

1.1 A bill for an act

1.2 relating to retirement; volunteer firefighter relief associations; defining a relief
 1.3 association fiscal year; clarifying leaves exempted from minimum resumption
 1.4 service requirements for break-in-service service credit; mandating municipal
 1.5 approval for certain interest rates creditable to deferred service credits; amending
 1.6 Minnesota Statutes 2012, sections 69.771, subdivision 1; 69.774, subdivision
 1.7 1; 424A.001, by adding a subdivision; 424A.01, subdivision 6; 424A.015,
 1.8 subdivisions 1, 4; 424A.016, subdivision 6; 424A.02, subdivision 7; 424A.10,
 1.9 subdivisions 1, 2; repealing Minnesota Statutes 2012, section 424A.10,
 1.10 subdivision 5.

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

1.12 Section 1. Minnesota Statutes 2012, section 69.771, subdivision 1, is amended to read:

1.13 Subdivision 1. **Covered relief associations.** The applicable provisions of sections
 1.14 69.771 to 69.776 ~~apply to govern any firefighters' relief association other than defined in~~
 1.15 section 424A.001, subdivision 4, and do not apply to a relief association enumerated in
 1.16 section 69.77, subdivision 1a, which is organized under any laws of this state, which is
 1.17 composed of volunteer firefighters or is composed partially of volunteer firefighters and
 1.18 partially of salaried firefighters with retirement coverage provided by the public employees
 1.19 police and fire fund and which, in either case, operates subject to the service pension
 1.20 minimum requirements for entitlement and maximums contained in section 424A.02, or
 1.21 subject to a special law modifying those requirements or maximums.

1.22 Sec. 2. Minnesota Statutes 2012, section 69.774, subdivision 1, is amended to read:

1.23 Subdivision 1. **Authorized inclusion in fire state aid program; covered nonprofit**
 1.24 **corporations.** (a) This section shall apply applies to any independent nonprofit firefighting
 1.25 corporation incorporated or organized pursuant to under chapter 317A which: (1) operates
 1.26 exclusively for firefighting purposes;; (2) which is composed of volunteer firefighters;;

2.1 and (3) which has a duly established separate subsidiary incorporated firefighters' relief
 2.2 association which provides retirement coverage for or pays a service pension to a retired
 2.3 firefighter or a retirement benefit to a surviving dependent of either an active or a retired
 2.4 firefighter, and which operates is subject to the service pension minimum requirements
 2.5 for entitlement to and maximums for a service pension contained in section 424A.02,
 2.6 or a special law modifying those requirements or maximums applicable provisions of
 2.7 chapter 424A.

2.8 (b) Notwithstanding any law to the contrary, a municipality contracting with an
 2.9 independent nonprofit firefighting corporation shall must be included in the distribution of
 2.10 fire state aid to the appropriate county auditor by the state auditor only if the independent
 2.11 nonprofit firefighting corporation complies with the provisions of this section.

2.12 Sec. 3. Minnesota Statutes 2012, section 424A.001, is amended by adding a
 2.13 subdivision to read:

2.14 Subd. 11. **Fiscal year.** The fiscal year for a volunteer firefighter relief association
 2.15 begins on January 1 of each calendar year and ends on December 31 of the same calendar
 2.16 year.

2.17 Sec. 4. Minnesota Statutes 2012, section 424A.01, subdivision 6, is amended to read:

2.18 Subd. 6. **Return to active firefighting after break in service.** (a) ~~The requirements~~
 2.19 ~~of This section apply~~ subdivision applies to all breaks in service, except breaks in that the
 2.20 resumption service mandated by requirements of this subdivision do not apply to leaves
 2.21 of absence made available by federal or statute, such as the Family Medical Leave Act,
 2.22 United States Code, title 29, section 2691, and the Uniformed Services Employment and
 2.23 Reemployment Rights Act, United States Code, title 38, section 4301, and do not apply
 2.24 to leaves of absence made available by state law statute, such as the Parental Leave Act,
 2.25 section 181.941; the Leave for Organ Donations Act, section 181.9456; the Leave for
 2.26 Civil Air Patrol Service Act, section 181.946; the Leave for Immediate Family Members
 2.27 of Military Personnel Injured or Killed in Active Service Act, section 181.947, or the
 2.28 Protection of Jurors' Employment Act, section 593.50.

2.29 (b)(1) If a firefighter who has ceased to perform or supervise fire suppression and
 2.30 fire prevention duties for at least 60 days resumes performing active firefighting with the
 2.31 fire department associated with the relief association, if the bylaws of the relief association
 2.32 so permit, the firefighter may again become an active member of the relief association. A
 2.33 firefighter who returns to active service and membership is subject to the service pension
 2.34 calculation requirements under this section.

3.1 (2) A firefighter who has been granted an approved leave of absence not exceeding
3.2 one year by the fire department or by the relief association is exempt from the minimum
3.3 period of resumption service requirement of this section.

3.4 (3) A person who has a break in service not exceeding one year but has not been
3.5 granted an approved leave of absence and who has not received a service pension or
3.6 disability benefit may be made exempt from the minimum period of resumption service
3.7 requirement of this section by the relief association bylaws.

3.8 (4) If the bylaws so provide, a firefighter who returns to active relief association
3.9 membership under this paragraph may continue to collect a monthly service pension,
3.10 notwithstanding the service pension eligibility requirements under chapter 424A.

3.11 (c) If a former firefighter who has received a service pension or disability benefit
3.12 returns to active relief association membership under paragraph (b), the firefighter may
3.13 qualify for the receipt of a service pension from the relief association for the resumption
3.14 service period if the firefighter meets the service requirements of section 424A.016,
3.15 subdivision 3, or 424A.02, subdivision 2. No firefighter may be paid a service pension
3.16 more than once for the same period of service.

3.17 (d) If a former firefighter who has not received a service pension or disability benefit
3.18 returns to active relief association membership under paragraph (b), the firefighter may
3.19 qualify for the receipt of a service pension from the relief association for the original and
3.20 resumption service periods if the firefighter meets the service requirements of section
3.21 424A.016, subdivision 3, or 424A.02, subdivision 2, based on the original and resumption
3.22 years of service credit.

3.23 (e) A firefighter who returns to active lump-sum relief association membership under
3.24 paragraph (b) and who qualifies for a service pension under paragraph (c) must have,
3.25 upon a subsequent cessation of duties, any service pension for the resumption service
3.26 period calculated as a separate benefit. If a lump-sum service pension had been paid to the
3.27 firefighter upon the firefighter's previous cessation of duties, a second lump-sum service
3.28 pension for the resumption service period must be calculated by applying the service
3.29 pension amount in effect on the date of the firefighter's termination of the resumption
3.30 service for all years of the resumption service.

3.31 (f) A firefighter who had not been paid a lump-sum service pension returns to active
3.32 relief association membership under paragraph (b), who did not meet the minimum period
3.33 of resumption service requirement specified in the relief association's bylaws, but who
3.34 does meet the minimum service requirement of section 424A.02, subdivision 2, based
3.35 on the firefighter's original and resumption years of active service, must have, upon a
3.36 subsequent cessation of duties, a service pension for the original and resumption service

4.1 periods calculated by applying the service pension amount in effect on the date of the
4.2 firefighter's termination of the resumption service, or, if the bylaws so provide, based on
4.3 the service pension amount in effect on the date of the firefighter's previous cessation
4.4 of duties. The service pension for a firefighter who returns to active lump-sum relief
4.5 association membership under this paragraph, but who had met the minimum period
4.6 of resumption service requirement specified in the relief association's bylaws, must be
4.7 calculated by applying the service pension amount in effect on the date of the firefighter's
4.8 termination of the resumption service.

4.9 (g) If a firefighter receiving a monthly benefit service pension returns to active
4.10 monthly benefit relief association membership under paragraph (b), and if the relief
4.11 association bylaws do not allow for the firefighter to continue collecting a monthly service
4.12 pension, any monthly benefit service pension payable to the firefighter is suspended as
4.13 of the first day of the month next following the date on which the firefighter returns to
4.14 active membership. If the firefighter was receiving a monthly benefit service pension,
4.15 and qualifies for a service pension under paragraph (c), the firefighter is entitled to
4.16 an additional monthly benefit service pension upon a subsequent cessation of duties
4.17 calculated based on the resumption service credit and the service pension accrual amount
4.18 in effect on the date of the termination of the resumption service. A suspended initial
4.19 service pension resumes as of the first of the month next following the termination of the
4.20 resumption service. If the firefighter was not receiving a monthly benefit service pension
4.21 and meets the minimum service requirement of section 424A.02, subdivision 2, a service
4.22 pension must be calculated by applying the service pension amount in effect on the date of
4.23 the firefighter's termination of the resumption service for all years of service credit.

4.24 (h) A firefighter who was not receiving a monthly benefit service pension returns to
4.25 active relief association membership under paragraph (b), who did not meet the minimum
4.26 period of resumption service requirement specified in the relief association's bylaws, but
4.27 who does meet the minimum service requirement of section 424A.02, subdivision 2,
4.28 based on the firefighter's original and resumption years of active service, must have,
4.29 upon a subsequent cessation of duties, a service pension for the original and resumption
4.30 service periods calculated by applying the service pension amount in effect on the date of
4.31 the firefighter's termination of the resumption service, or, if the bylaws so provide, based
4.32 on the service pension amount in effect on the date of the firefighter's previous cessation
4.33 of duties. The service pension for a firefighter who returns to active relief association
4.34 membership under this paragraph, but who had met the minimum period of resumption
4.35 service requirement specified in the relief association's bylaws, must be calculated by

5.1 applying the service pension amount in effect on the date of the firefighter's termination of
5.2 the resumption service.

5.3 (i) For defined contribution plans, a firefighter who returns to active relief
5.4 association membership under paragraph (b) and who qualifies for a service pension
5.5 under paragraph (c) or (d) must have, upon a subsequent cessation of duties, any service
5.6 pension for the resumption service period calculated as a separate benefit. If a service
5.7 pension had been paid to the firefighter upon the firefighter's previous cessation of duties,
5.8 and if the firefighter meets the minimum service requirement of section 424A.016,
5.9 subdivision 3, based on the resumption years of service, a second service pension for
5.10 the resumption service period must be calculated to include allocations credited to the
5.11 firefighter's individual account during the resumption period of service and deductions
5.12 for administrative expenses, if applicable.

5.13 (j) For defined contribution plans, if a firefighter who had not been paid a service
5.14 pension returns to active relief association membership under paragraph (b), and who
5.15 meets the minimum service requirement of section 424A.016, subdivision 3, based on
5.16 the firefighter's original and resumption years of service, must have, upon a subsequent
5.17 cessation of duties, a service pension for the original and resumption service periods
5.18 calculated to include allocations credited to the firefighter's individual account during
5.19 the original and resumption period periods of service and deductions for administrative
5.20 expenses, if applicable, less any amounts previously forfeited under section 424A.016,
5.21 subdivision 4.

5.22 Sec. 5. Minnesota Statutes 2012, section 424A.015, subdivision 1, is amended to read:

5.23 Subdivision 1. **Separation from active service; exception.** (a) No service pension
5.24 is payable to a person while the person remains an active member of the respective fire
5.25 department, and a person who is receiving a service pension is not entitled to receive any
5.26 other benefits from the special fund of the relief association.

5.27 (b) No relief association as defined in section 424A.001, subdivision 4, may pay a
5.28 service pension or disability benefit to a former member of the relief association if that
5.29 person has not separated from active service with the fire department to which the relief
5.30 association is directly associated, unless:

5.31 (1) the person is ~~employed subsequent to retirement by~~ discontinues volunteer
5.32 firefighter duties with the municipality or the independent nonprofit firefighting
5.33 corporation, whichever applies, ~~to perform~~ and performs duties within the municipal fire
5.34 department or corporation on a full-time basis;

6.1 (2) the governing body of the municipality or of the corporation has filed its
6.2 determination with the board of trustees of the relief association that the person's
6.3 experience with and service to the fire department in that person's full-time capacity
6.4 would be difficult to replace; and

6.5 (3) the bylaws of the relief association were amended to provide for the payment of
6.6 a service pension or disability benefit for such full-time employees.

6.7 Sec. 6. Minnesota Statutes 2012, section 424A.015, subdivision 4, is amended to read:

6.8 Subd. 4. **Transfer to individual retirement account.** A relief association that is a
6.9 qualified pension plan under section 401(a) of the Internal Revenue Code, as amended,
6.10 and that provides a single payment service pension, at the written request of the applicable
6.11 retiring member or, following the death of the active member, at the written request of the
6.12 deceased member's surviving spouse, may directly transfer on an institution-to-institution
6.13 basis the eligible member's lump-sum pension or the death or survivor benefit attributable
6.14 to the member, whichever applies, to the requesting person's individual retirement account
6.15 under section 408(a) of the Internal Revenue Code, as amended.

6.16 Sec. 7. Minnesota Statutes 2012, section 424A.016, subdivision 6, is amended to read:

6.17 Subd. 6. **Deferred service pensions.** (a) A member of a relief association is entitled
6.18 to a deferred service pension if the member:

6.19 ~~(1) has completed the lesser of the minimum period of active service with the fire~~
6.20 ~~department specified in the bylaws or 20 years of active service with the fire department;~~

6.21 ~~(2) has completed at least five years of active membership in the relief association; and~~

6.22 ~~(3) separates from active service and membership and has completed the minimum~~
6.23 service and membership requirements in subdivision 2. The requirement that a member
6.24 separate from active service and membership is waived for persons who have discontinued
6.25 their volunteer firefighter duties and who are employed on a full-time basis under section
6.26 424A.015, subdivision 1.

6.27 (b) The deferred service pension is payable when the former member reaches at
6.28 least age 50, or at least the minimum age specified in the bylaws governing the relief
6.29 association if that age is greater than age 50, and when the former member makes a valid
6.30 written application.

6.31 (c) A defined contribution relief association may, if its governing bylaws so provide,
6.32 credit interest or additional investment performance on the deferred lump-sum service
6.33 pension during the period of deferral. If provided for in the bylaws, the interest must be
6.34 paid:

7.1 (1) at the investment performance rate actually earned on that portion of the assets
 7.2 if the deferred benefit amount is invested by the relief association in a separate account
 7.3 established and maintained by the relief association;

7.4 (2) at the investment performance rate actually earned on that portion of the assets
 7.5 if the deferred benefit amount is invested in a separate investment vehicle held by the
 7.6 relief association; or

7.7 (3) at the investment return on the assets of the special fund of the defined contribution
 7.8 volunteer firefighter relief association in proportion to the share of the assets of the special
 7.9 fund to the credit of each individual deferred member account through the accounting date
 7.10 on which the investment return is recognized by and credited to the special fund.

7.11 (d) Unless the bylaws of a relief association that has elected to pay interest or
 7.12 additional investment performance on deferred lump-sum service pensions under
 7.13 paragraph (c) specifies a different interest or additional investment performance method,
 7.14 including the interest or additional investment performance period starting date and ending
 7.15 date, the interest or additional investment performance on a deferred service pension
 7.16 is creditable as follows:

7.17 (1) for a relief association that has elected to pay interest or additional investment
 7.18 performance under paragraph (c), clause (1) or (3), beginning on the date that the
 7.19 member separates from active service and membership and ending on the accounting
 7.20 date immediately before the deferred member commences receipt of the deferred service
 7.21 pension; or

7.22 (2) for a relief association that has elected to pay interest or additional investment
 7.23 performance under paragraph (c), clause (2), beginning on the date that the member
 7.24 separates from active service and membership and ending on the date that the separate
 7.25 investment vehicle is valued immediately before the date on which the deferred member
 7.26 commences receipt of the deferred service pension.

7.27 (e) The deferred service pension is governed by and must be calculated under
 7.28 the general statute, special law, relief association articles of incorporation, and relief
 7.29 association bylaw provisions applicable on the date on which the member separated from
 7.30 active service with the fire department and active membership in the relief association.

7.31 Sec. 8. Minnesota Statutes 2012, section 424A.02, subdivision 7, is amended to read:

7.32 Subd. 7. **Deferred service pensions.** (a) A member of a defined benefit relief
 7.33 association is entitled to a deferred service pension if the member:

7.34 (1) ~~has completed the lesser of either the minimum period of active service with the~~
 7.35 ~~fire department specified in the bylaws or 20 years of active service with the fire department;~~

8.1 ~~(2) has completed at least five years of active membership in the relief association; and~~
 8.2 ~~(3) separates from active service and membership and has completed the minimum~~
 8.3 ~~service and membership requirements in subdivision 1. The requirement that a member~~
 8.4 ~~separate from active service and membership is waived for persons who have discontinued~~
 8.5 ~~their volunteer firefighter duties and who are employed on a full-time basis under section~~
 8.6 ~~424A.015, subdivision 1.~~

8.7 (b) The deferred service pension is payable when the former member reaches at
 8.8 least age 50, or at least the minimum age specified in the bylaws governing the relief
 8.9 association if that age is greater than age 50, and when the former member makes a valid
 8.10 written application.

8.11 (c) A defined benefit relief association that provides a lump-sum service pension
 8.12 governed by subdivision 3 may, when its governing bylaws so provide, pay interest on the
 8.13 deferred lump-sum service pension during the period of deferral. If provided for in the
 8.14 bylaws, interest must be paid in one of the following manners:

8.15 (1) at the investment performance rate actually earned on that portion of the assets
 8.16 if the deferred benefit amount is invested by the relief association in a separate account
 8.17 established and maintained by the relief association;

8.18 (2) at the investment performance rate actually earned on that portion of the assets
 8.19 if the deferred benefit amount is invested in a separate investment vehicle held by the
 8.20 relief association; or

8.21 (3) at an interest rate of up to five percent, compounded annually, as set by the board
 8.22 of ~~directors and approved as provided in subdivision 10~~ trustees.

8.23 (d) Any change in the interest rate set by the board of directors under paragraph (c),
 8.24 clause (3), must be ratified by the governing body of the municipality served by the fire
 8.25 department to which the relief association is directly associated, or by the independent
 8.26 nonprofit firefighting corporation, as applicable.

8.27 ~~(d)~~ (e) Interest under paragraph (c), clause (3), is payable beginning on the January
 8.28 1 next following the date on which the municipality has approved the deferred service
 8.29 pension interest rate established as set by the board of trustees was ratified by the governing
 8.30 body of the municipality served by the fire department to which the relief association is
 8.31 directly associated, or by the independent nonprofit firefighting corporation, as applicable.

8.32 (e) (f) Unless the bylaws of a relief association that has elected to pay interest
 8.33 or additional investment performance on deferred lump-sum service pensions under
 8.34 paragraph (c) specifies a different interest or additional investment performance method,
 8.35 including the interest or additional investment performance period starting date and ending

9.1 date, the interest or additional investment performance on a deferred service pension
 9.2 is creditable as follows:

9.3 (1) for a relief association that has elected to pay interest or additional investment
 9.4 performance under paragraph (c), clause (1) or (3), beginning on the first day of the
 9.5 month next following the date that on which the member separates from active service
 9.6 and membership and ending on the ~~accounting date~~ last day of the month immediately
 9.7 before the month in which the deferred member commences receipt of the deferred
 9.8 service pension; or

9.9 (2) for a relief association that has elected to pay interest or additional investment
 9.10 performance under paragraph (c), clause (2), beginning on the date that the member
 9.11 separates from active service and membership and ending on the date that the separate
 9.12 investment vehicle is valued immediately before the date on which the deferred member
 9.13 commences receipt of the deferred service pension.

9.14 ~~(f)~~ (g) For a deferred service pension that is transferred to a separate account
 9.15 established and maintained by the relief association or separate investment vehicle held
 9.16 by the relief association, the deferred member bears the full investment risk subsequent
 9.17 to transfer and in calculating the accrued liability of the volunteer firefighters relief
 9.18 association that pays a lump-sum service pension, the accrued liability for deferred service
 9.19 pensions is equal to the separate relief association account balance or the fair market value
 9.20 of the separate investment vehicle held by the relief association.

9.21 ~~(g)~~ (h) The deferred service pension is governed by and must be calculated under
 9.22 the general statute, special law, relief association articles of incorporation, and relief
 9.23 association bylaw provisions applicable on the date on which the member separated from
 9.24 active service with the fire department and active membership in the relief association.

9.25 **EFFECTIVE DATE.** The amendments to paragraphs (c) to (e) are effective January
 9.26 1, 2014. The amendment to paragraph (f) is effective retroactively from January 1, 2013.

9.27 Sec. 9. Minnesota Statutes 2012, section 424A.10, subdivision 1, is amended to read:

9.28 Subdivision 1. **Definitions.** For purposes of this section:

9.29 (1) "qualified recipient" means an individual who receives a lump-sum distribution
 9.30 of pension or retirement benefits from a volunteer firefighters' relief association or from
 9.31 the voluntary statewide lump-sum volunteer firefighter retirement plan for service that the
 9.32 individual has performed as a volunteer firefighter;

9.33 (2) "survivor of a deceased active or deferred volunteer firefighter" means the
 9.34 surviving spouse of a deceased active or deferred volunteer firefighter ~~under section~~

10.1 ~~424A.001, subdivision 6~~, or, if none, the surviving child or children of a deceased active
 10.2 or deferred volunteer firefighter;

10.3 (3) "active volunteer firefighter" means a person who regularly renders fire
 10.4 suppression service for a municipal fire department or an independent nonprofit firefighting
 10.5 corporation, who has met the statutory and other requirements for relief association
 10.6 membership, and who is deemed by the relief association under law and its bylaws to be a
 10.7 fully qualified member of the relief association or from the voluntary statewide lump-sum
 10.8 volunteer firefighter retirement plan for at least one month; and

10.9 (4) "deferred volunteer firefighter" means a former active volunteer firefighter who
 10.10 terminated active firefighting service, has sufficient service credit from the applicable relief
 10.11 association or from the voluntary statewide lump-sum volunteer firefighter retirement plan
 10.12 to be entitled to a service pension under the bylaws of the relief association, but has not
 10.13 applied for or has not received the service pension.

10.14 Sec. 10. Minnesota Statutes 2012, section 424A.10, subdivision 2, is amended to read:

10.15 Subd. 2. **Payment of supplemental benefit.** (a) Upon the payment by a volunteer
 10.16 firefighters' relief association or by the voluntary statewide lump-sum volunteer firefighter
 10.17 retirement plan of a lump-sum distribution to a qualified recipient, the association must
 10.18 pay a supplemental benefit to the qualified recipient. Notwithstanding any law to the
 10.19 contrary, the relief association must pay the supplemental benefit out of its special fund
 10.20 and the voluntary statewide lump-sum volunteer firefighter retirement plan must pay
 10.21 the supplemental benefit out of the voluntary statewide lump-sum volunteer firefighter
 10.22 retirement plan. This benefit is an amount equal to ten percent of the regular lump-sum
 10.23 distribution that is paid on the basis of the recipient's service as a volunteer firefighter.
 10.24 In no case may the amount of the supplemental benefit exceed \$1,000. A supplemental
 10.25 benefit under this paragraph may not be paid to a survivor of a deceased active or deferred
 10.26 volunteer firefighter in that capacity.

10.27 (b) Upon the payment by a relief association or the retirement plan of a lump-sum
 10.28 survivor benefit to a survivor of a deceased active volunteer firefighter or of a deceased
 10.29 deferred volunteer firefighter, the association ~~may~~ must pay a supplemental survivor
 10.30 benefit to the survivor of the deceased active or deferred volunteer firefighter from the
 10.31 special fund of the relief association ~~if its articles of incorporation or bylaws so provide~~
 10.32 and the retirement plan ~~may~~ must pay a supplemental survivor benefit to the survivor of
 10.33 the deceased active or deferred volunteer firefighter from the retirement fund if chapter
 10.34 353G so provides. The amount of the supplemental survivor benefit is 20 percent of the
 10.35 survivor benefit, but not to exceed \$2,000.

11.1 (c) An individual may receive a supplemental benefit under paragraph (a) or under
11.2 paragraph (b), but not under both paragraphs with respect to one lump-sum volunteer
11.3 firefighter benefit.

11.4 Sec. 11. **REPEALER.**

11.5 Minnesota Statutes 2012, section 424A.10, subdivision 5, is repealed.

11.6 Sec. 12. **EFFECTIVE DATE.**

11.7 Sections 1 to 7 and 9 to 11 are effective the day following final enactment.

APPENDIX
Repealed Minnesota Statutes: 13-1824

424A.10 STATE SUPPLEMENTAL BENEFIT; VOLUNTEER FIREFIGHTERS.

Subd. 5. **Retroactive reimbursement in certain instances.** A supplemental survivor benefit may be paid by a relief association for the death of an active volunteer firefighter or of a deferred volunteer firefighter that occurred on or after August 1, 2005, if the relief association articles of incorporation or bylaws provide for a supplemental survivor benefit and provide for retroactivity.