

This Document can be made available in alternative formats upon request

State of Minnesota  
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH  
SESSION

HOUSE FILE No. 1139

February 19, 2007

Authored by Murphy, M., by request,

The bill was read for the first time and referred to the Committee on Governmental Operations, Reform, Technology and Elections

1.1 A bill for an act  
1.2 relating to retirement; Minnesota State Retirement System; making changes of  
1.3 an administrative nature; amending Minnesota Statutes 2006, sections 3A.02,  
1.4 subdivision 1; 352.01, subdivisions 2a, 2b, 11; 352.12, subdivision 2a; 352.27;  
1.5 352.951; 352.98, by adding a subdivision; 352D.02, subdivisions 1, 3; 352D.06,  
1.6 subdivision 3; 356.405; 490.121, subdivisions 15a, 21d, 21f; proposing coding  
1.7 for new law in Minnesota Statutes, chapter 352.

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

1.9 Section 1. Minnesota Statutes 2006, section 3A.02, subdivision 1, is amended to read:

1.10 Subdivision 1. **Qualifications.** (a) A former legislator is entitled, upon written  
1.11 application to the director, to receive a retirement allowance monthly, if the person:

1.12 (1) has either served at least six full years, without regard to the application of  
1.13 section 3A.10, subdivision 2, or has served during all or part of four regular sessions as a  
1.14 member of the legislature, which service need not be continuous;

1.15 (2) has attained the normal retirement age;

1.16 (3) has retired as a member of the legislature; and

1.17 (4) has made all contributions provided for in section 3A.03, has made payments  
1.18 for past service under subdivision 2, or has made payments in lieu of contributions under  
1.19 Minnesota Statutes 1992, section 3A.031, before July 1, 1994.

1.20 (b) Unless the former legislator has legislative service before January 1, 1979,  
1.21 the retirement allowance is an amount equal to 2-1/2 percent per year of service of that  
1.22 member's average monthly salary and adjusted for that person on an actuarial equivalent  
1.23 basis to reflect the change in the postretirement interest rate actuarial assumption under  
1.24 section 356.215, subdivision 8, from five percent to six percent. The adjustment must be  
1.25 calculated by or, alternatively, the adjustment procedure must be specified by, the actuary

2.1 retained under section 356.214. The purpose of this adjustment is to ensure that the total  
 2.2 amount of benefits that the actuary predicts an individual member will receive over the  
 2.3 member's lifetime under this paragraph will be the same as the total amount of benefits the  
 2.4 actuary predicts the individual member would receive over the member's lifetime under  
 2.5 the law in effect before enactment of this paragraph. If the former legislator has legislative  
 2.6 service before January 1, 1979, the person's benefit must include the additional benefit  
 2.7 amount in effect on January 1, 1979, and adjusted as otherwise provided in this paragraph.

2.8 (c) The retirement allowance accrues ~~beginning with the first day of the month of~~  
 2.9 ~~receipt of the application,~~ following receipt by the director of a retirement application on  
 2.10 a form prescribed by the director, but not before normal retirement age 60, ~~and,~~ except  
 2.11 as specified in subdivision 1b. The annuity is payable for the remainder of the former  
 2.12 legislator's life, if the former legislator is not serving as a member of the legislature or as a  
 2.13 constitutional officer as defined in section 3A.01, subdivision 1c. The annuity does not  
 2.14 begin to accrue before the person's retirement as a legislator. No annuity payment may  
 2.15 be made retroactive for more than 180 days before the date that the annuity application  
 2.16 is filed with the director.

2.17 (d) Any member who has served during all or part of four regular sessions is  
 2.18 considered to have served eight years as a member of the legislature.

2.19 (e) The retirement allowance ceases with the last payment that accrued to the retired  
 2.20 legislator during the retired legislator's lifetime, except that the surviving spouse, if any,  
 2.21 is entitled to receive the retirement allowance of the retired legislator for the calendar  
 2.22 month in which the retired legislator died.

2.23 Sec. 2. Minnesota Statutes 2006, section 352.01, subdivision 2a, is amended to read:

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

2.25 (1) employees of the Minnesota Historical Society;

2.26 (2) employees of the State Horticultural Society;

2.27 ~~(3) employees of the Disabled American Veterans, Department of Minnesota;~~  
 2.28 ~~Veterans of Foreign Wars, Department of Minnesota, if employed before July 1, 1963;~~

2.29 ~~(4)~~ (3) employees of the Minnesota Crop Improvement Association;

2.30 ~~(5)~~ (4) employees of the adjutant general who are paid from federal funds and who  
 2.31 are not covered by any federal civilian employees retirement system;

2.32 ~~(6)~~ (5) employees of the Minnesota State Colleges and Universities employed under  
 2.33 the university or college activities program;

3.1 ~~(7)~~ (6) currently contributing employees covered by the system who are temporarily  
 3.2 employed by the legislature during a legislative session or any currently contributing  
 3.3 employee employed for any special service as defined in subdivision 2b, clause (8);

3.4 ~~(8) employees of the Armory Building Commission;~~

3.5 ~~(9)~~ (7) employees of the legislature appointed without a limit on the duration of their  
 3.6 employment and persons employed or designated by the legislature or by a legislative  
 3.7 committee or commission or other competent authority to conduct a special inquiry,  
 3.8 investigation, examination, or installation;

3.9 ~~(10)~~ (8) trainees who are employed on a full-time established training program  
 3.10 performing the duties of the classified position for which they will be eligible to receive  
 3.11 immediate appointment at the completion of the training period;

3.12 ~~(11)~~ (9) employees of the Minnesota Safety Council;

3.13 ~~(12)~~ (10) any employees on authorized leave of absence from the Transit Operating  
 3.14 Division of the former Metropolitan Transit Commission who are employed by the  
 3.15 labor organization which is the exclusive bargaining agent representing employees of  
 3.16 the Transit Operating Division;

3.17 ~~(13)~~ (11) employees of the Metropolitan Council, Metropolitan Parks and Open  
 3.18 Space Commission, Metropolitan Sports Facilities Commission, Metropolitan Mosquito  
 3.19 Control Commission, or Metropolitan Radio Board unless excluded or covered by another  
 3.20 public pension fund or plan under section 473.415, subdivision 3;

3.21 ~~(14)~~ (12) judges of the Tax Court;

3.22 ~~(15)~~ (13) personnel employed on June 30, 1992, by the University of Minnesota  
 3.23 in the management, operation, or maintenance of its heating plant facilities, whose  
 3.24 employment transfers to an employer assuming operation of the heating plant facilities,  
 3.25 so long as the person is employed at the University of Minnesota heating plant by that  
 3.26 employer or by its successor organization;

3.27 ~~(16)~~ (14) seasonal help in the classified service employed by the Department of  
 3.28 Revenue; ~~and~~

3.29 ~~(17)~~ (15) persons employed by the Department of Commerce as a peace officer in  
 3.30 the Insurance Fraud Prevention Division under section 45.0135 who have attained the  
 3.31 mandatory retirement age specified in section 43A.34, subdivision 4; and

3.32 (16) employees of the University of Minnesota unless excluded under subdivision  
 3.33 2b, clause (3).

3.34 (b) Employees specified in paragraph (a), clause ~~(15)~~ (13), are included employees  
 3.35 under paragraph (a) if employer and employee contributions are made in a timely manner  
 3.36 in the amounts required by section 352.04. Employee contributions must be deducted from

4.1 salary. Employer contributions are the sole obligation of the employer assuming operation  
4.2 of the University of Minnesota heating plant facilities or any successor organizations to  
4.3 that employer.

4.4 Sec. 3. Minnesota Statutes 2006, section 352.01, subdivision 2b, is amended to read:

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

4.6 (1) students employed by the University of Minnesota, or the state colleges and  
4.7 universities, unless approved for coverage by the Board of Regents of the University of  
4.8 Minnesota or the Board of Trustees of the Minnesota State Colleges and Universities, ~~as~~  
4.9 ~~the case may be~~ whichever is applicable;

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

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

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

4.19 (5) election officers;

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

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

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

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

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

4.33 (11) employees of the Sibley House Association;

4.34 (12) the members of any state board or commission who serve the state intermittently  
4.35 and are paid on a per diem basis; the secretary, secretary-treasurer, and treasurer of those

5.1 boards if their compensation is \$5,000 or less per year, or, if they are legally prohibited  
 5.2 from serving more than three years; and the board of managers of the State Agricultural  
 5.3 Society and its treasurer unless the treasurer is also its full-time secretary;

5.4 (13) state troopers and persons who are described in section 352B.01, subdivision 2,  
 5.5 clauses (2) to (6);

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

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

5.14 ~~(16) persons who are described in section 352B.01, subdivision 2, clauses (2) to (6);~~

5.15 ~~(17)~~ (16) temporary employees in the classified service, and temporary employees  
 5.16 in the unclassified service who are appointed for a definite period of not more than six  
 5.17 months and who are employed less than six months in any one-year period;

5.18 ~~(18)~~ (17) interns hired for six months or less and trainee employees, except those  
 5.19 listed in subdivision 2a, clause ~~(10)~~ (8);

5.20 ~~(19)~~ (18) persons whose compensation is paid on a fee basis or as an independent  
 5.21 contractor;

5.22 ~~(20)~~ (19) state employees who are employed by the Board of Trustees of the  
 5.23 Minnesota State Colleges and Universities in unclassified positions enumerated in section  
 5.24 43A.08, subdivision 1, clause (9);

5.25 ~~(21)~~ (20) state employees who in any year have credit for 12 months service as  
 5.26 teachers in the public schools of the state and as teachers are members of the Teachers  
 5.27 Retirement Association or a retirement system in St. Paul, Minneapolis, or Duluth,  
 5.28 except for incidental employment as a state employee not covered by one of the teacher  
 5.29 retirement associations or systems;

5.30 ~~(22)~~ (21) employees of the adjutant general who are employed on an unlimited  
 5.31 intermittent or temporary basis in the classified or unclassified service for the support of  
 5.32 Army and Air National Guard training facilities;

5.33 ~~(23)~~ (22) chaplains and nuns who are excluded from coverage under the federal  
 5.34 Old Age, Survivors, Disability, and Health Insurance Program for the performance of  
 5.35 service as specified in United States Code, title 42, section 410(a)(8)(A), as amended, if

6.1 no irrevocable election of coverage has been made under section 3121(r) of the Internal  
6.2 Revenue Code of 1986, as amended through December 31, 1992;

6.3 ~~(24)~~ (23) examination monitors who are employed by departments, agencies,  
6.4 commissions, and boards to conduct examinations required by law;

6.5 ~~(25)~~ (24) persons who are appointed to serve as members of fact-finding  
6.6 commissions or adjustment panels, arbitrators, or labor referees under chapter 179;

6.7 ~~(26)~~ (25) temporary employees who are employed for limited periods under any state  
6.8 or federal program for training or rehabilitation, including persons who are employed for  
6.9 limited periods from areas of economic distress, but not including skilled and supervisory  
6.10 personnel and persons having civil service status covered by the system;

6.11 ~~(27)~~ (26) full-time students who are employed by the Minnesota Historical Society  
6.12 intermittently during part of the year and full-time during the summer months;

6.13 ~~(28)~~ (27) temporary employees who are appointed for not more than six months,  
6.14 of the Metropolitan Council and of any of its statutory boards, if the board members are  
6.15 appointed by the Metropolitan Council;

6.16 ~~(29)~~ (28) persons who are employed in positions designated by the Department of  
6.17 Employee Relations as student workers;

6.18 ~~(30)~~ (29) members of trades who are employed by the successor to the Metropolitan  
6.19 Waste Control Commission, who have trade union pension plan coverage under a  
6.20 collective bargaining agreement, and who are first employed after June 1, 1977;

6.21 ~~(31) persons who are employed in subsidized on-the-job training, work experience,  
6.22 or public service employment as enrollees under the federal Comprehensive Employment  
6.23 and Training Act after March 30, 1978, unless the person has as of the later of March 30,  
6.24 1978, or the date of employment sufficient service credit in the retirement system to meet  
6.25 the minimum vesting requirements for a deferred annuity, or the employer agrees in  
6.26 writing on forms prescribed by the director to make the required employer contributions,  
6.27 including any employer additional contributions, on account of that person from revenue  
6.28 sources other than funds provided under the federal Comprehensive Employment and  
6.29 Training Act, or the person agrees in writing on forms prescribed by the director to make  
6.30 the required employer contribution in addition to the required employee contribution;~~

6.31 ~~(32)~~ (30) off-duty peace officers while employed by the Metropolitan Council;

6.32 ~~(33)~~ (31) persons who are employed as full-time police officers by the Metropolitan  
6.33 Council and as police officers are members of the public employees police and fire fund;

6.34 ~~(34)~~ (32) persons who are employed as full-time firefighters by the Department  
6.35 of Military Affairs and as firefighters are members of the public employees police and  
6.36 fire fund;

7.1 ~~(35)~~ (33) foreign citizens with a work permit of less than three years, or an H-1b/JV  
 7.2 visa valid for less than three years of employment, unless notice of extension is supplied  
 7.3 which allows them to work for three or more years as of the date the extension is granted,  
 7.4 in which case they are eligible for coverage from the date extended; and

7.5 ~~(36)~~ (34) persons who are employed by the Board of Trustees of the Minnesota State  
 7.6 Colleges and Universities and who elect to remain members of the Public Employees  
 7.7 Retirement Association or the Minneapolis Employees Retirement Fund, whichever  
 7.8 applies, under section 136C.75.

7.9 Sec. 4. Minnesota Statutes 2006, section 352.01, subdivision 11, is amended to read:

7.10 Subd. 11. **Allowable service.** (a) "Allowable service" means:

7.11 ~~(1) Service by an employee for which on or before July 1, 1957, the employee was~~  
 7.12 ~~entitled to allowable service credit on the records of the system by reason of employee~~  
 7.13 ~~contributions in the form of salary deductions, payments in lieu of salary deductions, or in~~  
 7.14 ~~any other manner authorized by Minnesota Statutes 1953, chapter 352, as amended by~~  
 7.15 ~~Laws 1955, chapter 239.~~

7.16 ~~(2)~~ (1) service by an employee for which on or before July 1, 1961, the employee  
 7.17 chose to obtain credit for service by making payments to the fund under Minnesota  
 7.18 Statutes 1961, section 352.24;

7.19 ~~(3) Except as provided in clauses (8) and (9);~~ (2) service by an employee after July 1,  
 7.20 1957, for any calendar month in which the employee is paid salary from which deductions  
 7.21 are made, deposited, and credited in the fund, including deductions made, deposited, and  
 7.22 credited as provided in section 352.041;

7.23 ~~(4) Except as provided in clauses (8) and (9);~~ (3) service by an employee after July  
 7.24 ~~1, 1957,~~ for any calendar month for which payments in lieu of salary deductions are  
 7.25 made, deposited, and credited in the fund, as provided in section 352.27 and Minnesota  
 7.26 Statutes 1957, section 352.021, subdivision 4;

7.27 For purposes of clauses (3) and (4), ~~except as provided in clauses (8) and (9), any~~  
 7.28 ~~salary paid for a fractional part of any calendar month, including the month of separation~~  
 7.29 ~~from state service, is deemed the compensation for the entire calendar month.~~

7.30 ~~(5)~~ (4) the period of absence from their duties by employees who are temporarily  
 7.31 disabled because of injuries incurred in the performance of duties and for which disability  
 7.32 the state is liable under the workers' compensation law until the date authorized by the  
 7.33 director for the commencement of payments of a total and permanent disability benefit  
 7.34 from the retirement fund;

8.1 ~~(6)~~ (5) service covered by a refund repaid as provided in section 352.23 or 352D.05,  
 8.2 subdivision 4, except service rendered as an employee of the adjutant general for which  
 8.3 the person has credit with the federal civil service retirement system;

8.4 ~~(7)~~ (6) service before July 1, 1978, by an employee of the Transit Operating Division  
 8.5 of the Metropolitan Transit Commission or by an employee on an authorized leave of  
 8.6 absence from the Transit Operating Division of the Metropolitan Transit Commission who  
 8.7 is employed by the labor organization which is the exclusive bargaining agent representing  
 8.8 employees of the Transit Operating Division, which was credited by the Metropolitan  
 8.9 Transit Commission-Transit Operating Division employees retirement fund or any of its  
 8.10 predecessor plans or funds as past, intermediate, future, continuous, or allowable service  
 8.11 as defined in the Metropolitan Transit Commission-Transit Operating Division employees  
 8.12 retirement fund plan document in effect on December 31, 1977;

8.13 ~~(8)~~ (7) service after July 1, 1983, by an employee who is employed on a part-time  
 8.14 basis for less than 50 percent of full time, for which the employee is paid salary from  
 8.15 which deductions are made, deposited, and credited in the fund, including deductions  
 8.16 made, deposited, and credited as provided in section 352.041 or for which payments in  
 8.17 lieu of salary deductions are made, deposited, and credited in the fund as provided in  
 8.18 section 352.27 shall be credited on a fractional basis either by pay period, monthly, or  
 8.19 annually based on the relationship that the percentage of salary earned bears to a full-time  
 8.20 salary, with any salary paid for the fractional service credited on the basis of the rate of  
 8.21 salary applicable for a full-time pay period, month, or a full-time year. For periods of  
 8.22 part-time service that is duplicated service credit, section 356.30, subdivision 1, clauses  
 8.23 (i) and (j), govern; and

8.24 ~~Allowable service determined and credited on a fractional basis shall be used in~~  
 8.25 ~~calculating the amount of benefits payable, but service as determined on a fractional basis~~  
 8.26 ~~must not be used in determining the length of service required for eligibility for benefits.~~

8.27 ~~(9)~~ (8) any period of authorized leave of absence without pay that does not  
 8.28 exceed one year and for which the employee obtained credit by payment to the fund  
 8.29 ~~in lieu of salary deductions. To obtain credit, the employee shall pay an amount equal~~  
 8.30 ~~to the employee and employer contribution rate in section 352.04, subdivisions 2 and 3,~~  
 8.31 ~~multiplied by the employee's hourly rate of salary on the date of return from leave of~~  
 8.32 ~~absence and by the days and months of the leave of absence without pay for which the~~  
 8.33 ~~employee wants allowable service credit. The employing department, at its option, may~~  
 8.34 ~~pay the employer amount on behalf of its employees. Payments made under this clause~~  
 8.35 ~~must include interest at an annual rate of 8.5 percent compounded annually from the date~~

9.1 ~~of termination of the leave of absence to the date payment is made unless payment is~~  
 9.2 ~~completed within one year of the return from leave of absence under section 352.017.~~

9.3 ~~(10)~~ (9) MS 2002 [Expired]

9.4 ~~(11)~~ (10) [Expired, 2002 c 392 art 2 s 4]

9.5 (b) For purposes of paragraph (a), clauses (2) and (3), any salary paid for a fractional  
 9.6 part of any calendar month, including the month of separation from state service, is  
 9.7 deemed the compensation for the entire calendar month.

9.8 (c) Allowable service determined and credited on a fractional basis shall be used in  
 9.9 calculating the amount of benefits payable, but service as determined on a fractional basis  
 9.10 must not be used in determining the length of service required for eligibility for benefits.

9.11 **Sec. 5. [352.017] AUTHORIZED LEAVE OF ABSENCE SERVICE CREDIT**  
 9.12 **PURCHASE PROCEDURE.**

9.13 Subdivision 1. **Application.** Except for leaves or breaks in service covered by  
 9.14 section 352.27 or 352.275, this section applies to all plans specified in this chapter for  
 9.15 any period of authorized leave of absence without pay that does not exceed one year  
 9.16 and for which the employee obtains credit for allowable service by making payment as  
 9.17 specified in this section to the applicable fund.

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

9.23 (b) If payment is received by the executive director within one year from the end  
 9.24 of the authorized leave, the payment amount is equal to the employee and employer  
 9.25 contribution rates specified in law for the applicable plan at the end of the leave period  
 9.26 multiplied by the employee's hourly rate of salary on the date of return from the leave of  
 9.27 absence and by the days and months of the leave of absence for which the employee wants  
 9.28 allowable service credit. Payments made under this paragraph must include compound  
 9.29 interest at a monthly rate of 0.71 percent from the last day of the leave period until the last  
 9.30 day of the month in which payment is received.

9.31 (c) If payment is received by the executive director after one year, the payment  
 9.32 amount is the amount determined under section 356.551.

9.33 **Sec. 6. Minnesota Statutes 2006, section 352.12, subdivision 2a, is amended to read:**

10.1 Subd. 2a. **Surviving spouse coverage term certain.** (a) In lieu of the 100 percent  
 10.2 optional annuity under subdivision 2, or refund under subdivision 1, the surviving spouse  
 10.3 of a deceased employee or former employee may elect to receive survivor coverage in  
 10.4 a term certain of five, ten, 15, or 20 years, ~~but monthly payments must not exceed 75~~  
 10.5 ~~percent of the average high-five monthly salary of the deceased employee or former~~  
 10.6 ~~employee.~~ The monthly term certain annuity must be actuarially equivalent to the 100  
 10.7 percent optional annuity under subdivision 2.

10.8 (b) If a survivor elects a term certain annuity and dies before the expiration of the  
 10.9 specified term certain period, the commuted value of the remaining annuity payments  
 10.10 must be paid in a lump sum to the survivor's estate.

10.11 Sec. 7. Minnesota Statutes 2006, section 352.27, is amended to read:

10.12 **352.27 CREDIT FOR BREAK IN SERVICE TO PROVIDE UNIFORMED**  
 10.13 **SERVICE.**

10.14 (a) An employee who is absent from employment by reason of service in the  
 10.15 uniformed services, as defined in United States Code, title 38, section 4303(13), and who  
 10.16 returns to state service upon discharge from service in the uniformed service within the  
 10.17 time frames required in United States Code, title 38, section 4312(e), may obtain service  
 10.18 credit for the period of the uniformed service as further specified in this section, provided  
 10.19 that the employee did not separate from uniformed service with a dishonorable or bad  
 10.20 conduct discharge or under other than honorable conditions.

10.21 (b) The employee may obtain credit by paying into the fund an equivalent employee  
 10.22 contribution based upon the contribution rate or rates in effect at the time that the  
 10.23 uniformed service was performed multiplied by the full and fractional years being  
 10.24 purchased and applied to the annual salary rate. The annual salary rate is the average  
 10.25 annual salary during the purchase period that the employee would have received if the  
 10.26 employee had continued to be employed in covered employment rather than to provide  
 10.27 uniformed service, or, if the determination of that rate is not reasonably certain, the annual  
 10.28 salary rate is the employee's average salary rate during the 12-month period of covered  
 10.29 employment rendered immediately preceding the period of the uniformed service.

10.30 (c) The equivalent employer contribution and, if applicable, the equivalent  
 10.31 additional employer contribution provided in ~~section 352.04~~ chapter 352 must be paid by  
 10.32 the department employing the employee from funds available to the department at the  
 10.33 time and in the manner provided in ~~section 352.04~~ chapter 352, using the employer and  
 10.34 additional employer contribution rate or rates in effect at the time that the uniformed

11.1 service was performed, applied to the same annual salary rate or rates used to compute the  
 11.2 equivalent employee contribution.

11.3 (d) If the employee equivalent contributions provided in this section are not paid in  
 11.4 full, the employee's allowable service credit must be prorated by multiplying the full and  
 11.5 fractional number of years of uniformed service eligible for purchase by the ratio obtained  
 11.6 by dividing the total employee contribution received by the total employee contribution  
 11.7 otherwise required under this section.

11.8 (e) To receive service credit under this section, the contributions specified in this  
 11.9 section must be transmitted to the Minnesota State Retirement System during the period  
 11.10 which begins with the date on which the individual returns to state service and which has a  
 11.11 duration of three times the length of the uniformed service period, but not to exceed five  
 11.12 years. If the determined payment period is less than one year, the contributions required  
 11.13 under this section to receive service credit may be made within one year of the discharge  
 11.14 date.

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

11.18 (g) The employing unit shall pay interest on all equivalent employee and employer  
 11.19 contribution amounts payable under this section. Interest must be computed at a rate of  
 11.20 8.5 percent compounded annually from the end of each fiscal year of the leave or the break  
 11.21 in service to the end of the month in which the payment is received.

11.22 Sec. 8. Minnesota Statutes 2006, section 352.951, is amended to read:

11.23 **352.951 APPLICABILITY OF GENERAL LAW.**

11.24 Except as otherwise provided, this chapter applies to covered correctional  
 11.25 employees, military affairs personnel covered under section 352.85, ~~and~~ Transportation  
 11.26 Department pilots covered under section 352.86, and state fire marshal employees under  
 11.27 section 352.87.

11.28 Sec. 9. Minnesota Statutes 2006, section 352.98, is amended by adding a subdivision  
 11.29 to read:

11.30 Subd. 8. Exemption from process. Assets in a health care savings plan account  
 11.31 described in this section must be used for reimbursement of healthcare expenses and  
 11.32 are not assignable or subject to execution, levy, attachment, garnishment, or other legal  
 11.33 process, except as provided in section 518.58, 518.581, or 518A.53.

12.1 Sec. 10. Minnesota Statutes 2006, section 352D.02, subdivision 1, is amended to read:

12.2 Subdivision 1. **Coverage.** (a) Employees enumerated in paragraph (c), clauses (2),  
 12.3 (3), (4), ~~and (6) to (14), and (16) to (18)~~, if they are in the unclassified service of the state  
 12.4 or Metropolitan Council and are eligible for coverage under the general state employees  
 12.5 retirement plan under chapter 352, are participants in the unclassified ~~plan~~ program under  
 12.6 this chapter unless the employee gives notice to the executive director of the Minnesota  
 12.7 State Retirement System within one year following the commencement of employment  
 12.8 in the unclassified service that the employee desires coverage under the general state  
 12.9 employees retirement plan. For the purposes of this chapter, an employee who does not  
 12.10 file notice with the executive director is deemed to have exercised the option to participate  
 12.11 in the unclassified ~~plan~~ program.

12.12 (b) Persons referenced in paragraph (c), clause (5), are participants in the unclassified  
 12.13 program under this chapter unless the person was eligible to elect different coverage under  
 12.14 section 3A.07 and elected retirement coverage by the applicable alternative retirement  
 12.15 plan. Persons referenced in paragraph (c), clause (15), are participants in the unclassified  
 12.16 program under this chapter for judicial employment in excess of the service credit limit in  
 12.17 section 490.121, subdivision 22.

12.18 (c) Enumerated employees and referenced persons are:

12.19 (1) the governor, the lieutenant governor, the secretary of state, the state auditor,  
 12.20 and the attorney general;

12.21 (2) an employee in the Office of the Governor, Lieutenant Governor, Secretary  
 12.22 of State, State Auditor, Attorney General;

12.23 (3) an employee of the State Board of Investment;

12.24 (4) the head of a department, division, or agency created by statute in the unclassified  
 12.25 service, an acting department head subsequently appointed to the position, or an employee  
 12.26 enumerated in section 15A.0815 or 15A.083, subdivision 4;

12.27 (5) a member of the legislature;

12.28 (6) a full-time unclassified employee of the legislature or a commission or agency of  
 12.29 the legislature who is appointed without a limit on the duration of the employment or a  
 12.30 temporary legislative employee having shares in the supplemental retirement fund as a  
 12.31 result of former employment covered by this chapter, whether or not eligible for coverage  
 12.32 under the Minnesota State Retirement System;

12.33 (7) a person who is employed in a position established under section 43A.08,  
 12.34 subdivision 1, clause (3), or in a position authorized under a statute creating or establishing  
 12.35 a department or agency of the state, which is at the deputy or assistant head of department  
 12.36 or agency or director level;

13.1 (8) the regional administrator, or executive director of the Metropolitan Council,  
 13.2 general counsel, division directors, operations managers, and other positions as designated  
 13.3 by the council, all of which may not exceed 27 positions at the council and the chair;

13.4 (9) the executive director, associate executive director, and not to exceed nine  
 13.5 positions of the Minnesota Office of Higher Education in the unclassified service, as  
 13.6 designated by the Minnesota Office of Higher Education before January 1, 1992, or  
 13.7 subsequently redesignated with the approval of the board of directors of the Minnesota  
 13.8 State Retirement System, unless the person has elected coverage by the individual  
 13.9 retirement account plan under chapter 354B;

13.10 (10) the clerk of the appellate courts appointed under article VI, section 2, of the  
 13.11 Constitution of the state of Minnesota;

13.12 (11) the chief executive officers of correctional facilities operated by the Department  
 13.13 of Corrections and of hospitals and nursing homes operated by the Department of Human  
 13.14 Services;

13.15 (12) an employee whose principal employment is at the state ceremonial house;

13.16 (13) an employee of the ~~Minnesota Educational Computing Corporation~~ Agricultural  
 13.17 Utilization Research Institute;

13.18 (14) an employee of the State Lottery who is covered by the managerial plan  
 13.19 established under section 43A.18, subdivision 3; ~~and~~

13.20 (15) a judge who has exceeded the service credit limit in section 490.121,  
 13.21 subdivision 22-;

13.22 (16) an employee of Minnesota Technology Incorporated;

13.23 (17) a person employed by the Minnesota State Colleges and Universities as faculty  
 13.24 or in an eligible unclassified administrative position as defined in section 354B.20,  
 13.25 subdivision 6, who was employed by the former state university or the former community  
 13.26 college system prior to May 1, 1995, and elected unclassified program coverage prior to  
 13.27 May 1, 1995; and

13.28 (18) a person employed by the Minnesota State Colleges and Universities who was  
 13.29 employed in state service prior to July 1, 1995, who subsequently is employed in an  
 13.30 eligible unclassified administrative position as defined in section 354B.20, subdivision  
 13.31 6, and who elects coverage by the unclassified program.

13.32 Sec. 11. Minnesota Statutes 2006, section 352D.02, subdivision 3, is amended to read:

13.33 Subd. 3. ~~Election irrevocable~~ **Transfer to general plan.** ~~An election to not~~  
 13.34 ~~participate is irrevocable during any period of covered employment.~~ (a) An employee  
 13.35 credited with employee shares in the unclassified program, after acquiring credit for ten

14.1 years of allowable service ~~but prior to~~ and not later than one month following termination  
 14.2 of covered employment, may, ~~notwithstanding other provisions of this subdivision,~~ elect  
 14.3 to terminate participation in the unclassified ~~plan program~~ and be covered by the ~~regular~~  
 14.4 general plan by filing ~~such a written~~ election with the executive director. The executive  
 14.5 director shall ~~thereupon then~~ redeem the employee's total shares and shall credit to the  
 14.6 employee's account in the ~~regular general plan~~ the amount of contributions that would  
 14.7 have been so credited had the employee been covered by the ~~regular general plan~~ during  
 14.8 the employee's entire covered employment. The balance of money so redeemed and not  
 14.9 credited to the employee's account shall be transferred to the ~~state contribution reserve of~~  
 14.10 ~~the state employees general plan~~ retirement fund, except that (1) the employee contribution  
 14.11 paid to the unclassified ~~plan program~~ must be compared to (2) the employee contributions  
 14.12 that would have been paid to the general plan for the comparable period, if the individual  
 14.13 had been covered by that plan. If clause (1) is greater than clause (2), the difference must  
 14.14 be refunded to the employee as provided in section 352.22. If clause (2) is greater than  
 14.15 clause (1), the difference must be paid by the employee within six months of electing  
 14.16 general plan coverage or before the effective date of the annuity, whichever is sooner.

14.17 (b) An election under paragraph (a) to transfer coverage to the general plan is  
 14.18 irrevocable during any period of covered employment.

14.19 Sec. 12. Minnesota Statutes 2006, section 352D.06, subdivision 3, is amended to read:

14.20 Subd. 3. **Accrual date.** An annuity under this section accrues the first day of the first  
 14.21 full month after an application is received or ~~after~~ the day following termination of state  
 14.22 service, whichever is later. ~~Upon the former employee's request, the annuity may begin~~  
 14.23 ~~to accrue up to six months before redemption of shares, but not prior to the termination~~  
 14.24 ~~date from covered service, and must be based on the account value at redemption and~~  
 14.25 ~~upon the age of the former employee at the date annuity accrual starts.~~ The account must  
 14.26 be valued and redeemed on the later of the end of the month of termination of covered  
 14.27 employment, or the end of the month of receipt of the annuity application for the purpose  
 14.28 of computing the annuity.

14.29 Sec. 13. Minnesota Statutes 2006, section 356.405, is amended to read:

14.30 **356.405 COMBINED PAYMENT OF RETIREMENT ANNUITIES.**

14.31 (a) The Public Employees Retirement Association and the Minnesota State  
 14.32 Retirement System are permitted to combine payments to retirees if one of the payments  
 14.33 is less than \$250 per month and the same joint and survivor annuity was taken, or if  
 14.34 the individual elects straight life annuities from both systems. The total payment must

15.1 be equal to the amount that is payable if payments were kept separate. ~~The retiree must~~  
 15.2 ~~agree, in writing, to have the payment combined.~~

15.3 (b) Each plan must calculate the benefit amounts under the laws governing the plan  
 15.4 and the required reserves ~~and future mortality losses or gains~~ must be paid ~~or accrued~~ to  
 15.5 the plan making the combined payment from which the plan where the service was earned.  
 15.6 ~~Each plan must account for its portion of the payment separately, and there may be no~~  
 15.7 ~~additional actuarial liabilities realized by either plan.~~

15.8 (c) The plan making the payment would be responsible for issuing one payment and  
 15.9 making address changes, tax withholding changes, and other administrative functions  
 15.10 needed to process the payment.

15.11 Sec. 14. Minnesota Statutes 2006, section 490.121, subdivision 15a, is amended to  
 15.12 read:

15.13 Subd. 15a. **Early retirement date.** "Early retirement date" means ~~the last day of~~  
 15.14 ~~the month~~ any date after a judge attains the age of 60 but before the judge reaches the  
 15.15 normal retirement date.

15.16 Sec. 15. Minnesota Statutes 2006, section 490.121, subdivision 21d, is amended to  
 15.17 read:

15.18 Subd. 21d. **Mandatory retirement date.** "Mandatory retirement date" means the  
 15.19 ~~last day of the month in which~~ date a judge has attained 70 years of age.

15.20 Sec. 16. Minnesota Statutes 2006, section 490.121, subdivision 21f, is amended to read:

15.21 Subd. 21f. **Normal retirement date.** "Normal retirement date" means the ~~last day~~  
 15.22 ~~of the month in which~~ date a judge attains the age of 65.

15.23 Sec. 17. **REVISOR INSTRUCTION.**

15.24 The revisor of statutes shall replace references to section 356.55, which was repealed  
 15.25 in 2002, with references to section 356.551, wherever they appear in Minnesota Statutes  
 15.26 or Minnesota Rules. The revisor shall also make related grammatical changes.

15.27 Sec. 18. **EFFECTIVE DATE.**

15.28 (a) Sections 1 to 17 are effective the day following final enactment.

15.29 (b) The revisions to authorized leave purchase authority in sections 4 and 5 apply to  
 15.30 authorized leaves of absence that commence on or after the effective date.