge in writing annually that sufficient insurance  
12.14 has been obtained from the Securities Investor Protection Corporation, supplemented by  
12.15 additional insurance, if necessary, to cover the full amount of covered pension plan assets  
12.16 held by the security broker or its agent. Uniform acknowledgment forms prepared by the  
12.17 state auditor shall be used by covered pension plans and brokers to meet the requirements  
12.18 of this subdivision.

12.19 Sec. 13. **REPEALER.**

12.20 Minnesota Statutes 2008, sections 354A.08; and 356A.06, subdivisions 4 and 5, are  
12.21 repealed.

12.22 Sec. 14. **EFFECTIVE DATE.**

12.23 Sections 1 to 13 are effective July 1, 2010.

**354A.08 AUTHORIZED INVESTMENTS.**

(a) In addition to investments authorized under section 356A.06, subdivision 7, a teachers retirement fund association may receive, hold, and dispose of:

(1) real estate or personal property acquired by it, whether the acquisition was by purchase, or any other lawful means, as provided in this chapter or in the association's articles of incorporation; and

(2) domestic government and corporate debt obligations that are not rated in the top four quality categories by a nationally recognized rating agency, and comparable unrated securities if the percentage of these assets does not exceed five percent of the total assets of the pension plan or 15 percent of the pension plan's nonequity assets, whichever is less, if the pension plan's participation is limited to 50 percent of a single offering of the debt obligations, and if the pension plan's participation is limited to 25 percent of an issuer's debt obligations that are not rated in the top four quality categories.

(b) In addition to other authorized real estate investments, an association may also invest funds in Minnesota situs nonfarm real estate ownership interests or loans secured by mortgages or deeds of trust. The board may also certify assets for investment by the State Board of Investment as provided under section 11A.17.

**356A.06 INVESTMENTS; ADDITIONAL DUTIES.**

Subd. 4. **Economic interest statement.** (a) Each member of the governing board of a covered pension plan and the chief administrative officer of the plan shall file with the plan a statement of economic interest.

(b) For a covered pension plan other than a plan specified in paragraph (c), the statement must contain the information required by section 10A.09, subdivision 5, and any other information that the fiduciary or the governing board of the plan determines is necessary to disclose a reasonably foreseeable potential or actual conflict of interest.

(c) For a covered pension plan governed by sections 69.771 to 69.776 or a covered pension plan governed by section 69.77 with assets under \$8,000,000, the statement must contain the following:

(1) the person's principal occupation and principal place of business;

(2) whether or not the person has an ownership of or interest of ten percent or greater in an investment security brokerage business, a real estate sales business, an insurance agency, a bank, a savings and loan, or another financial institution; and

(3) any relationship or financial arrangement that can reasonably be expected to give rise to a conflict of interest.

(d) The statement must be filed annually with the chief administrative officer of the plan and be available for public inspection during regular office hours at the office of the pension plan.

(e) A disclosure form meeting the requirements of the federal Investment Advisers Act of 1940, United States Code, title 15, sections 80b-1 to 80b-21 as amended, and filed with the State Board of Investment or the pension plan meets the requirements of this subdivision.

(f) The chief administrative officer of each covered pension plan, by January 15, annually, shall transmit a certified listing of all individuals who have filed statements of economic interest with the plan under this subdivision during the preceding 12 months and the address of the office referenced in paragraph (d) to the Campaign Finance and Public Disclosure Board.

Subd. 5. **Investment business recipient disclosure.** The chief administrative officer of a covered pension plan, with respect to investments made by the plan, and the executive director of the State Board of Investment, with respect to investments of plan assets made by the board, shall annually disclose in writing the recipients of investment business placed with or investment commissions allocated among commercial banks, investment bankers, brokerage organizations, or other investment managers. The disclosure document must be prepared within 60 days after the close of the fiscal year of the plan and must be available for public inspection during regular office hours at the office of the plan. The disclosure document must also be filed with the executive director of the Legislative Commission on Pensions and Retirement within 90 days after the close of the fiscal year of the plan. For the State Board of Investment and a first class city teacher retirement fund association, a disclosure document included as part of a regular annual report of the board or of the first class city teacher retirement fund association when filed with the executive director of the Legislative Commission on Pensions and Retirement is considered to have been filed on a timely basis.