

**Minnesota Volunteer Fire Relief Association
Defined Contribution Plan Sub-Group Meeting**

Office of the State Auditor

Thursday, August 7, 2008

11 a.m. to 1 p.m.

I. Call to Order

Chair Auditor Otto.

II. Review and Approval of Sub-Group Meeting Minutes

Exhibit A. Draft July 29, 2008 Meeting Minutes

III. Discussion of Sub-Group Legislative Suggestions

Exhibit B. Municipal Contribution Analysis

Exhibit C. Military Breaks in Service Information

Rollovers to Individual Retirement Accounts

IV. Chapter 424A Re-Codification

Exhibit D. Initial Draft Prepared by Larry Martin

- Deferred Interest
- Combined Service Pensions
- Timing of Forfeitures
- Plan Consolidations
- Administrative Expense Deductions
- Order of Sections

V. Other Business

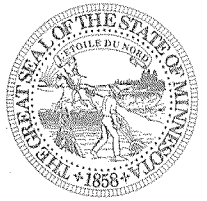
VI. Next Meeting

Tuesday, August 19, 2008

11:00 a.m. to 1:00 p.m.

Office of the State Auditor

VII. Adjournment



TO: Members of the Defined Contribution Relief Association Subgroup of the 2008 Volunteer Firefighters' Relief Association Working Group

FROM: Lawrence A. Martin, Executive Director *LAM*

RE: Corrective Amendments Arising from the July 29, 2008, Subgroup Meeting

DATE: August 5, 2008

Introduction

During the initial review of the draft aggregation of defined contribution volunteer firefighters' relief association statutory provisions and Minnesota Statutes, Chapter 424A, recodification, the working group identified several provisions that require revision or correction.

The attached potential amendments attempt to effect the needed revision or correction. A discussion of the intent and likely effect of each potential amendment are set forth below.

Amendment LCPR08-031-1A

Amendment LCPR08-031-1A relates to the crediting of investment performance on deferred service pensions by defined contribution volunteer firefighters' relief associations. Draft document LCPR08-031 provides solely for crediting the same investment performance as earned by the relief association overall to deferred service pensions. The staff of the Office of the State Auditor observed that some defined contribution volunteer firefighters' relief associations utilize the separate investment account or separate investment vehicle deferred service pension interest crediting procedure under Minnesota Statutes 2006, Section 424A.02, Subdivision 7, and that that investment crediting option should be maintained for defined contribution volunteer firefighters' relief associations. Amendment LCPR08-031-1A adds as an option for crediting interest to deferred service pensions the use of a separate deferred service pension account or the use of separate deferred service pension investment vehicle.

Amendment LCPR08-031-2A

Amendment LCPR08-031-2A relates to the requirement that service pension credit or service pension allocations be done in a uniform manner. The uniformity provision previously contained in the initial sentence of Minnesota Statutes 2006, Section 424A.02, Subdivision 6, is adapted for defined contribution volunteer firefighters' relief associations (see draft document LCPR08-031, page 8, lines 25-27) and does not appear to require additional modification. The defined benefit volunteer firefighters' relief association uniformity provision, previously in Minnesota Statutes, Section 424A.02, Subdivision 6, a subdivision proposed for repeal, with its various parts moved to the appropriate portions of the recodified Minnesota Statutes, Chapter 424A, was not moved to another subdivision of Minnesota Statutes, Section 424A.02, the defined benefit volunteer firefighters' relief association-specific provision. Amendment LCPR08-031-2A adds the uniformity requirement to Minnesota Statutes, Section 424A.02, Subdivision 3.

Amendment LCPR08-031-3A

Amendment LCPR08-031-3A relates to the size of the former service pension payable as an ancillary benefit by a defined contribution volunteer firefighters' relief association. Draft document LCPR08-031 limits ancillary benefits from defined contribution volunteer firefighters' relief associations to no more than the person's account balance for any member. The staff of the Office of the State Auditor noted that a limit rather than a mandated amount is inconsistent with the 2008 volunteer firefighters' relief association legislation that set the ancillary benefit at the full amount of the former member's vested and unvested credit service pension. Further discussion indicated a need to differentiate the ancillary benefit amount for active members, deferred members, and persons receiving installment payments. Amendment LCPR08-031-3A makes the ancillary benefit amount equal to the credit vested and non-vested service pension amount for active members, equal to the credit vested service pension for deferred members, and equal to the unpaid account balance for installment payment recipients.

Amendment LCPR08-031-4A

Amendment LCPR08-031-4A relates to the service pension rights credited to volunteer firefighters' relief association members serving in the armed forces under federal law. Draft document LCPR08-031 attempts to correct an omission in the amount(s) to be credited by defined contribution volunteer firefighters' relief associations, but introduces a phrasing that has little or no prior understood meaning for the volunteer firefighter community. Amendment LCPR08-031-4A replaces the unclear references to the defined contribution volunteer firefighters' relief association amounts to be credited to returning military personnel with a phrase with more inherent meaning to subgroup members.

Amendment LCPR08-031-5A

Amendment LCPR08-031-5A relates volunteer firefighters' relief association special fund authorized disbursements. Draft document LCPR08-031 incorrectly references active or deferred members in the surviving spouse/child benefit authorization, adversely affecting the small number of monthly benefit volunteer firefighters' relief associations that pay survivor benefits to survivors of deceased retired members. Amendment LCPR08-031-5A eliminates the inappropriate restriction on monthly benefit volunteer firefighters' relief association retiree survivor benefit coverage.

Conclusion

The Commission staff requests that the subgroup members review the amendments and provide their reaction at the upcoming subgroup meeting.

If formally adopted by the subgroup, the adopted amendments will be engrossed at the end of the subgroup's work into an updated version of draft document LCPR08-031 with any additional modifications to the document approved by the subgroup.

If subgroup members have questions about the attached amendments, please raise them with Larry Martin at the Commission office (651-296-2750).

1.1 moves to amend draft document LCPR08-031, as follows:

1.2 Page 9, line 21, delete everything after "manners" and insert

1.3 ":

1.4 (1) at the investment performance rate actually earned on that portion of the assets
1.5 if the deferred benefit amount is invested by the relief association in a separate account
1.6 established and maintained by the relief association or if the deferred benefit amount is
1.7 invested in a separate investment vehicle held by the relief association; or

1.8 (2) the"

1.9 Page 9, line 22, delete "association may credit any"

1.1 moves to amend draft document LCPR08-031, as follows:

1.2 Page 19, after line 31, insert:

1.3 "(h) The method of calculating service pensions must be applied uniformly for all
1.4 years of active service and credit must be given for all years of active service except as
1.5 otherwise provided in this section."

1.1 moves to amend draft document LCPR08-031, as follows:

1.2 Page 9, line 32, delete "and" and insert a period and delete "may not exceed" and
1.3 insert "for active members must equal" and after the second "the" insert "vested and
1.4 nonvested"

1.5 Page 9, after line 33, insert:

1.6 "For deferred members, the ancillary benefit must equal the vested amount of the
1.7 individual account of the member. For the recipient of installment payments of a service
1.8 pension, the ancillary benefit must equal the remaining balance in the individual account
1.9 of the recipient."

- 1.1 moves to amend draft document LCPR08-031, as follows:
- 1.2 Page 26, line 13, strike "of any fire state"
- 1.3 Page 26, line 14, strike the old language and delete the new language
- 1.4 Page 26, line 15, delete "special fund revenue" and strike "received" and after "
1.5 association" insert "as though the person was an active member"
- 1.6 Page 26, line 19, delete the new language and insert "an" and after "allocation"
1.7 insert "as though an active member"
- 1.8 Page 26, line 23, delete the new language and insert "an"
- 1.9 Page 26, line 24, after "allocation" insert "as though an active member"
- 1.10 Page 26, line 26, delete the new language and insert "an"
- 1.11 Page 26, line 27, after "allocation" insert "as though an active member"

- 1.1 moves to amend draft document LCPR08-031, as follows:
- 1.2 Page 30, line 26, delete "active or deferred"

Volunteer Fire Relief Association Defined Contribution Plan Sub-Group

Office of the State Auditor

Tuesday, July 29, 2008

11 a.m. to 1 p.m.

Members Present

Jim Adams, West Metro Fire Relief Association Secretary
Larry Martin, Legislative Commission on Pensions and Retirement Director
Rebecca Otto, State Auditor
Bruce Roed, Mentor Fire Relief Association Trustee
Marty Scheerer, Edina Fire Department Chief
Gordon Skjerven, Mendota Heights Fire Relief Association Treasurer
Gene VanOverbeke, City of Eagan Director of Administrative Services

Members Excused

Wayne Anderson, Coon Rapids Fire Department Inspector
Ron Johnson, Maple Grove Fire Relief Association Treasurer

Others Present

Ed Burek, Legislative Commission on Pensions and Retirement Deputy Director
Aaron Dahl, Pension Analyst
Celeste Grant, Deputy State Auditor/General Counsel
Rose Hennessy Allen, Pension Director
Lucas Hinz, Pension Analyst

The following motions were duly made and approved:

RESOLVED To specify a deadline for submission of the Defined Contribution Allocation Table to the Office of the State Auditor.

RESOLVED To authorize separate investment account and separate investment vehicle deferred interest options for defined contribution plans.

RESOLVED To strike the limitation that survivor benefits to designated beneficiaries only be paid to the beneficiaries of a deceased active or deferred member.

I. Call to Order

Chair Auditor Otto called the meeting to order.

II. Introductions and Plan Discussion

The sub-group members introduced themselves and gave a brief description of their position and the community represented. Auditor Otto explained that the Working Group requires unanimous consent for proposals to be adopted and move forward. The sub-group members agreed that unanimous consent should be required for the sub-group's proposals, as well.

III. Review of Sub-Group Legislative Suggestions

- Consider adding a specific deadline for submission of the Defined Contribution Allocation Table.

Defined contribution plans must prepare an allocation table each year that shows the account balance for each member, along with contributions, investment earnings, and expense deductions. The deadline for submitting the allocation table to the Office of the State Auditor currently isn't specified, although it is presumed that the table must be submitted with the other reporting year information. Auditor Otto asked the sub-group members if a specific deadline for the form submission should be added to state law. It was agreed that clear requirements make the reporting process easier. Martin explained that he envisions that two separate articles will be drafted based on the sub-group's work; one containing the Chapter 424A re-codification and one containing substantive statutory changes. The sub-group members unanimously adopted the recommendation that a specific deadline for submission of the defined contribution allocation table be added to state law. The deadline would be March 31 for relief associations with assets and liabilities below \$200,000, and June 30 for associations whose assets or liabilities exceed the threshold.

- Consider specifying the timing of forfeitures for the unvested account balance of partially vested deferred members.

Members that separate from active service before becoming fully vested must have the unvested portion of their account forfeited (unless the separation is due to a death or disability). Some relief associations forfeit the unvested portion of the member's account immediately at the time of the member's separation, some wait for a few years before forfeiting the amount, and some wait until the member's retirement to forfeit the unvested portion. Auditor Otto asked if the timing of forfeitures should be defined so that it is uniform for all defined contribution plans. Due to officer turnover, forfeiture practices within relief associations sometimes aren't consistent. This inconsistency makes it difficult for Pension Division staff to review account allocations and pension amounts.

Martin clarified that this issue only affects those members that are partially vested. State law currently requires that relief associations wait at least five years to forfeit the accounts of non-vested members. Most of the sub-group members forfeit the unvested portion of partially vested member accounts during the year of the member's separation or after a one-year waiting period. This practice is easier for the relief association's record keeping and allows the firefighters that served with the member to share the member's forfeited money. Questions about members separating from service and then resuming active service were discussed. Burek stated that the sub-group's decision on the timing of forfeitures will determine how return to service issues are resolved. If the unvested portion of the member's account is forfeited before the member resumes active service, the relief association's options for handling the account are limited. The sub-group members tabled this topic until the next meeting, so that the members not in attendance could share their perspectives.

- Consider changing the consolidation provisions to anticipate defined contribution plan consolidations.

There is a process defined under state law for the consolidation of a relief association.

The process currently only anticipates the consolidation of a defined benefit plan.

Auditor Otto explained that Mr. Martin has drafted language to define a process for defined contribution plan consolidations. The language will be reviewed during the re-codification discussion.

Auditor Otto asked the members if there were any additional issues for the sub-group to consider. Four additional topics were briefly discussed:

- Rollovers to Individual Retirement Accounts before members reach age 50;
- Self-direction for the investment of member assets;
- Municipal contribution requirements for defined contribution plans; and
- Differences between public and private pension plans and statutory clarity.

Information regarding these topics will be provided to the sub-group members for discussion at a future meeting.

IV. Chapter 424A Re-Codification

Martin presented the changes to Chapter 424A that he drafted and discussed his approach to the re-codification. Auditor Otto reiterated the goal for user-friendly and clear language. The sub-group began to review and discuss specific provisions.

- **Deferred Interest**

Language authorizing relief associations to establish a separate investment account or separate investment vehicle for the payment of deferred interest was not included in the defined contribution plan section. Some defined contribution plans are paying interest to deferred members under these options. The sub-group members unanimously adopted the proposal to add language authorizing separate investment account and separate investment vehicle deferred interest options for defined contribution plans.

- **Ancillary Benefits**

The draft ancillary benefit language for defined contribution plans establishes a maximum benefit amount, while allowing plans to pay a lesser amount. One of the Working Group proposals that passed into law this past Legislative Session specifies a formula for calculating ancillary benefit amounts for active members. The sub-group members agreed that ancillary benefits for active members should be equal to the member's full account balance (both the vested and unvested portions). The sub-group unanimously adopted the proposal to change the limitation on ancillary benefits provision to specify that: 1) for active members, the ancillary benefit must be equal to the full account balance; 2) for deferred members, the ancillary benefit must equal the member's vested balance and; 3) for members with unpaid installments, the ancillary benefit must equal the member's remaining balance. The sub-group will revisit this item once new language has been drafted.

- **Uniformity of Benefits**
Language in current law that requires uniformity of benefits does not appear in the defined benefit section of the draft re-codification. This will be reviewed and the language added, if necessary.
- **Military Service Credit**
The draft language for defined contribution plans authorizing credit for breaks in firefighting service to perform military service was discussed. The language appears to broaden the allocations that members would receive while on a military break in service. This topic will be revisited after information is provided regarding minimum federal requirements and minimum membership requirements, if any, that must be met to receive military service credit.
- **Administrative Expense Deductions**
Martin explained that when the defined contribution allocation language was initially drafted in 1979 it was anticipated that administrative expenses would be deducted from contributions, and the net contribution amount would be allocated among the active members. Most relief associations deduct administrative expenses separately from contribution allocations. Martin suggested that the sub-group members review the allocation language in the draft to ensure it is correct and allows for current practice.
- **Authorized Special Fund Disbursements**
The draft language allows for the payment of survivor benefits to designated beneficiaries of deceased active or deferred members. For defined benefit plans that pay monthly benefits, this could preclude survivor benefits from being paid to the designated beneficiary of a retired member. The sub-group members agreed that the words “active or deferred” should be removed.

V. Other Business

Earlier in the meeting Auditor Otto circulated a membership list and requested that each sub-group member provide contact information that will be made available on the Office of the State Auditor’s website. The sub-group members may occasionally receive correspondence from relief association trustees that are interested in the group’s activities.

VI. Next Meeting Date

Thursday, August 7, 2008

11:00 a.m. to 1:00 p.m.

Office of the State Auditor

VII. Adjournment

The meeting was adjourned at 1:08 p.m.

**Defined Contribution Plan
Municipal Contribution and Net Asset Analysis
For the Year Ended December 31, 2006**

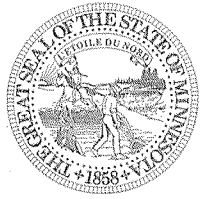
- Our 2006 Financial and Investment report contains data for 87 of the 91 defined contribution plans in Minnesota. The plans not included in the report had data accuracy concerns that could not be resolved before the report's release.
- The 87 defined contribution plans received a combined total of \$839,347 in municipal contributions.
- There were 43 defined contribution plans with assets below \$200,000. These plans received a combined total of \$39,447 in municipal contributions.
- There were 44 defined contribution plans with assets above \$200,000. These plans received a combined total of \$799,900 in municipal contributions.
 - Of the 44 plans with assets above \$200,000, 14 plans had assets above \$1,000,000. These 14 plans received a combined total of \$614,976 in municipal contributions, or over 73 percent of the total amount contributed to defined contribution plans.
- Thirty-seven percent of the defined contribution plans with assets below \$200,000 received a municipal contribution.
 - For the plans with assets below \$200,000 that received a municipal contribution, the average contribution amount was \$2,465.
- Seventy-three percent of the defined contribution plans with assets above \$200,000 received municipal contributions.
 - For the plans with assets above \$200,000 that received a municipal contribution, the average contribution amount was \$24,997.
- Sixty-four percent of the defined contribution plans with assets above \$1,000,000 received a municipal contribution.
 - For the plans with assets above \$1,000,000 that received a municipal contribution, the average contribution amount was \$68,331.

Defined Contribution Plan
Municipal Contribution and Net Asset Analysis
For the Year Ended December 31, 2006

Relief Association	Active Members	Net Assets	State Aid	Municipal Contributions
Kelsey	20	6,192	6,192	-
Perch Lake	13	14,098	5,636	-
Marietta	18	41,645	7,405	-
Winger	12	45,539	5,430	-
Ellsburg	7	46,246	4,945	3,000
Magnolia	12	50,140	4,632	750
Odessa	16	54,643	5,111	-
Seaforth	13	55,380	5,418	-
London	20	61,844	5,389	-
Rushmore	19	64,294	8,127	-
Gary	21	70,864	6,187	-
Northrop	16	73,151	5,802	1,200
Oklee	18	73,223	6,952	-
Mentor	23	73,425	5,290	-
Alaska	17	86,188	6,602	-
Hardwick	17	88,609	6,960	-
Crane Lake	10	93,122	5,438	-
Lyle	20	96,494	6,939	-
Wanda	21	109,873	7,727	-
Saint Hilaire	20	110,461	7,374	-
Fountain	22	112,500	7,738	500
Lake George	16	113,067	8,315	-
Milroy	21	119,526	5,812	-
Fisher	22	126,766	10,043	-
Myrtle	24	128,738	9,648	-
Glenville	26	128,857	10,433	66
Williams	22	130,681	9,207	-
Erskine	20	131,637	7,374	2,500
Nodine	12	133,007	6,649	300
Plummer	24	136,307	9,276	-
Ulen	20	136,935	8,495	300
Donnelly	24	139,135	10,421	-
Vermilion Lake	12	142,186	6,586	1,300
Embarrass	10	143,438	7,796	-
Murdock	21	146,534	6,217	2,200
Lakeport	16	156,350	13,482	9,849
Wabasso	23	156,616	9,637	1,498
Callaway	17	158,078	9,125	-
Red Lake Falls	22	177,809	12,729	2,000
Ashby	24	178,583	10,980	4,984
Round Lake	19	185,444	7,549	5,000
Kerkhoven	27	191,546	10,131	-
Swanville	20	197,370	10,769	4,000
Kiester	21	200,839	8,100	-

Defined Contribution Plan
Municipal Contribution and Net Asset Analysis
For the Year Ended December 31, 2006

Relief Association	Active Members	Net Assets	State Aid	Municipal Contributions
Elbow Lake	26	216,875	10,540	3,000
Mazeppa	24	223,203	10,893	5,570
Underwood	20	227,765	19,329	500
Brewster	25	234,723	12,241	-
Winthrop	23	244,810	14,141	7,280
Elgin	25	253,077	18,482	-
Millerville	25	266,302	6,574	13,400
Dalbo	22	275,849	14,165	-
Cologne	27	283,310	17,597	6,200
Gibbon	26	290,222	15,260	2,500
Freeport	23	301,271	13,887	3,700
Fosston	24	316,258	17,841	2,000
Rushford	28	320,363	24,384	2,250
Le Center	23	333,902	21,655	6,000
South Bend	18	340,828	8,113	13,826
Wanamingo	28	355,531	19,789	-
Albany	25	365,622	19,350	16,250
Kenyon	30	367,194	25,366	3,000
Wells	24	380,394	20,663	6,250
Marine-On-St Croix	31	383,481	12,904	9,000
Hawley	22	433,411	20,169	6,600
Zumbrota	30	461,561	24,947	23,564
Plainview	22	463,301	29,692	4,400
Longville	21	521,278	37,345	15,750
Medicine Lake	23	552,589	7,333	12,000
Dilworth	25	637,426	29,110	6,500
Austin	25	660,079	50,750	-
Goodhue	22	727,569	33,580	-
Crosslake	24	865,724	38,966	15,384
Falcon Heights	20	1,247,696	56,576	-
Wayzata	27	1,320,330	67,243	45,000
Ramsey	50	1,326,005	129,028	12,000
Columbia Heights	25	1,622,861	103,739	-
Mendota Heights	36	2,100,210	106,086	41,969
Andover	50	2,575,162	165,915	50,000
Fridley	36	3,013,577	169,765	-
Anoka-Champlin	45	4,431,276	239,350	10,000
West Metro	63	4,851,933	250,391	109,276
Coon Rapids	48	4,963,854	360,428	-
Edina	45	5,427,534	423,770	-
Brooklyn Park	78	7,678,728	404,569	28,680
Eagan	100	7,868,752	431,421	138,932
Maple Grove	97	8,151,030	385,541	179,119



TO: Members of the Defined Contribution Relief Association Subgroup of the 2008 Volunteer Firefighters' Relief Association Working Group

FROM: Ed Burek, Deputy Director *EB*

RE: Definition of Employee under USERRA

DATE: August 1, 2008

At the July 29, 2008, meeting of the Minnesota Volunteer Fire Relief Association Defined Contribution Plan Sub-Group, a question arose regarding whether, given an objective of complying with or conforming to the Uniformed Services Employment and Reemployment Rights Act (USERRA), comparable treatment should be given to all volunteer firefighters, regardless of length of provided service.

A review of USERRA (United States Code, Title 38, Chapter 43) indicates that rights under USERRA are consistent for all employees. Rights provided under USERRA apply to any employee of an employer. An employee is defined (in Section 4303) as "any person employed by an employer." An employer is defined as "any person, institution, organization, or other entity that pays salary or wages for work performed or that has control over employment opportunities." A volunteer firefighter who retains rights under USERRA (by providing notification to the fire department/relief association of intent to provide uniformed service and by returning to the department within the prescribed timelines upon the end of the uniformed service) is to be treated by the relief association as "not having incurred a break in service with the employer or employers maintaining the [pension] plan by reason of such person's period or periods of service in the uniformed services." (Section 4318). That section also specifies that the period of uniformed service is to be treated as a period of service provided to the employer for purposes of determining benefits.

§ 4303. Definitions

For the purposes of this chapter—

- (1)** The term "Attorney General" means the Attorney General of the United States or any person designated by the Attorney General to carry out a responsibility of the Attorney General under this chapter.
- (2)** The term "benefit", "benefit of employment", or "rights and benefits" means any advantage, profit, privilege, gain, status, account, or interest (other than wages or salary for work performed) that accrues by reason of an employment contract or agreement or an employer policy, plan, or practice and includes rights and benefits under a pension plan, a health plan, an employee stock ownership plan, insurance coverage and awards, bonuses, severance pay, supplemental unemployment benefits, vacations, and the opportunity to select work hours or location of employment.
- (3)** The term "employee" means any person employed by an employer. Such term includes any person who is a citizen, national, or permanent resident alien of the United States employed in a workplace in a foreign country by an employer that is an entity incorporated or otherwise organized in the United States or that is controlled by an entity organized in the United States, within the meaning of section 4319 (c) of this title.
- (4)**

 - (A)** Except as provided in subparagraphs (B) and (C), the term "employer" means any person, institution, organization, or other entity that pays salary or wages for work performed or that has control over employment opportunities, including—

 - (i)** a person, institution, organization, or other entity to whom the employer has delegated the performance of employment-related responsibilities;
 - (ii)** the Federal Government;
 - (iii)** a State;
 - (iv)** any successor in interest to a person, institution, organization, or other entity referred to in this subparagraph; and
 - (v)** a person, institution, organization, or other entity that has denied initial employment in violation of section 4311.
 - (B)** In the case of a National Guard technician employed under section 709 of title 32, the term "employer" means the adjutant general of the State in which the technician is employed.
 - (C)** Except as an actual employer of employees, an employee pension benefit plan described in section 3(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002 (2)) shall be deemed to be an employer only with respect to the obligation to provide benefits described in section 4318.
- (5)** The term "Federal executive agency" includes the United States Postal Service, the Postal Rate Commission, any nonappropriated fund instrumentality of the United States, any Executive agency (as that term is defined in section 105 of title 5) other than an agency referred to in section 2302 (a)(2)(C)(ii) of title 5, and any military department (as that term is defined in section 102 of title 5) with respect to the civilian employees of that department.
- (6)** The term "Federal Government" includes any Federal executive agency, the legislative branch of the United States, and the judicial branch of the United States.
- (7)** The term "health plan" means an insurance policy or contract, medical or hospital service agreement, membership or subscription contract, or other arrangement under which health services for individuals are provided or the expenses of such services are paid.
- (8)** The term "notice" means (with respect to subchapter II) any written or verbal notification of an obligation or intention to perform service in the uniformed services provided to an employer by the employee who will perform such service or by the uniformed service in which such service is to be performed.
- (9)** The term "qualified", with respect to an employment position, means having the ability to perform the essential tasks of the position.
- (10)** The term "reasonable efforts", in the case of actions required of an employer under this chapter, means actions, including training provided by an employer, that do not place an undue hardship on the employer.
- (11)** Notwithstanding section 101, the term "Secretary" means the Secretary of Labor

or any person designated by such Secretary to carry out an activity under this chapter.

(12) The term "seniority" means longevity in employment together with any benefits of employment which accrue with, or are determined by, longevity in employment.

(13) The term "service in the uniformed services" means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard duty, a period for which a person is absent from a position of employment for the purpose of an examination to determine the fitness of the person to perform any such duty, and a period for which a person is absent from employment for the purpose of performing funeral honors duty as authorized by section 12503 of title 10 or section 115 of title 32.

(14) The term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and other territories of the United States (including the agencies and political subdivisions thereof).

(15) The term "undue hardship", in the case of actions taken by an employer, means actions requiring significant difficulty or expense, when considered in light of—

(A) the nature and cost of the action needed under this chapter;

(B) the overall financial resources of the facility or facilities involved in the provision of the action; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such action upon the operation of the facility;

(C) the overall financial resources of the employer; the overall size of the business of an employer with respect to the number of its employees; the number, type, and location of its facilities; and

(D) the type of operation or operations of the employer, including the composition, structure, and functions of the work force of such employer; the geographic separateness, administrative, or fiscal relationship of the facility or facilities in question to the employer.

(16) The term "uniformed services" means the Armed Forces, the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty, the commissioned corps of the Public Health Service, and any other category of persons designated by the President in time of war or national emergency.

§ 4318. Employee pension benefit plans (a)
(1)

(A) Except as provided in subparagraph (B), in the case of a right provided pursuant to an employee pension benefit plan (including those described in sections 3(2) and 3(33) of the Employee Retirement Income Security Act of 1974) or a right provided under any Federal or State law governing pension benefits for governmental employees, the right to pension benefits of a person reemployed under this chapter shall be determined under this section.

(B) In the case of benefits under the Thrift Savings Plan, the rights of a person reemployed under this chapter shall be those rights provided in section 8432b of title 5. The first sentence of this subparagraph shall not be construed to affect any other right or benefit under this chapter.

(2)

(A) A person reemployed under this chapter shall be treated as not having incurred a break in service with the employer or employers maintaining the plan by reason of such person's period or periods of service in the uniformed services.

(B) Each period served by a person in the uniformed services shall, upon reemployment under this chapter, be deemed to constitute service with the employer or employers maintaining the plan for the purpose of determining the nonforfeitability of the person's accrued benefits and for the purpose of determining the accrual of benefits under the plan.

(b)

(1) An employer reemploying a person under this chapter shall, with respect to a period of service described in subsection (a)(2)(B), be liable to an employee pension benefit plan for funding any obligation of the plan to provide the benefits described in subsection (a)(2) and shall allocate the amount of any employer contribution for the person in the same manner and to the same extent the allocation occurs for other employees during the period of service. For purposes of determining the amount of such liability and any obligation of the plan, earnings and forfeitures shall not be included. For purposes of determining the amount of such liability and for purposes of section 515 of the Employee Retirement Income Security Act of 1974 or any similar Federal or State law governing pension benefits for governmental employees, service in the uniformed services that is deemed under subsection (a) to be service with the employer shall be deemed to be service with the employer under the terms of the plan or any applicable collective bargaining agreement. In the case of a multiemployer plan, as defined in section 3(37) of the Employee Retirement Income Security Act of 1974, any liability of the plan described in this paragraph shall be allocated—

(A) by the plan in such manner as the sponsor maintaining the plan shall provide; or

(B) if the sponsor does not provide—

(i) to the last employer employing the person before the period served by the person in the uniformed services, or

(ii) if such last employer is no longer functional, to the plan.

(2) A person reemployed under this chapter shall be entitled to accrued benefits pursuant to subsection (a) that are contingent on the making of, or derived from, employee contributions or elective deferrals (as defined in section 402(g)(3) of the Internal Revenue Code of 1986) only to the extent the person makes payment to the plan with respect to such contributions or deferrals. No such payment may exceed the amount the person would have been permitted or required to contribute had the person remained continuously employed by the employer throughout the period of service described in subsection (a)(2)(B). Any payment to the plan described in this paragraph shall be made during the period beginning with the date of reemployment and whose duration is three times the period of the person's service in the uniformed services, such payment period not to exceed five years.

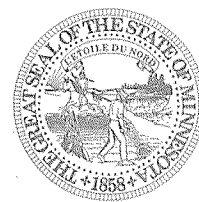
(3) For purposes of computing an employer's liability under paragraph (1) or the employee's contributions under paragraph (2), the employee's compensation during the period of service described in subsection (a)(2)(B) shall be computed—

(A) at the rate the employee would have received but for the period of service described in subsection (a)(2)(B), or


(B) in the case that the determination of such rate is not reasonably certain, on the basis of the employee's average rate of compensation during the 12-month period immediately preceding such period (or, if shorter, the period of

employment immediately preceding such period).

(c) Any employer who reemploys a person under this chapter and who is an employer contributing to a multiemployer plan, as defined in section 3(37) of the Employee Retirement Income Security Act of 1974, under which benefits are or may be payable to such person by reason of the obligations set forth in this chapter, shall, within 30 days after the date of such reemployment, provide information, in writing, of such reemployment to the administrator of such plan.



TO: Members of the Defined Contribution Relief Association Subgroup of the
2008 Volunteer Firefighter Relief Association Working Group

FROM: Lawrence A. Martin, Executive Director 

RE: Initial Draft of an Aggregation of Defined Contribution Relief Association
Statutory Provisions

DATE: July 16, 2008

Introduction

The 2005 and 2007 Volunteer Firefighter Relief Association Working Groups both discussed the issue of the problematic intermingling of defined contribution relief association provisions with defined benefit relief association provisions in Minnesota Statutes, Chapter 424A.

The 2005 Volunteer Firefighter Relief Association Working Group discussed the possibility of establishing a subgroup to attempt to reformat Minnesota Statutes, Chapter 424A, to concentrate the defined contribution relief association statutory provisions together and to accommodate other relevant statutory provisions to better suit defined contribution relief associations. The 2007 Volunteer Firefighter Relief Association Working Group formally recommended that the State Auditor consider establishing a subgroup to undertake that effort.

This memorandum and the attached initial proposed recodification of Minnesota Statutes, Chapter 424A, are the Commission staff's effort to assist the subgroup in aggregating the defined contribution relief association statutory provisions together and reorganizing the balance of Minnesota Statutes, Chapter 424A.

Identification of Defined Contribution Relief Association and Defined Benefit Relief Association Statutory Provisions

In beginning work on reorganizing and recodifying Minnesota Statutes, Chapter 424A, the Commission staff attempted to identify the statutory provisions that are applicable (and functional) for all relief associations irrespective of plan type, the statutory provisions that are applicable to defined contribution relief associations, the statutory provisions that are applicable solely to defined benefit relief associations, and the statutory provisions that contain regulation generally appropriate for defined contribution relief associations but which is not specifically adopted for defined contribution relief associations.

The following sets forth the grouping of statutory provisions by the Commission staff:

Applicable Irrespective of Plan Type

424A.001 DEFINITIONS.

- Subdivision 1. Terms defined.
- Subd. 1a. Ancillary benefit.
- Subd. 2. Fire department.
- Subd. 3. Municipality.
- Subd. 4. Relief association.
- Subd. 5. Special fund.
- Subd. 6. Surviving spouse.
- Subd. 7. Fiduciary responsibility.
- Subd. 8. Firefighting service.
- Subd. 9. Separate from active service.
- Subd. 10. Volunteer firefighter.

424A.01 MEMBERSHIP IN A VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATION.

- Subdivision 1. Minors.
- Subd. 2. Status of substitute volunteer firefighters.
- Subd. 3. Status of nonmember volunteer firefighters.
- Subd. 4. Exclusion of persons constituting an unwarranted health risk.
- Subd. 5. Fire prevention personnel.

424A.02 VOLUNTEER FIREFIGHTERS; SERVICE PENSIONS.

- Subd. 6. Payment of service pensions; nonassignability.
- Subd. 8a. Purchase of annuity contracts.
- Subd. 8b. Transfer to individual retirement account.

424A.021 CREDIT FOR BREAK IN SERVICE TO PROVIDE UNIFORMED SERVICE.

Subdivision 1. Authorization.

Subd. 2. Limitations.

424A.04 VOLUNTEER RELIEF ASSOCIATIONS; BOARD OF TRUSTEES.

Subdivision 1. Membership.

Subd. 2. Fiduciary duty.

Subd. 3. Conditions on relief association consultants.

424A.05 RELIEF ASSOCIATION SPECIAL FUND.

Subdivision 1. Establishment of special fund.

Subd. 2. Special fund assets and revenues.

Subd. 3. Authorized disbursements from the special fund.

Subd. 4. Investments of assets of the special fund.

424A.06 RELIEF ASSOCIATION GENERAL FUND.

Subdivision 1. Establishment of general fund.

Subd. 2. General fund assets and revenues.

Subd. 3. Authorized disbursements from the general fund.

Subd. 4. Investment of assets of the general fund.

424A.07 NONPROFIT FIREFIGHTING CORPORATIONS; ESTABLISHMENT OF RELIEF ASSOCIATIONS.

424A.08 MUNICIPALITY WITHOUT RELIEF ASSOCIATION; AUTHORIZED DISBURSEMENTS.

424A.10 STATE SUPPLEMENTAL BENEFIT; VOLUNTEER FIREFIGHTERS.

Subdivision 1. Definitions.

Subd. 2. Payment of supplemental benefit.

Subd. 3. State reimbursement.

Subd. 4. In lieu of income tax exclusion.

Subd. 5. Retroactive reimbursement in certain instances.

Applicable Solely to Defined Contribution Relief Associations

424A.02 VOLUNTEER FIREFIGHTERS; SERVICE PENSIONS.

Subd. 4. Defined contribution lump sum service pensions.

Applicable Solely or Primarily to Defined Benefit Relief Associations

424A.02 VOLUNTEER FIREFIGHTERS; SERVICE PENSIONS.

Subdivision 1. Authorization.

Subd. 2. Nonforfeitable portion of service pension.

Subd. 3. Flexible service pension maximums.

Subd. 3a. Penalty for paying pension greater than applicable maximum.

Subd. 7. Deferred service pensions.

Subd. 8. Lump sum service pensions; installment payments.

Subd. 9. Limitation on ancillary benefits.

Subd. 9a. Postretirement increases.

Subd. 9b. Repayment of service pension in certain instances.

Subd. 10. Local approval of bylaw amendments; filing requirements.

Subd. 12. Transfer of service credit to new district.

Subd. 13. Combined service pensions.

424A.03 UNIFORMITY OF VOLUNTEER FIREFIGHTER SERVICE PENSION AND RETIREMENT BENEFITS.

Subdivision 1. Limitation on nonuniformity of pensions.

Subd. 2. Penalties for violations.

Subd. 3. Exception to application of limitation and penalty.

Applicable to Defined Benefit Relief Associations-Adaptable to Defined Contribution Relief Associations

424A.02 VOLUNTEER FIREFIGHTERS; SERVICE PENSIONS.

Subdivision 1. Authorization.

Subd. 2. Nonforfeitable portion of service pension.

Subd. 7. Deferred service pensions.

Subd. 8. Lump sum service pensions; installment payments.

Subd. 9. Limitation on ancillary benefits.

Subd. 9b. Repayment of service pension in certain instances.

Subd. 10. Local approval of bylaw amendments; filing requirements.

Draft Proposed Reformulation of Minnesota Statutes 2008, Chapter 424A

- a. In General. In the attached draft proposed reformulation/recodification of Minnesota Statutes, Chapter 424A, the Commission staff attempted to retain as much of the current provisions of Minnesota

Statutes, Chapter 424A, as possible, especially the defined benefit volunteer firefighters' relief association benefit plan provisions of Minnesota Statutes, Section 424A.02.

- b. Reorganization Approach. In addition to revisions in the current provisions of Minnesota Statutes, Chapter 424A, some provisions would be added and some provisions would be moved.

The principal changes would be the addition of a new section, Minnesota Statutes, Section 424A.002, formally authorizing the establishment or continuation of volunteer relief associations and requiring that the governing documents of the relief association specify the relief association as a defined contribution relief association or a defined benefit relief association, the addition of a new section, Minnesota Statutes, Section 424A.015, aggregating those current law provisions, chiefly from Minnesota Statutes, Section 424A.02, that are applicable to all volunteer firefighters' relief associations irrespective of type, and the addition of a new section, Minnesota Statutes, Section 424A.017, the result of transferring the existing provisions of Minnesota Statutes, Section 424A.02, subdivision 4, and adding adapted regulation comparable to selected defined benefit provisions of Minnesota Statutes, Section 424A.

- c. Section-by-Section Summary of Draft LCPR08-031. A section-by-section summary of the provisions of Draft LCPR08-031 is attached.

Conclusion

This memorandum and the attached draft proposed legislation recodifying Minnesota Statutes, Chapter 424A, were prepared by the Commission staff to assist the working group in attempting to refashion the substantive volunteer firefighter relief association law to better accommodate the defined contribution relief associations. The Commission staff will be available as the working group reviews the draft proposed legislation and to assist in identifying alternative approaches to the resolution of particular issues that arise in the draft or otherwise and in drafting the applicable legislative language.

Section-by-Section Summary of Draft LCPR08-031

Sec.	Pg.Ln-Pg.Ln	Stat. Provision	Summary
<u>Article 1: Volunteer Firefighters' Relief Association Recodification</u>			
1	1.17-1.20	424A.001, Subd. 1	Adds a common general exception to definitions introduction that definition does not apply if the context clearly indicates otherwise.
2	1.21-1.25	424A.001, Subd. 1a	Clarifies that the definition of "ancillary benefit," applicable for a later limitation, only applies to non-service pensions payable from the special fund.
3	2.1-2.6	424A.001, Subd. 1b	Adds a definition of "defined benefit relief association," meaning a relief association that pays a lump sum service pension, a monthly benefit service pension, or both alternatively.
4	2.7-2.12	424A.001, Subd. 1c	Adds a definition of "defined contribution relief association," meaning a relief association that pays a service pension based solely on an individual account balance.
5	2.13-2.15	424A.001, Subd. 2	Adds appropriate articles before references to "municipal fire department" or "independent nonprofit firefighting corporations" in definition of "fire department."
6	2.16-2.20	424A.001, Subd. 3	Adds establishment or contract execution references in definition of "municipality."
7	2.21-3.2	424A.001, Subd. 4	Modifies "relief association" definition stylistically to replace lettered divisions with numbered divisions and improves language usage by replacing gerunds with appropriate verb form.
8	3.3-3.6	424A.001, Subd. 5	Adds an article before a reference to "special fund" in the definition of "special fund."
9	3.7-3.12	424A.001, Subd. 6	Modifies the "surviving spouse" definition to eliminate an unnecessary comma and an unnecessary reference to "the term," repositions the reference to "governing" and clarifies that the time of death confirming status is the death of the member.
10	3.13-3.18	424A.001, Subd. 8	Modifies the definition of "firefighting service" by adding a reference to "applicable" to the municipal approval requirement for independent nonprofit firefighting corporations and by adding a reference to "fire department" for fire prevention service.
11	3.19-3.24	424A.001, Subd. 9	Modifies the definition of "separation from active service" by adding "firefighter" as the subject of the sentence and replacing the string of infinitives with active tense verbs.
12	3.25-4.11	424A.001, Subd. 10	Modifies the definition of "volunteer firefighter" by clarifying that the membership requirements are alternative requirements and by adding "independent nonprofit" references to "firefighting corporation" references.
13	4.12-4.22	New 424A.002	Authorizes the creation of new volunteer firefighters' relief associations or the continuation of existing volunteer firefighters' relief associations, and requires that volunteer firefighters' relief association bylaws or articles of incorporation specify whether the relief association is a defined benefit relief association or a defined contribution relief association.
14	4.23-5.30	424A.01	Modifies the restrictions on volunteer firefighters and volunteer firefighters' relief association membership by adding some explicit parallel verb references and by eliminating obsolete words and phrases to conform with current drafting and language usage conventions.
15	5.31-6.36	New 424A.015	The added section sets forth the provisions that are generally applicable to volunteer firefighters' relief associations and that are moved from current M.S., Sec. 424A.02, Subd. 1, Para. (d), and Subd. 6 (required separation from active service and exception and restriction on assignment or garnishment), Subd. 8a (purchase of annuity contract), and Subd.8b (transfer to an individual retirement account).

Sec.	Pg.Ln-Pg.Ln	Stat. Provision	Summary
16	7.1-10.10	New 424A.016	<p>The added section:</p> <ol style="list-style-type: none"> 1. Specifically authorizes defined contribution lump sum service pension relief associations (Subd. 1); 2. Repeats the service pension eligibility requirements from the current M.S., Sec. 424A.02, Subd. 1, that are applicable to defined contribution relief associations (Subd. 2); 3. Transfers the defined contribution relief association vesting schedule from the last portion of current M.S., Sec. 424A.02, Subd. 2 (Subd. 3); 4. Transfers the defined contribution relief association individual account provisions from the current M.S., Sec. 424A.02, Subd. 4 (Subd. 4); 5. Adapts for defined contribution relief associations the installment payment authority of the current M.S., Sec. 424A.02, Subd. 8 (Subd. 5); 6. Transfers the defined contribution relief association deferred service pension provision from the current M.S., Sec. 424A.02, Subd. 7 (Subd. 6); 7. Adapts the limitation on ancillary benefits of the current M.S., Sec. 424A.02m, Subd. 9, for defined contribution relief associations (Subd. 7); 8. Adapts the penalty for the payment of service pension without actual active service separation of the current M.S., Sec. 424A.02, Subd. 9b, for defined contribution relief associations (Subd. 8); and 9. Adapts the bylaw amendment filing requirement of the current M.S., Sec. 424A.02, Subd. 10, for defined contribution relief associations (Subd. 9)
17	10.11-11.22	424A.02, Subd. 1	Amends the defined benefit service pension authorization provision by clarifying that the entire section and the subdivision apply solely to defined benefit relief associations, clarifies that defined benefit service pensions must be earned under M.S., Chapter 424A, under the relief association articles of incorporation, and under the relief association bylaws, and clarifies the time test on inactive relief association membership for recently established relief associations.
18	11.23-12.28	424A.02, Subd. 2	Amends the vesting requirement provision by clarifying that the provision applies to defined benefit relief associations and by striking the defined contribution vesting provision transferred to new Sec. 424A.16.
19	12.29-19.31	424A.02, Subd. 3	Amends the flexible service pension maximums by clarifying that the provision applies to defined benefit relief associations and updates the provision to conform to the current language usage conventions.
20	19.32-20.21	424A.02, Subd. 3a	Amends the excess service pension payment penalty by clarifying that the provision applies to defined benefit relief associations.
21	20.23-21.36	424A.02, Subd. 7	Amends the deferred service pension provision by clarifying that the provision applies to defined benefit relief associations, clarified that the specified qualifying service periods were alternative provisions and reletters later paragraphs with the elimination of the defined contribution relief association provision moved to new Sec. 424A.016.
22	22.1-22.21	424A.02, Subd. 8	Amends the lump sum service pension installment payment provision by clarifying that the provision applies to defined benefit relief associations, updates the provision to conform to the current language usage conventions, and replaces outdated references to the Commissioner of Commerce with references to the State Auditor with respect to promulgating installment payment liability calculation procedures and tables.
23	22.22-23.17	424A.02, Subd. 9	Amends the ancillary benefit limitation provision by clarifying that the provision applies to defined benefit relief associations.
24	23.18-23.29	424A.02, Subd. 9a	Amends the postretirement increase provision by clarifying that the provision applies to defined benefit relief associations and updates the provision to conform to the current language usage conventions.
25	23.30-24.3	424A.02, Subd. 9b	Amends the service pension repayment provision by clarifying that the provision applies to defined benefit relief associations and updates the provision to conform to current language usage conventions.
26	24.4-25.10	424A.02, Subd. 10	Amends the bylaw amendment local approval and filing requirement by clarifying that the provision applies to defined benefit relief associations and updates the provision to conform to current language usage conventions.
27	25.11-25.21	424A.02, Subd. 12	Amends the new fire district service credit transfer provision by clarifying that the provision applies to defined benefit relief associations and updates the provision to conform to current language usage conventions.

Sec.	Pg.Ln-Pg.Ln	Stat. Provision	Summary
28	25.22-26.6	424A.02, Subd. 13	Amends the combined service pension provision by clarifying that the provision applies to defined benefit relief associations and updates the provision to conform to current language usage conventions.
29	26.7-26.29	424A.021	Amends the uniformed service break-in-service provision by clarifying that defined contribution relief associations providing break-in-service coverage is special fund revenue allocation and not solely special fund investment return allocation.
30	26.30-27.18	424A.03	Amends the partially paid and partially volunteer firefighters' relief association uniformity provision by updating the provision to conform to current language usage conventions.
31	27.19-29.30	424A.04	Amends the volunteer firefighters' relief association board of trustees provision by updating the provision to conform to current language usage conventions and transfers the former prohibited transaction restriction of the current M.S., Sec. 424A.001, Subd. 7, to this section.
32	29.31-29.33	424A.05, Subd. 1	Amends the volunteer firefighters' relief association special fund provision establishment provision by adding a reference to "volunteer firefighters" to a relief association reference.
33	29.34-30.14	424A.05, Subd. 2	Amends the volunteer firefighters' relief association special fund asset and revenue provision by updating the provision to conform to current language usage conventions.
34	30.15-31.3	424A.05, Subd. 3	Amends the volunteer firefighters' relief association special fund disbursement provision by updating the provision to conform to current language usage conventions.
35	31.4-31.6	424A.05, Subd. 4	Amends the volunteer firefighters' relief association special fund investment provision by updating the provision to conform to current language usage conventions.
36	31.7-31.27	424A.06	Amends the volunteer firefighters' relief association general fund provision by updating the provision to conform to current language usage conventions.
37	31.28-32.2	424A.07	Amends the nonprofit firefighting corporation relief association establishment provision by updating the provision to conform to current language usage conventions.
38	32.3-32.17	424A.08	Amends the provision governing the use of fire state aid by municipalities without relief associations to update the provision to conform to current language usage conventions.
39	32.18-33.2	424A.10, Subd. 1	Amends the state volunteer firefighters' lump sum supplemental benefit definitions provision by updating the provision to conform to current language usage conventions.
40	33.3-33.25	424A.10, Subd. 2	Amends the state volunteer firefighters' lump sum supplemental benefit payment of supplement benefit provision by updating the provision to conform to current language usage conventions.
41	33.26-34.4	424A.10, Subd. 3	Amends the state volunteer firefighters' lump sum supplemental benefit state reimbursement provision by updating the provision to conform to current language usage conventions.
42	34.5-34.13	424A.10, Subd. 4	Amends the state volunteer firefighters' lump sum supplemental benefit in lieu of income tax exclusion provision by updating the provision to conform to current language usage conventions.
43	34.14-34.19	424A.10, Subd. 5	Amends the state volunteer firefighters' lump sum supplemental benefit retroactive reimbursement provision by updating the provision to conform to current language usage conventions.
44	34.20-35.26	New 424B.10	Amends the consolidating volunteer firefighters' relief association benefits and funding provision to clarify that the provision applies to situations where all relief associations are defined benefit relief associations and to update the provision to conform to current language usage conventions.
45	35.27-36.12	New 424B.11	Adds a benefits and funding provision for consolidations where all relief associations are defined contribution relief associations, adapting the regulation contained in the current M.S., Sec. 424B.10.

Sec.	Pg.Ln-Pg.Ln	Stat. Provision	Summary
46	36.13-36.30	New 424B.12	Adds a benefits and funding provision for consolidations where the relief associations include both defined benefit and defined contribution relief associations, adapting the regulation contained in the current M.S., Sec. 424B.10
47	36.31-37.2	Repealer	<p>Five current statutory provisions are repealed for purposes of transfer to a different position as part of the recodification and one current statutory provision is repealed as an obsolete transition provision from 1979. The recodification provisions are M.S., Sections:</p> <p>424A.001, Subd. 7; Prohibited Transactions, moved to Sec. 424A.04</p> <p>424A.02, Subd. 4; Defined Contribution Service Pensions, moved to new Sec. 424A.017</p> <p>424A.02, Subd. 6; Service Pension Payment and Nonassignability, moved to new Sec. 424A.015 and 424A.017</p> <p>424A.02, Subd. 8a; Annuity Contract Purchase, moved to new Sec. 424A.015</p> <p>424A.02, Subd. 8b; Individual Retirement Account Transfer, moved to new Sec. 424A.015</p> <p>The obsolete provision is M.S., Sec. 424A.09</p>
48	37.3-37.5	Effective Date	Generally effective July 1, 2009.

Article 2: Conforming Changes

1	37.8-39.9	69.771, Subd. 3	Amends volunteer firefighters' relief association compliance requirements for fire state aid qualification to add defined benefit relief associations with respect to municipal approval by bylaw amendments requirement and to correct cross-reference to prohibited transaction provision.
2	39.10-39.20	424B.21	Amends volunteer firefighters' relief association dissolution annuity purchase authority provision by correcting cross-references for annuity contract authority and minimum retirement age provisions.

1.1 A bill for an act

1.2 relating to retirement; volunteer firefighters' relief associations; reorganizing
1.3 the defined contribution relief association provisions; recodifying the general
1.4 volunteer firefighters' relief association law; making conforming changes;
1.5 amending Minnesota Statutes 2006, sections 69.771, subdivision 3; 424A.001,
1.6 subdivisions 1, 1a, as added, 2, 3, 4, 5, 6, as amended, 8, 9, 10, by adding
1.7 subdivisions; 424A.01; 424A.02, subdivisions 1, 2, 3, as amended, 3a, 7, as
1.8 amended, 8, 9, as amended, 9a, 9b, 10, 12, 13; 424A.021; 424A.03; 424A.04;
1.9 424A.05, subdivisions 1, 2, 3, as amended, 4; 424A.06; 424A.07; 424A.08;
1.10 424A.10, as amended; 424B.10; 424B.21; proposing coding for new law in
1.11 Minnesota Statutes, chapters 424A; 424B; repealing Minnesota Statutes 2006,
1.12 sections 424A.001, subdivision 7; 424A.02, subdivisions 4, 6, 8a, 8b; 424A.09.

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

1.14 **ARTICLE 1**

1.15 **REORGANIZATION AND RECODIFICATION OF**
1.16 **VOLUNTEER FIREFIGHTER RETIREMENT PROVISIONS**

1.17 Section 1. Minnesota Statutes 2006, section 424A.001, subdivision 1, is amended to
1.18 read:

1.19 Subdivision 1. **Terms defined.** Unless the context clearly indicates otherwise, as
1.20 used in this chapter, the terms defined in this section have the meanings given.

1.21 Sec. 2. Minnesota Statutes 2006, section 424A.001, subdivision 1a, as added by Laws
1.22 2008, chapter 349, article 14, section 6, is amended to read:

1.23 Subd. 1a. **Ancillary benefit.** "Ancillary benefit" means a benefit payable from the
1.24 special fund of the relief association other than a service pension that is permitted by law
1.25 and that is provided for in the relief association bylaws.

2.1 Sec. 3. Minnesota Statutes 2006, section 424A.001, is amended by adding a
2.2 subdivision to read:

2.3 Subd. 1b. **Defined benefit relief association.** "Defined benefit relief association"
2.4 means a volunteer firefighters' relief association that provides a lump sum service pension,
2.5 provides a monthly benefit service pension, or provides a lump sum service pension as an
2.6 alternative to the monthly benefit service pension.

2.7 Sec. 4. Minnesota Statutes 2006, section 424A.001, is amended by adding a
2.8 subdivision to read:

2.9 Subd. 1c. **Defined contribution relief association.** "Defined contribution relief
2.10 association" means a volunteer firefighters' relief association that provides a service
2.11 pension based solely on an individual account balance rather than a specified annual lump
2.12 sum or monthly benefit service pension amount.

2.13 Sec. 5. Minnesota Statutes 2006, section 424A.001, subdivision 2, is amended to read:

2.14 Subd. 2. **Fire department.** "Fire department" includes a municipal fire department
2.15 and an independent nonprofit firefighting corporation.

2.16 Sec. 6. Minnesota Statutes 2006, section 424A.001, subdivision 3, is amended to read:

2.17 Subd. 3. **Municipality.** "Municipality" means a municipality which has
2.18 established a fire department with which the relief association is directly associated; or
2.19 the municipalities which have entered into a contract with the independent nonprofit
2.20 firefighting corporation of which the relief association is a subsidiary.

2.21 Sec. 7. Minnesota Statutes 2006, section 424A.001, subdivision 4, is amended to read:

2.22 Subd. 4. **Relief association.** "Relief association" means ~~(a)~~ (1) a volunteer
2.23 firefighters' relief association or a volunteer firefighters' division or account of a partially
2.24 salared and partially volunteer firefighters' relief association that is organized and
2.25 incorporated under chapter 317A and any laws of the state, is governed by this chapter
2.26 and chapter 69, and is directly associated with a fire department established by municipal
2.27 ordinance; or ~~(b)~~ (2) any ~~separate~~ separately incorporated volunteer firefighters' relief
2.28 association that is subsidiary to and ~~providing~~ that provides service pension and retirement
2.29 benefit coverage for members of an independent nonprofit firefighting corporation that is
2.30 organized under the provisions of chapter 317A, is governed by this chapter, and ~~operating~~
2.31 operates exclusively for firefighting purposes. A relief association is a governmental entity

3.1 that receives and manages public money to provide retirement benefits for individuals
3.2 providing the governmental services of firefighting and emergency first response.

3.3 Sec. 8. Minnesota Statutes 2006, section 424A.001, subdivision 5, is amended to read:

3.4 Subd. 5. **Special fund.** "Special fund" means the special fund of a volunteer
3.5 firefighters' relief association or the account for volunteer firefighters within the special
3.6 fund of a partially salaried and partially volunteer firefighters' relief association.

3.7 Sec. 9. Minnesota Statutes 2006, section 424A.001, subdivision 6, as amended by
3.8 Laws 2008, chapter 349, article 14, section 7, is amended to read:

3.9 Subd. 6. **Surviving spouse.** For purposes of this chapter, and the ~~governing~~ bylaws
3.10 ~~of any governing~~ a relief association to which this chapter applies, ~~the term~~ "surviving
3.11 spouse" means the spouse of a deceased member who was legally married to the member
3.12 at the time of the member's death.

3.13 Sec. 10. Minnesota Statutes 2006, section 424A.001, subdivision 8, is amended to read:

3.14 Subd. 8. **Firefighting service.** "Firefighting service," if the applicable municipality
3.15 approves for a fire department that is a municipal department, or if the applicable
3.16 contracting municipality or municipalities approve for a fire department that is an
3.17 independent nonprofit firefighting corporation, includes fire department service rendered
3.18 by fire prevention personnel.

3.19 Sec. 11. Minnesota Statutes 2006, section 424A.001, subdivision 9, is amended to read:

3.20 Subd. 9. **Separate from active service.** "Separate from active service" means
3.21 ~~to that a firefighter permanently cease~~ ceases to perform fire suppression duties with
3.22 a particular volunteer fire department, ~~to permanently cease~~ ceases to perform fire
3.23 prevention duties, ~~to permanently cease~~ ceases to supervise fire suppression duties, and ~~to~~
3.24 permanently ~~cease~~ ceases to supervise fire prevention duties.

3.25 Sec. 12. Minnesota Statutes 2006, section 424A.001, subdivision 10, is amended to
3.26 read:

3.27 Subd. 10. **Volunteer firefighter.** "Volunteer firefighter" means a person who either:

3.28 (1) was a member of the applicable fire department or the independent nonprofit
3.29 firefighting corporation and a member of the relief association on July 1, 2006; or

4.1 (2) became a member of the applicable fire department or the independent nonprofit
 4.2 firefighting corporation and is eligible for membership in the applicable relief association
 4.3 after June 30, 2006, and

4.4 (i) is engaged in providing emergency response services or delivering fire education
 4.5 or prevention services as a member of a municipal fire department, a joint powers entity
 4.6 fire department, or an independent nonprofit firefighting corporation;

4.7 (ii) is trained in or is qualified to provide fire suppression duties or to provide fire
 4.8 prevention duties under subdivision 8; and

4.9 (iii) meets any other minimum firefighter and service standards established by the
 4.10 fire department or the independent nonprofit firefighting corporation or specified in the
 4.11 articles of incorporation or bylaws of the relief association.

4.12 Sec. 13. **[424A.002] AUTHORIZATION OF NEW OR CONTINUING**
 4.13 **VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATIONS.**

4.14 Subdivision 1. Authorization. A municipal fire department or an independent
 4.15 nonprofit firefighting corporation, with approval by the applicable municipality or
 4.16 municipalities, may establish a new volunteer firefighters' relief association or may retain
 4.17 an existing volunteer firefighters' relief association.

4.18 Subd. 2. Defined benefit or defined contribution relief association. The articles
 4.19 of incorporation or the bylaws of the volunteer firefighters' relief association must specify
 4.20 that the relief association is either a defined benefit relief association subject to sections
 4.21 69.771 to 69.774, 424A.015, and 424A.02 or is a defined contribution relief association
 4.22 subject to sections 424A.015 and 424A.017.

4.23 Sec. 14. Minnesota Statutes 2006, section 424A.01, is amended to read:

4.24 **424A.01 MEMBERSHIP IN A VOLUNTEER FIREFIGHTERS' RELIEF**
 4.25 **ASSOCIATION.**

4.26 Subdivision 1. **Minors.** It is unlawful for any municipality or independent nonprofit
 4.27 firefighting corporation to employ a minor to serve as a volunteer firefighter or to permit
 4.28 a minor to serve in any capacity performing any firefighting duties with a volunteer fire
 4.29 department.

4.30 Subd. 2. **Status of substitute volunteer firefighters.** No person who is serving as a
 4.31 substitute volunteer firefighter ~~shall be deemed~~ may be considered to be a firefighter for
 4.32 purposes of chapter 69 or this chapter ~~nor shall be~~ and no substitute volunteer firefighter is
 4.33 authorized to be a member of any volunteer firefighters' relief association governed by
 4.34 chapter 69 or this chapter.

5.1 Subd. 3. **Status of nonmember volunteer firefighters.** No person who is serving
 5.2 as a firefighter in a fire department but who is not a member of the applicable firefighters'
 5.3 relief association ~~shall be~~ is entitled to any service pension or ancillary benefits from
 5.4 the relief association.

5.5 Subd. 4. **Exclusion of persons constituting an unwarranted health risk.** The
 5.6 board of trustees of every relief association may exclude from membership in the relief
 5.7 association all applicants who, due to some medically determinable physical or mental
 5.8 impairment or condition, ~~would~~ is determined to constitute a predictable and unwarranted
 5.9 risk of imposing liability for an ancillary benefit at any age earlier than the minimum
 5.10 age specified for receipt of a service pension. Notwithstanding any provision of section
 5.11 363A.25, it ~~shall be~~ is a good and valid defense to a complaint or action brought under
 5.12 chapter 363A that the board of trustees of the relief association made a good faith
 5.13 determination that the applicant suffers from an impairment or condition constituting a
 5.14 predictable and unwarranted risk for the relief association if the determination was made
 5.15 following consideration of: ~~(a)~~ (1) the person's medical history; and ~~(b)~~ (2) the report of
 5.16 the physician completing a physical examination of the applicant ~~completed~~ undertaken at
 5.17 the expense of the relief association.

5.18 Subd. 5. **Fire prevention personnel.** (a) If the fire department is a municipal
 5.19 department and the applicable municipality approves, or if the fire department is an
 5.20 independent nonprofit firefighting corporation and the contracting municipality or
 5.21 municipalities approve, the fire department may employ or otherwise utilize the services
 5.22 of persons as volunteer firefighters to perform fire prevention duties and to supervise
 5.23 fire prevention activities.

5.24 (b) Personnel serving in fire prevention positions are eligible to be members of
 5.25 the applicable volunteer firefighter relief association and to qualify for service pension
 5.26 or other benefit coverage of the relief association on the same basis as fire department
 5.27 personnel who perform fire suppression duties.

5.28 (c) Personnel serving in fire prevention positions also are eligible to receive any
 5.29 other benefits under the applicable law or practice for services on the same basis as
 5.30 personnel who are employed to perform fire suppression duties.

5.31 **Sec. 15. [424A.015] GENERALLY APPLICABLE VOLUNTEER**
 5.32 **FIREFIGHTERS' RELIEF ASSOCIATION BENEFIT PLAN REGULATION.**

5.33 **Subdivision 1. Separation from active service; exception.** (a) No service pension
 5.34 is payable to any person while the person remains an active member of the respective fire

6.1 department, and no person who is receiving a service pension is entitled to receive any
6.2 other benefits from the special fund of the relief association.

6.3 (b) No relief association as defined in section 424A.001, subdivision 4, may pay
6.4 a service pension or disability benefit to a former member of the relief association if
6.5 that person has not separated from active service with the fire department to which the
6.6 relief association is directly associated, unless: (1) the person is employed subsequent
6.7 to retirement by the municipality or the independent nonprofit firefighting corporation,
6.8 whichever applies, to perform duties within the municipal fire department or corporation
6.9 on a full-time basis; (2) the governing body of the municipality or of the corporation has
6.10 filed its determination with the board of trustees of the relief association that the person's
6.11 experience with and service to the fire department in that person's full-time capacity would
6.12 be difficult to replace; and (3) the bylaws of the relief association were amended to provide
6.13 for the payment of a service pension or disability benefit for such full-time employees.

6.14 Subd. 2. **No assignment or garnishment.** No service pension or ancillary benefits
6.15 paid or payable from the special fund of a relief association to any person receiving
6.16 or entitled to receive a service pension or ancillary benefits is subject to garnishment,
6.17 judgment, execution, or other legal process, except as provided in section 518.58, 518.581,
6.18 or 518A.53. No person entitled to a service pension or ancillary benefits from the special
6.19 fund of a relief association may assign any service pension or ancillary benefit payments,
6.20 and the association does not have the authority to recognize any assignment or pay over
6.21 any sum which has been assigned.

6.22 Subd. 3. **Purchase of annuity contract.** A relief association that provides a service
6.23 pension in a single payment, if the governing articles of incorporation or bylaws so
6.24 provide, may purchase an annuity contract on behalf of a retiring member in an amount
6.25 equal to the service pension otherwise payable at the request of the person and in place of
6.26 a direct payment to the person. The annuity contract must be purchased from an insurance
6.27 carrier licensed to do business in this state.

6.28 Subd. 4. **Transfer to individual retirement account.** A relief association that
6.29 is a qualified pension plan under section 401(a) of the federal Internal Revenue Code,
6.30 as amended, and that provides a single payment service pension, at the written request
6.31 of the applicable retiring member or, following the death of the active member, at
6.32 the written request of the deceased member's surviving spouse, may directly transfer
6.33 on an institution-to-institution basis the eligible member's lump sum pension or the
6.34 death, funeral, or survivor benefit attributable to the member, whichever applies, to the
6.35 requesting person's individual retirement account under section 408(a) of the federal
6.36 Internal Revenue Code, as amended.

7.1 Sec. 16. **[424A.016] DEFINED CONTRIBUTION VOLUNTEER**
7.2 **FIREFIGHTERS' RELIEF ASSOCIATION SPECIFIC REGULATION.**

7.3 Subdivision 1. Defined contribution relief association authorization. If the
7.4 articles of incorporation or the bylaws governing the volunteer firefighters' relief
7.5 association so provide exclusively, the relief association may pay a defined contribution
7.6 lump sum service pension instead of a defined benefit service pension governed by section
7.7 424A.02.

7.8 Subd. 2. Defined contribution service pension eligibility. (a) A relief association,
7.9 when its articles of incorporation or bylaws so provide, may pay out of the assets of its
7.10 special fund a service pension to each of its members who: (1) separates from active
7.11 service with the fire department; (2) reaches age 50; (3) completes at least five years of
7.12 active service as an active member of the municipal fire department to which the relief
7.13 association is associated; (4) completes at least five years of active membership with
7.14 the relief association before separation from active service; and (5) complies with any
7.15 additional conditions as to age, service, and membership that are prescribed by the bylaws
7.16 of the relief association.

7.17 (b) In the case of a member who has completed at least five years of active service as
7.18 an active member of the fire department to which the relief association is associated on
7.19 the date that the relief association is established and incorporated, the requirement that
7.20 the member complete at least five years of active membership with the relief association
7.21 before separation from active service may be waived by the board of trustees of the
7.22 relief association if the member completes at least five years of inactive membership
7.23 with the relief association before the date of the payment of the service pension. During
7.24 the period of inactive membership, the member is not entitled to receive any disability
7.25 benefit coverage, is not entitled to receive additional individual account allocation
7.26 towards a service pension, and is considered to have the status of a person entitled to a
7.27 deferred service pension. The service pension earned by a volunteer under this chapter
7.28 and the articles of incorporation and bylaws of the association may be paid whether or
7.29 not the municipality or nonprofit firefighting corporation to which the relief association is
7.30 associated qualifies for the receipt of fire state aid under chapter 69.

7.31 Subd. 3. Reduced vesting schedule. If the articles of incorporation or bylaws of a
7.32 defined contribution relief association so provide, a relief association may pay a reduced
7.33 service pension based on the nonforfeitable percentage of the account balance to a retiring
7.34 member who has completed fewer than 20 years of service. The reduced service pension
7.35 may be paid when the retiring member meets the minimum age and service requirements
7.36 of subdivision 2. the nonforfeitable percentage of pension amounts are as follows:

	<u>Completed Years of Service</u>	<u>Nonforfeitable Percentage of Pension Amount</u>
8.1		
8.2		
8.3	<u>5</u>	<u>40 percent</u>
8.4	<u>6</u>	<u>52 percent</u>
8.5	<u>7</u>	<u>64 percent</u>
8.6	<u>8</u>	<u>76 percent</u>
8.7	<u>9</u>	<u>88 percent</u>
8.8	<u>10 and thereafter</u>	<u>100 percent</u>

8.9 Subd. 4. **Individual accounts.** (a) An individual account for each firefighter who
8.10 is a member of the relief association must be established.

8.11 (b) To each individual active member account must be credited an equal share of:
8.12 (1) any amounts of fire state aid received by the relief association; (2) any amounts of
8.13 municipal contributions to the relief association raised from levies on real estate or from
8.14 other available revenue sources exclusive of fire state aid; and (3) any amounts equal
8.15 to the share of the assets of the special fund to the credit of: (i) any former member
8.16 who terminated active service with the fire department to which the relief association is
8.17 associated before meeting the minimum service requirement provided for in paragraph (b)
8.18 and has not returned to active service with the fire department for a period no shorter than
8.19 five years; or (ii) any retired member who retired before obtaining a full nonforfeitable
8.20 interest in the amounts credited to the individual member account under paragraph (b) and
8.21 any applicable provision of the bylaws of the relief association. In addition, any investment
8.22 return on the assets of the special fund must be credited in proportion to the share of the
8.23 assets of the special fund to the credit of each individual active member account through
8.24 the date on which the investment return is recognized by and credited to the special fund.

8.25 (c) The method of crediting amounts to individual accounts must be allocated
8.26 uniformly for all years of active service and allocations must be made for all years of
8.27 service, except as otherwise provided in this section. The allocation method may utilize
8.28 monthly proration for fractional years of service, if the bylaws or articles of incorporation
8.29 of the relief association so provide.

8.30 (d) At the time of retirement under subdivision 2 and any applicable provision of the
8.31 bylaws of the relief association, a retiring member is entitled to that portion of the assets
8.32 of the special fund to the credit of the member in the individual member account which is
8.33 nonforfeitable under subdivision 3 and any applicable provision of the bylaws of the relief
8.34 association based on the number of years of service to the credit of the retiring member.

8.35 Subd. 5. **Service pension installment payments.** A defined contribution relief
8.36 association, if the governing bylaws so provide, may pay, at the option of the retiring
8.37 member and in lieu of a single payment of a service pension, the service pension in

9.1 installments. The election of installment payments is irrevocable and must be made by the
9.2 retiring member in writing and filed with the secretary of the relief association no later
9.3 than 30 days before the commencement of payment of the service pension. The amount of
9.4 the installment payments must be the fractional portion of the remaining account balance
9.5 equal to one divided by the number of remaining annual installment payments.

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

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

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

9.12 (3) separates from active service and membership before reaching age 50 or the
9.13 minimum age for retirement and commencement of a service pension specified in the
9.14 bylaws governing the relief association if that age is greater than age 50.

9.15 (b) The deferred service pension is payable when the former member reaches age
9.16 50, or the minimum age specified in the bylaws governing the relief association if that age
9.17 is greater than age 50, and when the former member makes a valid written application.

9.18 (c) A defined contribution relief association may, if its governing bylaws so
9.19 provide, credit interest or additional investment performance on the deferred lump sum
9.20 service pension during the period of deferral. If provided for in the bylaws, the interest
9.21 must be paid in one of the manners specified in paragraph (c) or alternatively the relief
9.22 association may credit any investment return on the assets of the special fund of the
9.23 defined contribution volunteer firefighter relief association in proportion to the share of the
9.24 assets of the special fund to the credit of each individual deferred member account through
9.25 the date on which the investment return is recognized by and credited to the special fund.

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

9.30 Subd. 7. **Limitation on ancillary benefits** A defined contribution relief association
9.31 may only pay an ancillary benefit which would constitute an authorized disbursement as
9.32 specified in section 424A.05 and the ancillary benefit may not exceed the amount of the
9.33 individual account of the member.

9.34 Subd. 8. **Repayment of service pension in certain instances.** If a retired volunteer
9.35 firefighter does not permanently separate from active firefighting service as required
9.36 by subdivision 1 and section 424A.001, subdivision 9, by resuming active service as a

10.1 firefighter in the same volunteer fire department or as a person in charge of firefighters in
10.2 the same volunteer fire department, no additional service pension amount is payable to the
10.3 person, no additional individual account allocation may be made to the person, and the
10.4 person must repay to the relief association any previously received service pension.

10.5 Subd. 9. **Filing of bylaw amendments.** Each relief association to which this section
10.6 applies must file a revised copy of its governing bylaws with the state auditor upon the
10.7 adoption of any amendment to its governing bylaws by the relief association. Failure of
10.8 the relief association to file a copy of the bylaws or any bylaw amendments with the state
10.9 auditor disqualifies the municipality from the distribution of any future fire state aid until
10.10 this filing requirement has been completed.

10.11 Sec. 17. Minnesota Statutes 2006, section 424A.02, subdivision 1, is amended to read:

10.12 **424A.02 DEFINED BENEFIT VOLUNTEER FIREFIGHTERS**
10.13 **FIREFIGHTERS' RELIEF ASSOCIATIONS; SERVICE PENSIONS.**

10.14 Subdivision 1. **Authorization.** (a) A defined benefit relief association, when its
10.15 articles of incorporation or bylaws so provide, may pay out of the assets of its special fund
10.16 a service pension to each of its members who: (1) separates from active service with the
10.17 fire department; (2) reaches age 50; (3) completes at least five years of active service
10.18 as an active member of the municipal fire department to which the relief association
10.19 is associated; (4) completes at least five years of active membership with the relief
10.20 association before separation from active service; and (5) complies with any additional
10.21 conditions as to age, service, and membership that are prescribed by the bylaws of the
10.22 relief association. A service pension computed under this section may be prorated
10.23 monthly for fractional years of service, if the bylaws or articles of incorporation of the
10.24 relief association so provide. The service pension earned by a volunteer firefighter under
10.25 this chapter and the articles of incorporation and bylaws of the volunteer firefighters'
10.26 relief association may be paid whether or not the municipality or nonprofit firefighting
10.27 corporation to which the relief association is associated qualifies for the receipt of fire
10.28 state aid under chapter 69.

10.29 (b) In the case of a member who has completed at least five years of active service as
10.30 an active member of the fire department to which the relief association is associated on
10.31 the date that the relief association is established and incorporated, the requirement that
10.32 the member complete at least five years of active membership with the relief association
10.33 before separation from active service may be waived by the board of trustees of the relief
10.34 association if the member completes at least five years of inactive membership with the
10.35 relief association before the date of the payment of the service pension. During the

11.1 period of inactive membership, the member is not entitled to receive disability benefit
11.2 coverage, is not entitled to receive additional service credit towards computation of a
11.3 service pension, and is considered to have the status of a person entitled to a deferred
11.4 service pension under subdivision 7.

11.5 (c) No municipality or nonprofit firefighting corporation may delegate the power to
11.6 take final action in setting a service pension or ancillary benefit amount or level to the
11.7 board of trustees of the relief association or to approve in advance a service pension or
11.8 ancillary benefit amount or level equal to the maximum amount or level that this chapter
11.9 would allow rather than a specific dollar amount or level.

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

11.14 (1) the person is employed subsequent to retirement by the municipality or the
11.15 independent nonprofit firefighting corporation, whichever applies, to perform duties within
11.16 the municipal fire department or corporation on a full-time basis;

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

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

11.23 Sec. 18. Minnesota Statutes 2006, section 424A.02, subdivision 2, is amended to read:

11.24 Subd. 2. **Nonforfeitable portion of service pension.** If the articles of incorporation
11.25 or bylaws of a defined benefit relief association so provide, ~~a~~ the relief association may
11.26 pay a reduced service pension to a retiring member who has completed fewer than 20
11.27 years of service. The reduced service pension may be paid when the retiring member
11.28 meets the minimum age and service requirements of subdivision 1.

11.29 The amount of the reduced service pension may not exceed the amount calculated by
11.30 multiplying the service pension appropriate for the completed years of service as specified
11.31 in the bylaws ~~times~~ multiplied by the applicable nonforfeitable percentage of pension.

11.32 For a defined benefit volunteer firefighter relief association that pays a lump-sum
11.33 service pension, a monthly benefit service pension, or a lump-sum service pension or a
11.34 monthly benefit service pension as alternative benefit forms, the nonforfeitable percentage
11.35 of pension amounts are as follows:

	Completed Years of Service	Nonforfeitable Percentage of Pension Amount
12.1		
12.2		
12.3	5	40 percent
12.4	6	44 percent
12.5	7	48 percent
12.6	8	52 percent
12.7	9	56 percent
12.8	10	60 percent
12.9	11	64 percent
12.10	12	68 percent
12.11	13	72 percent
12.12	14	76 percent
12.13	15	80 percent
12.14	16	84 percent
12.15	17	88 percent
12.16	18	92 percent
12.17	19	96 percent
12.18	20 and thereafter	100 percent

12.19 ~~For a volunteer firefighter relief association that pays a defined contribution service~~
 12.20 ~~pension, the nonforfeitable percentage of pension amounts are as follows:~~

	Completed Years of Service	Nonforfeitable Percentage of Pension Amount
12.21		
12.22		
12.23	5	40 percent
12.24	6	52 percent
12.25	7	64 percent
12.26	8	76 percent
12.27	9	88 percent
12.28	10 and thereafter	100 percent

12.29 Sec. 19. Minnesota Statutes 2006, section 424A.02, subdivision 3, as amended by
 12.30 Laws 2008, chapter 349, article 14, section 8, is amended to read:

12.31 Subd. 3. **Flexible service pension maximums.** (a) Annually on or before August 1
 12.32 as part of the certification of the financial requirements and minimum municipal obligation
 12.33 determined under section 69.772, subdivision 4, or 69.773, subdivision 5, as applicable,
 12.34 the secretary or some other official of the relief association designated in the bylaws of
 12.35 each defined benefit relief association shall calculate and certify to the governing body
 12.36 of the applicable qualified municipality the average amount of available financing per
 12.37 active covered firefighter for the most recent three-year period. The amount of available
 12.38 financing ~~shall include~~ includes any amounts of fire state aid received or receivable by the
 12.39 relief association, any amounts of municipal contributions to the relief association raised

13.1 from levies on real estate or from other available revenue sources exclusive of fire state
 13.2 aid, and one-tenth of the amount of assets in excess of the accrued liabilities of the relief
 13.3 association calculated under section 69.772, subdivision 2; 69.773, subdivisions 2 and 4;
 13.4 or 69.774, subdivision 2, if any.

13.5 (b) The maximum service pension which the defined benefit relief association has
 13.6 authority to provide for in its bylaws for payment to a member retiring after the calculation
 13.7 date when the minimum age and service requirements specified in subdivision 1 are met
 13.8 must be determined using the table in paragraph (c) or (d), whichever applies.

13.9 (c) For a defined benefit relief association where the governing bylaws provide for
 13.10 a monthly service pension to a retiring member, the maximum monthly service pension
 13.11 amount per month for each year of service credited that may be provided for in the bylaws
 13.12 is the greater of the service pension amount provided for in the bylaws on the date of the
 13.13 calculation of the average amount of the available financing per active covered firefighter
 13.14 or the maximum service pension figure corresponding to the average amount of available
 13.15 financing per active covered firefighter:

13.16	Minimum Average Amount of Available	Maximum Service Pension
13.17	Financing per Firefighter	Amount Payable per Month for
13.18		Each Year of Service
13.19	\$...	\$.25
13.20	41	.50
13.21	81	1.00
13.22	122	1.50
13.23	162	2.00
13.24	203	2.50
13.25	243	3.00
13.26	284	3.50
13.27	324	4.00
13.28	365	4.50
13.29	405	5.00
13.30	486	6.00
13.31	567	7.00
13.32	648	8.00
13.33	729	9.00
13.34	810	10.00
13.35	891	11.00
13.36	972	12.00
13.37	1053	13.00
13.38	1134	14.00
13.39	1215	15.00
13.40	1296	16.00
13.41	1377	17.00

14.1	1458	18.00
14.2	1539	19.00
14.3	1620	20.00
14.4	1701	21.00
14.5	1782	22.00
14.6	1823	22.50
14.7	1863	23.00
14.8	1944	24.00
14.9	2025	25.00
14.10	2106	26.00
14.11	2187	27.00
14.12	2268	28.00
14.13	2349	29.00
14.14	2430	30.00
14.15	2511	31.00
14.16	2592	32.00
14.17	2673	33.00
14.18	2754	34.00
14.19	2834	35.00
14.20	2916	36.00
14.21	2997	37.00
14.22	3078	38.00
14.23	3159	39.00
14.24	3240	40.00
14.25	3321	41.00
14.26	3402	42.00
14.27	3483	43.00
14.28	3564	44.00
14.29	3645	45.00
14.30	3726	46.00
14.31	3807	47.00
14.32	3888	48.00
14.33	3969	49.00
14.34	4050	50.00
14.35	4131	51.00
14.36	4212	52.00
14.37	4293	53.00
14.38	4374	54.00
14.39	4455	55.00
14.40	4536	56.00
14.41	Effective beginning December 31, 2008	
14.42	4617	57.00
14.43	4698	58.00

15.1	4779	59.00
15.2	4860	60.00
15.3	4941	61.00
15.4	5022	62.00
15.5	5103	63.00
15.6	5184	64.00
15.7	5265	65.00
15.8	Effective beginning December 31, 2009	
15.9	5346	66.00
15.10	5427	67.00
15.11	5508	68.00
15.12	5589	69.00
15.13	5670	70.00
15.14	5751	71.00
15.15	5832	72.00
15.16	5913	73.00
15.17	5994	74.00
15.18	Effective beginning December 31, 2010	
15.19	6075	75.00
15.20	6156	76.00
15.21	6237	77.00
15.22	6318	78.00
15.23	6399	79.00
15.24	6480	80.00
15.25	6561	81.00
15.26	6642	82.00
15.27	6723	83.00
15.28	Effective beginning December 31, 2011	
15.29	6804	84.00
15.30	6885	85.00
15.31	6966	86.00
15.32	7047	87.00
15.33	7128	88.00
15.34	7209	89.00
15.35	7290	90.00
15.36	7371	91.00
15.37	7452	92.00
15.38	Effective beginning December 31, 2012	
15.39	7533	93.00
15.40	7614	94.00
15.41	7695	95.00
15.42	7776	96.00
15.43	7857	97.00

16.1	7938	98.00
16.2	8019	99.00
16.3	8100	100.00
16.4	any amount in excess	
16.5	of 8100	100.00

16.6 (d) For a defined benefit relief association in which the governing bylaws provide
 16.7 for a lump sum service pension to a retiring member, the maximum lump sum service
 16.8 pension amount for each year of service credited that may be provided for in the bylaws is
 16.9 the greater of the service pension amount provided for in the bylaws on the date of the
 16.10 calculation of the average amount of the available financing per active covered firefighter
 16.11 or the maximum service pension figure corresponding to the average amount of available
 16.12 financing per active covered firefighter for the applicable specified period:

16.13	Minimum Average Amount of Available	Maximum Lump Sum Service
16.14	Financing per Firefighter	Pension Amount Payable for
16.15		Each Year of Service
16.16	\$...	\$ 10
16.17	11	20
16.18	16	30
16.19	23	40
16.20	27	50
16.21	32	60
16.22	43	80
16.23	54	100
16.24	65	120
16.25	77	140
16.26	86	160
16.27	97	180
16.28	108	200
16.29	131	240
16.30	151	280
16.31	173	320
16.32	194	360
16.33	216	400
16.34	239	440
16.35	259	480
16.36	281	520
16.37	302	560
16.38	324	600
16.39	347	640
16.40	367	680
16.41	389	720
16.42	410	760

17.1	432	800
17.2	486	900
17.3	540	1000
17.4	594	1100
17.5	648	1200
17.6	702	1300
17.7	756	1400
17.8	810	1500
17.9	864	1600
17.10	918	1700
17.11	972	1800
17.12	1026	1900
17.13	1080	2000
17.14	1134	2100
17.15	1188	2200
17.16	1242	2300
17.17	1296	2400
17.18	1350	2500
17.19	1404	2600
17.20	1458	2700
17.21	1512	2800
17.22	1566	2900
17.23	1620	3000
17.24	1672	3100
17.25	1726	3200
17.26	1753	3250
17.27	1780	3300
17.28	1820	3375
17.29	1834	3400
17.30	1888	3500
17.31	1942	3600
17.32	1996	3700
17.33	2023	3750
17.34	2050	3800
17.35	2104	3900
17.36	2158	4000
17.37	2212	4100
17.38	2265	4200
17.39	2319	4300
17.40	2373	4400
17.41	2427	4500
17.42	2481	4600
17.43	2535	4700

18.1	2589	4800
18.2	2643	4900
18.3	2697	5000
18.4	2751	5100
18.5	2805	5200
18.6	2859	5300
18.7	2913	5400
18.8	2967	5500
18.9	3021	5600
18.10	3075	5700
18.11	3129	5800
18.12	3183	5900
18.13	3237	6000
18.14	3291	6100
18.15	3345	6200
18.16	3399	6300
18.17	3453	6400
18.18	3507	6500
18.19	3561	6600
18.20	3615	6700
18.21	3669	6800
18.22	3723	6900
18.23	3777	7000
18.24	3831	7100
18.25	3885	7200
18.26	3939	7300
18.27	3993	7400
18.28	4047	7500
18.29	Effective beginning December 31, 2008	
18.30	4101	7600
18.31	4155	7700
18.32	4209	7800
18.33	4263	7900
18.34	4317	8000
18.35	4371	8100
18.36	4425	8200
18.37	4479	8300
18.38	Effective beginning December 31, 2009	
18.39	4533	8400
18.40	4587	8500
18.41	4641	8600
18.42	4695	8700
18.43	4749	8800

19.1	4803	8900
19.2	4857	9000
19.3	4911	9100
19.4	Effective beginning December 31, 2010	
19.5	4965	9200
19.6	5019	9300
19.7	5073	9400
19.8	5127	9500
19.9	5181	9600
19.10	5235	9700
19.11	5289	9800
19.12	5343	9900
19.13	5397	10,000
19.14	any amount in excess	
19.15	of 5397	10,000

19.16 (e) For a defined benefit relief association in which the governing bylaws provide
 19.17 for a monthly benefit service pension as an alternative form of service pension payment
 19.18 to a lump sum service pension, the maximum service pension amount for each pension
 19.19 payment type must be determined using the applicable table contained in this subdivision.

19.20 (f) If a defined benefit relief association establishes a service pension in compliance
 19.21 with the applicable maximum contained in paragraph (c) or (d) and the minimum average
 19.22 amount of available financing per active covered firefighter is subsequently reduced
 19.23 because of a reduction in fire state aid or because of an increase in the number of active
 19.24 firefighters, the relief association may continue to provide the prior service pension
 19.25 amount specified in its bylaws, but may not increase the service pension amount until
 19.26 the minimum average amount of available financing per firefighter under the table in
 19.27 paragraph (c) or (d), whichever applies, permits.

19.28 (g) No defined benefit relief association is authorized to provide a service pension in
 19.29 an amount greater than the largest applicable flexible service pension maximum amount
 19.30 even if the amount of available financing per firefighter is greater than the financing
 19.31 amount associated with the largest applicable flexible service pension maximum.

19.32 Sec. 20. Minnesota Statutes 2006, section 424A.02, subdivision 3a, is amended to read:

19.33 Subd. 3a. **Penalty for paying pension greater than applicable maximum.** (a)
 19.34 If a defined benefit relief association pays a service pension greater than the maximum
 19.35 service pension associated with the applicable average amount of available financing per
 19.36 active covered firefighter under the table in subdivision 3, paragraph (c) or (d), whichever
 19.37 applies, the maximum service pension under subdivision 3, paragraph (f), or the applicable

20.1 maximum service pension amount specified in subdivision 3, paragraph (g), whichever is
20.2 less, the state auditor shall:

20.3 (1) disqualify the municipality or the nonprofit firefighting corporation associated
20.4 with the relief association from receiving fire state aid by making the appropriate
20.5 notification to the municipality and the commissioner of revenue, with the disqualification
20.6 applicable for the next apportionment and payment of fire state aid; and

20.7 (2) recover the amount of the overpaid service pension or pensions from any retired
20.8 firefighter who received an overpayment.

20.9 (b) Fire state aid amounts from disqualified municipalities for the period of
20.10 disqualifications under paragraph (a), clause (1), must be credited to the amount of
20.11 fire insurance premium tax proceeds available for the next subsequent fire state aid
20.12 apportionment.

20.13 (c) The amount of any overpaid service pension recovered under paragraph (a),
20.14 clause (2), must be credited to the amount of fire insurance premium tax proceeds
20.15 available for the next subsequent fire state aid apportionment.

20.16 (d) The determination of the state auditor that a relief association has paid a service
20.17 pension greater than the applicable maximum must be made on the basis of the information
20.18 filed by the relief association and the municipality with the state auditor under sections
20.19 69.011, subdivision 2, and 69.051, subdivision 1 or 1a, whichever applies, and any other
20.20 relevant information that comes to the attention of the state auditor. The determination
20.21 of the state auditor is final. An aggrieved municipality, relief association, or person may
20.22 appeal the determination under section 480A.06.

20.23 Sec. 21. Minnesota Statutes 2006, section 424A.02, subdivision 7, as amended by
20.24 Laws 2008, chapter 349, article 14, section 9, is amended to read:

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

20.27 (1) has completed the lesser of either the minimum period of active service with
20.28 the fire department specified in the bylaws or 20 years of active service with the fire
20.29 department;

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

20.32 (3) separates from active service and membership before reaching age 50 or the
20.33 minimum age for retirement and commencement of a service pension specified in the
20.34 bylaws governing the relief association if that age is greater than age 50.

21.1 (b) The deferred service pension is payable when the former member reaches age
21.2 50, or the minimum age specified in the bylaws governing the relief association if that age
21.3 is greater than age 50, and when the former member makes a valid written application.

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

21.8 (1) at the investment performance rate actually earned on that portion of the assets
21.9 if the deferred benefit amount is invested by the relief association in a separate account
21.10 established and maintained by the relief association or if the deferred benefit amount is
21.11 invested in a separate investment vehicle held by the relief association; or

21.12 (2) at an interest rate of up to five percent, compounded annually, as set by the board
21.13 of directors and approved as provided in subdivision 10.

21.14 (d) Interest under paragraph (c), clause (2), is payable following the date on which
21.15 the municipality has approved the deferred service pension interest rate established by
21.16 the board of trustees.

21.17 ~~(e) A relief association that provides a defined contribution service pension may,~~
21.18 ~~if its governing bylaws so provide, credit interest or additional investment performance~~
21.19 ~~on the deferred lump sum service pension during the period of deferral. If provided for~~
21.20 ~~in the bylaws, the interest must be paid in one of the manners specified in paragraph~~
21.21 ~~(c) or alternatively the relief association may credit any investment return on the assets~~
21.22 ~~of the special fund of the defined contribution volunteer firefighter relief association in~~
21.23 ~~proportion to the share of the assets of the special fund to the credit of each individual~~
21.24 ~~deferred member account through the date on which the investment return is recognized~~
21.25 ~~by and credited to the special fund.~~

21.26 ~~(f)~~ For a deferred service pension that is transferred to a separate account established
21.27 and maintained by the relief association or separate investment vehicle held by the relief
21.28 association, the deferred member bears the full investment risk subsequent to transfer and
21.29 in calculating the accrued liability of the volunteer firefighters relief association that pays
21.30 a lump sum service pension, the accrued liability for deferred service pensions is equal
21.31 to the separate relief association account balance or the fair market value of the separate
21.32 investment vehicle held by the relief association.

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

22.1 Sec. 22. Minnesota Statutes 2006, section 424A.02, subdivision 8, is amended to read:

22.2 Subd. 8. **Lump sum service pensions; installment payments.** ~~Any~~ A defined
22.3 benefit relief association, if the governing bylaws so provide, may pay, at the option of
22.4 the retiring member and in lieu of a single payment of a lump sum service pension, a
22.5 lump sum service pension in installments.

22.6 The election of installment payments ~~shall be~~ is irrevocable and ~~shall~~ must
22.7 be made by the retiring member in writing and filed with the secretary of the relief
22.8 association no later than 30 days prior to the commencement of payment of the service
22.9 pension. The amount of the installment payments ~~shall~~ must be determined so that the
22.10 present value of the aggregate installment payments computed at an interest rate of five
22.11 percent, compounded annually, is equal to the amount of the single lump sum payment
22.12 which would have been made had the installment payments option not been elected.
22.13 The payment of each installment ~~shall~~ must include interest at the rate of five percent,
22.14 compounded annually on the reserve supporting the remaining installment payments as
22.15 of the date on which the previous installment payment was paid and computed from the
22.16 date on which the previous installment payment was paid to the date of payment for
22.17 the current installment payment.

22.18 To the extent that the ~~commissioner of commerce~~ state auditor deems it to be
22.19 necessary or practical, the ~~commissioner~~ state auditor may specify and issue procedures,
22.20 forms or mathematical tables for use in performing the calculations required ~~pursuant to~~
22.21 under this subdivision.

22.22 Sec. 23. Minnesota Statutes 2006, section 424A.02, subdivision 9, as amended by
22.23 Laws 2008, chapter 349, article 14, section 10, is amended to read:

22.24 Subd. 9. **Limitation on ancillary benefits.** ~~Any~~ A defined benefit relief association,
22.25 including any volunteer firefighters relief association governed by section 69.77 or any
22.26 volunteer firefighters division of a relief association governed by chapter 424, may only
22.27 pay ancillary benefits which would constitute an authorized disbursement as specified in
22.28 section 424A.05 subject to the following requirements or limitations:

22.29 (1) with respect to a defined benefit relief association in which governing bylaws
22.30 provide for a lump sum service pension to a retiring member, no ancillary benefit may
22.31 be paid to any former member or paid to any person on behalf of any former member
22.32 after the former member (i) terminates active service with the fire department and active
22.33 membership in the relief association; and (ii) commences receipt of a service pension as
22.34 authorized under this section; and

23.1 (2) with respect to any defined benefit relief association, no ancillary benefit paid or
23.2 payable to any member, to any former member, or to any person on behalf of any member
23.3 or former member, may exceed in amount the total earned service pension of the member
23.4 or former member. The total earned service pension must be calculated by multiplying
23.5 the service pension amount specified in the bylaws of the relief association at the time of
23.6 death or disability, whichever applies, by the years of service credited to the member or
23.7 former member. The years of service must be determined as of (i) the date the member or
23.8 former member became entitled to the ancillary benefit; or (ii) the date the member or
23.9 former member died entitling a survivor or the estate of the member or former member to
23.10 an ancillary benefit. The ancillary benefit must be calculated without regard to whether the
23.11 member had attained the minimum amount of service and membership credit specified in
23.12 the governing bylaws. For active members, the amount of a permanent disability benefit
23.13 or a survivor benefit must be equal to the member's total earned service pension except
23.14 that the bylaws of ~~any~~ a defined benefit relief association may provide for the payment of
23.15 a survivor benefit in an amount not to exceed five times the yearly service pension amount
23.16 specified in the bylaws on behalf of any member who dies before having performed five
23.17 years of active service in the fire department with which the relief association is affiliated.

23.18 Sec. 24. Minnesota Statutes 2006, section 424A.02, subdivision 9a, is amended to read:

23.19 Subd. 9a. **Postretirement increases.** Notwithstanding any provision of general or
23.20 special law to the contrary, a defined benefit relief association paying a monthly service
23.21 pension may provide a postretirement increase to retired members and ancillary benefit
23.22 recipients of the relief association if (1) the relief association adopts an appropriate bylaw
23.23 amendment; and (2) the bylaw amendment is approved by the municipality pursuant to
23.24 subdivision 10 and section 69.773, subdivision 6. The postretirement increase ~~shall be~~
23.25 is applicable only to retired members and ancillary benefit recipients receiving a service
23.26 pension or ancillary benefit as of the effective date of the bylaw amendment. The authority
23.27 to provide a postretirement increase to retired members and ancillary benefit recipients
23.28 of a relief association contained in this subdivision ~~shall supersede~~ supersedes any prior
23.29 special law authorization relating to the provision of postretirement increases.

23.30 Sec. 25. Minnesota Statutes 2006, section 424A.02, subdivision 9b, is amended to read:

23.31 Subd. 9b. **Repayment of service pension in certain instances.** If a retired
23.32 volunteer firefighter does not permanently separate from active firefighting service as
23.33 required by subdivision 1 and section 424A.001, subdivision 9, by resuming active service
23.34 as a firefighter in the same volunteer fire department or as a person in charge of firefighters

24.1 in the same volunteer fire department, no additional service pension amount is payable
24.2 to the person, no additional service is creditable to the person, and the person ~~shall~~ must
24.3 repay to the defined benefit relief association any previously received service pension.

24.4 Sec. 26. Minnesota Statutes 2006, section 424A.02, subdivision 10, is amended to read:

24.5 Subd. 10. **Local approval of bylaw amendments; filing requirements.** (a) Each
24.6 defined benefit relief association to which this section applies ~~shall~~ must file a revised
24.7 copy of its governing bylaws with the state auditor upon the adoption of any amendment
24.8 to its governing bylaws by the relief association or upon the approval of any amendment
24.9 to its governing bylaws granted by the governing body of each municipality served by the
24.10 fire department to which the relief association is directly associated. Failure of the relief
24.11 association to file a copy of the bylaws or any bylaw amendments with the state auditor
24.12 ~~shall disqualify~~ disqualifies the municipality from the distribution of any future fire state
24.13 aid until this filing requirement has been completed.

24.14 (b) If the special fund of the relief association does not have a surplus over full
24.15 funding ~~pursuant to~~ under section 69.772, subdivision 3, clause (2), subclause (e), or
24.16 69.773, subdivision 4, and if the municipality is required to provide financial support to
24.17 the special fund of the relief association ~~pursuant to~~ under section 69.772 or 69.773, no
24.18 bylaw amendment which would affect the amount of, the manner of payment of, or the
24.19 conditions for qualification for service pensions or ancillary benefits or disbursements
24.20 other than administrative expenses authorized ~~pursuant to~~ under section 69.80 payable
24.21 from the special fund of the relief association ~~shall be~~ is effective until it has been ratified
24.22 by the governing body or bodies of the appropriate municipalities. If the municipality is
24.23 not required to provide financial support to the special fund ~~pursuant to~~ under this section,
24.24 the relief association may adopt or amend without municipal ratification its articles
24.25 of incorporation or bylaws which increase or otherwise affect the service pensions or
24.26 ancillary benefits payable from the special fund so long as the changes do not cause the
24.27 amount of the resulting increase in the accrued liability of the special fund to exceed 90
24.28 percent of the amount of the prior surplus over full funding and the changes do not result
24.29 in the financial requirements of the special fund exceeding the expected amount of the
24.30 ~~future~~ subsequent calendar year's fire state aid to be received by the relief association.

24.31 (c) If the relief association pays only a lump sum pension, the financial requirements
24.32 are to be determined by the board of trustees following the preparation of an estimate
24.33 of the expected increase in the accrued liability and annual accruing liability of the
24.34 relief association attributable to the change. If the relief association pays a monthly
24.35 benefit service pension, the financial requirements are to be determined by the board of

25.1 trustees following either an updated actuarial valuation including the proposed change
 25.2 or an estimate of the expected actuarial impact of the proposed change prepared by the
 25.3 actuary of the relief association. If a relief association adopts or amends its articles of
 25.4 incorporation or bylaws without municipal ratification ~~pursuant to~~ under this subdivision,
 25.5 and, subsequent to the amendment or adoption, the financial requirements of the special
 25.6 fund ~~pursuant to~~ under this section are such so as to require financial support from the
 25.7 municipality, the provision which was implemented without municipal ratification ~~shall is~~
 25.8 no longer ~~be~~ effective without municipal ratification, and any service pensions or ancillary
 25.9 benefits payable after that date ~~shall~~ must be paid only in accordance with the articles of
 25.10 incorporation or bylaws as amended or adopted with municipal ratification.

25.11 Sec. 27. Minnesota Statutes 2006, section 424A.02, subdivision 12, is amended to read:

25.12 Subd. 12. **Transfer of service credit to new district.** Notwithstanding the
 25.13 requirements of subdivision 1 or any other law, a member of a fire department which is
 25.14 disbanded upon formation of a fire district to serve substantially the same geographic
 25.15 area, who serves as an active firefighter with the new district fire department, and is a
 25.16 member of the district firefighters' defined benefit relief association ~~shall be~~ is entitled
 25.17 to a nonforfeitable service pension from the new relief association upon completion of
 25.18 a combined total of 20 years active service in the disbanded and the new departments.
 25.19 The amount of the service pension ~~shall be~~ is based upon years of service in the new
 25.20 department only; and ~~shall~~ must be in an amount equal to the accrued liability for the
 25.21 appropriate years of service calculated in accordance with section 69.772, subdivision 2.

25.22 Sec. 28. Minnesota Statutes 2006, section 424A.02, subdivision 13, is amended to read:

25.23 Subd. 13. **Combined service pensions.** (a) If the articles of incorporation or bylaws
 25.24 of the defined benefit relief associations so provide, a volunteer firefighter with credit for
 25.25 service as an active firefighter in more than one defined benefit volunteer firefighters relief
 25.26 association is entitled, when the applicable requirements of paragraph (b) are met and
 25.27 when otherwise qualified, to a prorated service credit from each relief association.

25.28 (b) A volunteer firefighter receiving a prorated service pension under this subdivision
 25.29 must have a total amount of service credit of ten years or more, if the bylaws of every
 25.30 affected relief association ~~does do not require~~ specify only a five-year service vesting
 25.31 requirement, or five years or more, if the bylaws of every affected relief association
 25.32 ~~requires~~ require only a five-year service vesting requirement, as a member of two or more
 25.33 relief associations otherwise qualified. The member must have one year or more of service
 25.34 credit in each relief association. The prorated service pension must be based on the service

26.1 pension amount in effect for the relief association on the date on which active volunteer
 26.2 firefighting services covered by that relief association terminate. To receive a service
 26.3 pension under this subdivision, the firefighter must become a member of the second or
 26.4 succeeding association and must give notice of membership to the prior association within
 26.5 two years of the date of termination of active service with the prior association. The notice
 26.6 must be attested to by the second or subsequent relief association secretary.

26.7 Sec. 29. Minnesota Statutes 2006, section 424A.021, is amended to read:

26.8 **424A.021 CREDIT FOR BREAK IN SERVICE TO PROVIDE UNIFORMED**
 26.9 **SERVICE.**

26.10 Subdivision 1. **Authorization.** Subject to restrictions stated in this section, a
 26.11 volunteer firefighter who is absent from firefighting service due to service in the uniformed
 26.12 services, as defined in United States Code, title 38, section 4303(13), may obtain service
 26.13 credit if the relief association is a defined benefit plan or an allocation of any fire state
 26.14 aid, any municipal contributions, and any ~~investment return~~ other relief association
 26.15 special fund revenue received by the relief association if the relief association is a defined
 26.16 contribution plan for the period of the uniformed service, not to exceed five years, unless a
 26.17 longer period is required under United States Code, title 38, section 4312.

26.18 Subd. 2. **Limitations.** (a) To be eligible for service credit or ~~an investment return~~
 26.19 relief association special fund revenue allocation under this section, the volunteer
 26.20 firefighter must return to firefighting service with coverage by the same relief association
 26.21 or by the successor to that relief association upon discharge from service in the uniformed
 26.22 service within the time frame required in United States Code, title 38, section 4312(e).

26.23 (b) Service credit or ~~an investment return~~ relief association special fund revenue
 26.24 allocation is not authorized if the firefighter separates from uniformed service with a
 26.25 dishonorable or bad conduct discharge or under other than honorable conditions.

26.26 (c) Service credit or ~~an investment return~~ relief association special fund revenue
 26.27 allocation is not authorized if the firefighter fails to provide notice to the fire department
 26.28 that the individual is leaving to provide service in the uniformed service, unless it is not
 26.29 feasible to provide that notice due to the emergency nature of the situation.

26.30 Sec. 30. Minnesota Statutes 2006, section 424A.03, is amended to read:

26.31 **424A.03 UNIFORMITY OF VOLUNTEER FIREFIGHTER SERVICE**
 26.32 **PENSION AND RETIREMENT BENEFITS.**

26.33 Subdivision 1. **Limitation on nonuniformity of pensions.** Every partially salaried
 26.34 and partially volunteer firefighters' relief association ~~shall~~ must provide service pensions

27.1 to volunteer firefighter members based on the years of service of the members not on
27.2 the compensation paid to the members for firefighting services. Each relief association
27.3 ~~shall~~ must provide service pensions to salaried members as set forth in chapter 424 and
27.4 applicable special laws.

27.5 Subd. 2. **Penalties for violations.** ~~Any~~ A municipality which has a fire department
27.6 ~~to which~~ associated with a relief association which violates the provisions of subdivision
27.7 1 is directly associated or which contracts with an independent nonprofit firefighting
27.8 corporation ~~of which~~ associated with a relief association which violates the provisions
27.9 of subdivision 1 is a subsidiary ~~shall~~ may not be included in the apportionment of fire
27.10 state aid by the commissioner of commerce to the applicable county auditor ~~pursuant to~~
27.11 under section 69.021, subdivision 6, and ~~shall~~ may not be included in the apportionment
27.12 of fire state aid by the county auditor to the various municipalities ~~pursuant to~~ under
27.13 section 69.021, subdivision 7.

27.14 Subd. 3. **Exception to application of limitation and penalty.** The limitation
27.15 provided for in subdivision 1 ~~shall~~ does not apply to any relief association which ~~prior to~~
27.16 before January 1, 1957, had established a definite service pension formula for members
27.17 of the partially salaried and partially volunteer firefighters' relief association who are
27.18 regularly employed firefighters.

27.19 Sec. 31. Minnesota Statutes 2006, section 424A.04, is amended to read:

27.20 **424A.04 VOLUNTEER RELIEF ASSOCIATIONS; BOARD OF TRUSTEES.**

27.21 Subdivision 1. **Membership.** (a) A relief association that is directly associated with
27.22 a municipal fire department must be managed by a board of trustees consisting of nine
27.23 members. Six trustees must be elected from the membership of the relief association and
27.24 three trustees must be drawn from the officials of the municipalities served by the fire
27.25 department to which the relief association is directly associated. The bylaws of a relief
27.26 association which provides a monthly benefit service pension may provide that one of
27.27 the six trustees elected from the relief association membership may be a retired member
27.28 receiving a monthly pension who is elected by the membership of the relief association.
27.29 The three municipal trustees must be one elected municipal official and one elected or
27.30 appointed municipal official who are designated as municipal representatives by the
27.31 municipal governing board annually and the chief of the municipal fire department.

27.32 (b) A relief association that is a subsidiary of an independent nonprofit firefighting
27.33 corporation must be managed by a board of trustees consisting of nine members. Six
27.34 trustees must be elected from the membership of the relief association, two trustees must
27.35 be drawn from the officials of the municipalities served by the fire department to which

28.1 the relief association is directly associated, and one trustee ~~shall~~ must be the fire chief
28.2 serving with the independent nonprofit firefighting corporation. The bylaws of a relief
28.3 association may provide that one of the six trustees elected from the relief association
28.4 membership may be a retired member receiving a monthly pension who is elected by the
28.5 membership of the relief association. The two municipal trustees must be elected or
28.6 appointed municipal officials, selected as follows:

28.7 (1) if only one municipality contracts with the independent nonprofit firefighting
28.8 corporation, the municipal trustees must be two officials of the contracting municipality
28.9 who are designated annually by the governing body of the municipality; or

28.10 (2) if two or more municipalities contract with the independent nonprofit corporation,
28.11 the municipal trustees must be one official from each of the two largest municipalities
28.12 in population who are designated annually by the governing bodies of the applicable
28.13 municipalities.

28.14 (c) The municipal trustees for a relief association that is directly associated with a fire
28.15 department operated as or by a joint powers entity must be designated annually by the joint
28.16 powers board. The municipal trustees for a relief association that is directly associated
28.17 with a fire department service area township must be designated by the township board.

28.18 (d) If a relief association lacks the municipal board members provided for in
28.19 paragraph (a), (b), or (c) because the fire department is not located in or associated with an
28.20 organized municipality, joint powers entity, or township, the municipal board members
28.21 must be appointed from the fire department service area by the board of commissioners
28.22 of the applicable county.

28.23 (e) The term of ~~these~~ appointed municipal board members is one year or until the
28.24 person's successor is qualified, whichever is later.

28.25 (f) A municipal trustee under paragraph (a), (b), (c), or (d) has all the rights
28.26 and duties accorded to any other trustee, except the right to be an officer of the relief
28.27 association board of trustees.

28.28 (g) A board must have at least three officers, who are a president, a secretary and a
28.29 treasurer. These officers must be elected from among the elected trustees by either the full
28.30 board of trustees or by the relief association membership, as specified in the bylaws. In
28.31 no event may any trustee hold more than one officer position at any one time. The terms
28.32 of the elected trustees and of the officers of the board must be specified in the bylaws of
28.33 the relief association, but may not exceed three years. If the term of the elected trustees
28.34 exceeds one year, the election of the various trustees elected from the membership must be
28.35 staggered on an equal basis as is practicable.

29.1 Subd. 2. **Fiduciary duty.** The board of trustees of a relief association shall
 29.2 undertake their activities consistent with chapter 356A.

29.3 Subd. 2b. **Fiduciary responsibility.** In the discharge of their respective duties, the
 29.4 officers and trustees shall be held to the standard of care specified in section 11A.09. In
 29.5 addition, the trustees must act in accordance with chapter 356A. Each member of the board
 29.6 is a fiduciary and shall undertake all fiduciary activities in accordance with the standard
 29.7 of care of section 11A.09, and in a manner consistent with chapter 356A. No fiduciary
 29.8 of a relief association shall cause a relief association to engage in a transaction if the
 29.9 fiduciary knows or should know that the transaction constitutes one of the following direct
 29.10 or indirect transactions: (1) sale or exchange or leasing of any real property between the
 29.11 relief association and a board member; (2) lending of money or other extension of credit
 29.12 between the relief association and a board member or member of the relief association;
 29.13 (3) furnishing of goods, services, or facilities between the relief association and a board
 29.14 member; or (4) transfer to a board member, or use by or for the benefit of a board member,
 29.15 of any assets of the relief association. A transfer of assets does not mean the payment of
 29.16 relief association benefits or administrative expenses permitted by law.

29.17 Subd. 3. **Conditions on relief association consultants.** (a) If a volunteer firefighter
 29.18 relief association ~~hires~~ employs or contracts with a consultant to provide legal or financial
 29.19 advice, the secretary of the relief association shall obtain and the consultant shall provide
 29.20 to the secretary of the relief association a copy of the consultant's certificate of insurance.

29.21 (b) A consultant is any person who is employed under contract to provide legal or
 29.22 financial advice and who is or who represents to the volunteer firefighter relief association
 29.23 that the person is:

- 29.24 (1) an actuary;
 29.25 (2) a licensed public accountant or a certified public accountant;
 29.26 (3) an attorney;
 29.27 (4) an investment advisor or manager, or an investment counselor;
 29.28 (5) an investment advisor or manager selection consultant;
 29.29 (6) a pension benefit design advisor or consultant; or
 29.30 (7) any other financial consultant.

29.31 Sec. 32. Minnesota Statutes 2006, section 424A.05, subdivision 1, is amended to read:

29.32 Subdivision 1. **Establishment of special fund.** Every volunteer firefighters' relief
 29.33 association shall establish and maintain a special fund within the relief association.

29.34 Sec. 33. Minnesota Statutes 2006, section 424A.05, subdivision 2, is amended to read:

30.1 Subd. 2. **Special fund assets and revenues.** The special fund ~~shall~~ must be credited
 30.2 with all fire state aid moneys received ~~pursuant to~~ under sections 69.011 to 69.051,
 30.3 all taxes levied by or other revenues received from the municipality ~~pursuant to~~ under
 30.4 sections 69.771 to 69.776 or any applicable special law requiring municipal support for
 30.5 the relief association, any moneys or property donated, given, granted or devised by any
 30.6 person which is specified for use for the support of the special fund and any interest or
 30.7 investment return earned upon the assets of the special fund. The treasurer of the relief
 30.8 association ~~shall be~~ is the custodian of the assets of the special fund and ~~shall~~ must be the
 30.9 recipient on behalf of the special fund of all revenues payable to the special fund. The
 30.10 treasurer shall maintain adequate records documenting any transaction involving the assets
 30.11 or the revenues of the special fund. These records and the bylaws of the relief association
 30.12 ~~shall be~~ are public and ~~shall~~ must be open for inspection by any member of the relief
 30.13 association, any officer or employee of the state or of the municipality, or any member of
 30.14 the public, at reasonable times and places.

30.15 Sec. 34. Minnesota Statutes 2006, section 424A.05, subdivision 3, as amended by
 30.16 Laws 2008, chapter 349, article 14, section 11, is amended to read:

30.17 Subd. 3. **Authorized disbursements from the special fund.** (a) Disbursements
 30.18 from the special fund ~~are~~ may not permitted to be made for any purpose other than one of
 30.19 the following:

30.20 (1) for the payment of service pensions to retired members of the relief association if
 30.21 authorized and paid under law and the bylaws governing the relief association;

30.22 (2) for the payment of temporary or permanent disability benefits to disabled
 30.23 members of the relief association if authorized and paid ~~pursuant to~~ under law and
 30.24 specified in amount in the bylaws governing the relief association;

30.25 (3) for the payment of survivor benefits to surviving spouses and surviving children,
 30.26 or if none, to designated beneficiaries, of deceased active or deferred members of the
 30.27 relief association, and if survivors and if no designated beneficiary, for the payment of
 30.28 a death benefit to the estate of the deceased active or deferred firefighter, if authorized
 30.29 by and paid ~~pursuant to~~ under law and specified in amount in the bylaws governing the
 30.30 relief association;

30.31 (4) for the payment of the fees, dues and assessments to the Minnesota State Fire
 30.32 Department Association, to the Minnesota Area Relief Association Coalition, and to
 30.33 the state Volunteer Firefighters Benefit Association in order to entitle relief association
 30.34 members to membership in and the benefits of these associations or organizations; and

31.1 (5) for the payment of administrative expenses of the relief association as authorized
31.2 under section 69.80.

31.3 (b) For purposes of this chapter, a designated beneficiary must be a natural person.

31.4 Sec. 35. Minnesota Statutes 2006, section 424A.05, subdivision 4, is amended to read:

31.5 Subd. 4. **Investments of assets of the special fund.** The assets of the special fund
31.6 ~~shall~~ must be invested only in securities authorized by section 69.775.

31.7 Sec. 36. Minnesota Statutes 2006, section 424A.06, is amended to read:

31.8 **424A.06 RELIEF ASSOCIATION GENERAL FUND.**

31.9 Subdivision 1. **Establishment of general fund.** ~~Any~~ A volunteer firefighters' relief
31.10 association may establish and maintain a general fund within the relief association.

31.11 Subd. 2. **General fund assets and revenues.** To the general fund, if established,
31.12 ~~shall~~ must be credited all moneys received from dues, fines, initiation fees, entertainment
31.13 revenues and any moneys or property donated, given, granted or devised by any person,
31.14 for unspecified uses. The treasurer of the relief association ~~shall be~~ is the custodian of the
31.15 assets of the general fund and ~~shall~~ must be the recipient on behalf of the general fund of
31.16 all revenues payable to the general fund. The treasurer shall maintain adequate records
31.17 documenting any transaction involving the assets or the revenues of the general fund.
31.18 These records ~~shall~~ must be open for inspection by any member of the relief association
31.19 at reasonable times and places.

31.20 Subd. 3. **Authorized disbursements from the general fund.** Disbursements from
31.21 the general fund may be made for any purpose that is authorized by either the articles of
31.22 incorporation or bylaws of the relief association.

31.23 Subd. 4. **Investment of assets of the general fund.** The assets of the general
31.24 fund may be invested in any securities that are authorized by the bylaws of the relief
31.25 association and may be certified for investment by the State Board of Investment in fixed
31.26 income pools or in a separately managed account at the discretion of the State Board of
31.27 Investment as provided in section 11A.14.

31.28 Sec. 37. Minnesota Statutes 2006, section 424A.07, is amended to read:

31.29 **424A.07 NONPROFIT FIREFIGHTING CORPORATIONS;**
31.30 **ESTABLISHMENT OF RELIEF ASSOCIATIONS.**

31.31 ~~Prior to~~ Before paying any service pensions or retirement benefits ~~pursuant to~~
31.32 under section 424A.02 or before becoming entitled to receive any amounts of fire state
31.33 aid upon transmittal from a contracting municipality ~~pursuant to~~ under section 69.031,

32.1 subdivision 5, a nonprofit firefighting corporation shall establish a volunteer firefighters'
32.2 relief association governed by this chapter.

32.3 Sec. 38. Minnesota Statutes 2006, section 424A.08, is amended to read:

32.4 **424A.08 MUNICIPALITY WITHOUT RELIEF ASSOCIATION;**
32.5 **AUTHORIZED DISBURSEMENTS.**

32.6 Any qualified municipality which is entitled to receive fire state aid but which has
32.7 no volunteer firefighters' relief association directly associated with its fire department
32.8 shall deposit the fire state aid in a special account established for that purpose in the
32.9 municipal treasury. Disbursement from the special account ~~shall~~ may not be made for
32.10 any purpose except:

- 32.11 (1) payment of the fees, dues and assessments to the Minnesota State Fire
32.12 Department Association and to the state Volunteer Firefighters' Benefit Association in
32.13 order to entitle its firefighters to membership in and the benefits of these state associations;
32.14 (2) payment of the cost of purchasing and maintaining needed equipment for the
32.15 fire department; and
32.16 (3) payment of the cost ~~for~~ of construction, acquisition, repair ~~and~~ or maintenance of
32.17 buildings or other premises to house the equipment of the fire department.

32.18 Sec. 39. Minnesota Statutes 2007 Supplement, section 424A.10, subdivision 1, is
32.19 amended to read:

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

32.21 (1) "qualified recipient" means an individual who receives a lump sum distribution
32.22 of pension or retirement benefits from a volunteer firefighters' relief association for service
32.23 that the individual has performed as a volunteer firefighter;

32.24 (2) "survivor of a deceased active or deferred volunteer firefighter" means the legally
32.25 married spouse of a deceased volunteer firefighter, or, if none, the surviving minor child or
32.26 minor children of a deceased volunteer firefighter;

32.27 (3) "active volunteer firefighter" means a person who regularly renders fire
32.28 suppression service for a municipal fire department or an independent nonprofit firefighting
32.29 corporation, who has met the statutory and other requirements for relief association
32.30 membership, and who has been a fully qualified member of the relief association for
32.31 at least one month; and

32.32 (4) "deferred volunteer firefighter" means a former active volunteer firefighter who
32.33 terminated active firefighting service, has sufficient service credit from the applicable

33.1 relief association to be entitled to a service pension, but has not applied for or has not
33.2 received the service pension.

33.3 Sec. 40. Minnesota Statutes 2007 Supplement, section 424A.10, subdivision 2, is
33.4 amended to read:

33.5 Subd. 2. **Payment of supplemental benefit.** (a) Upon the payment by a volunteer
33.6 firefighters' relief association of a lump sum distribution to a qualified recipient, the
33.7 association must pay a supplemental benefit to the qualified recipient. Notwithstanding
33.8 any law to the contrary, the relief association must pay the supplemental benefit out of
33.9 its special fund. ~~The amount of~~ This benefit ~~equals~~ is an amount equal to ten percent of
33.10 the regular lump sum distribution that is paid on the basis of the recipient's service as
33.11 a volunteer firefighter. In no case may the amount of the supplemental benefit exceed
33.12 \$1,000. A supplemental benefit under this paragraph may not be paid to a survivor of a
33.13 deceased active or deferred volunteer firefighter in that capacity.

33.14 (b) Upon the payment by a relief association of a lump sum survivor benefit or
33.15 funeral benefit to a survivor of a deceased active volunteer firefighter or of a deceased
33.16 deferred volunteer firefighter, the association may pay a supplemental survivor benefit
33.17 to the survivor of the deceased active or deferred volunteer firefighter from the special
33.18 fund of the relief association if its articles of incorporation or bylaws so provide. The
33.19 amount of the supplemental survivor benefit is 20 percent of the survivor benefit or funeral
33.20 benefit, but not to exceed \$2,000.

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

33.24 Sec. 41. Minnesota Statutes 2007 Supplement, section 424A.10, subdivision 3, is
33.25 amended to read:

33.26 Subd. 3. **State reimbursement.** (a) By February 15 of each year, the treasurer of
33.27 the volunteer firefighters' relief association shall apply to the commissioner of revenue
33.28 for state reimbursement of the amount of supplemental benefits paid under subdivision 2
33.29 during the preceding calendar year. By March 15, the commissioner shall reimburse the
33.30 relief association for the amount of the supplemental benefits paid by the relief association
33.31 to qualified recipients and to survivors of deceased active or deferred volunteer firefighters.

33.32 (b) The commissioner of revenue shall prescribe the form of and supporting
33.33 information that must be supplied as part of the application for state reimbursement.

34.1 (c) The reimbursement payment must be deposited in the special fund of the relief
34.2 association.

34.3 (d) A sum sufficient to make the payments is appropriated from the general fund
34.4 to the commissioner of revenue.

34.5 Sec. 42. Minnesota Statutes 2006, section 424A.10, subdivision 4, is amended to read:

34.6 Subd. 4. **In lieu of income tax exclusion.** (a) The supplemental benefit provided
34.7 by this section is in lieu of the state income tax exclusion for lump sum distributions of
34.8 retirement benefits paid to volunteer firefighters.

34.9 (b) If the law is modified to exclude or exempt volunteer firefighters' lump sum
34.10 distributions from state income taxation, the supplemental benefits under this section
34.11 ~~may~~ are no longer be paid payable, beginning with the first calendar year in which the
34.12 exclusion or exemption is effective. This subdivision does not apply to exemption of all or
34.13 part of a lump sum distribution under section 290.032 or 290.0802.

34.14 Sec. 43. Minnesota Statutes 2006, section 424A.10, subdivision 5, is amended to read:

34.15 Subd. 5. **Retroactive reimbursement in certain instances.** A supplemental
34.16 survivor or funeral benefit may be paid by a relief association for the death of an active
34.17 volunteer firefighter or of a deferred volunteer firefighter that occurred on or after August
34.18 1, 2005, if the relief association articles of incorporation or bylaws ~~so~~ provide for a
34.19 supplemental survivor benefit and provide for retroactivity.

34.20 Sec. 44. Minnesota Statutes 2006, section 424B.10, is amended to read:

34.21 **424B.10 CONSOLIDATING DEFINED BENEFIT RELIEF ASSOCIATIONS;**
34.22 **BENEFITS; FUNDING.**

34.23 Subd 1a. **Applicability.** This section applies when all of the volunteer firefighters'
34.24 relief associations involved in the consolidation are defined benefit relief associations as
34.25 defined in section 424A.001, subdivision 1b.

34.26 ~~Subdivision 1~~ Subd. 1a. **Benefits.** (a) The successor relief association following
34.27 the consolidation of two or more defined benefit relief associations must be a defined
34.28 benefit relief association.

34.29 (b) Notwithstanding any provision of section 424A.02, subdivision 3, to the contrary,
34.30 the initial service pension amount of the subsequent defined benefit relief association as
34.31 of the effective date of consolidation is either the service pension amount specified in
34.32 clause (1) or the service pension amounts specified in clause (2), as provided for in the
34.33 consolidated relief association's articles of incorporation or bylaws:

35.1 (1) the highest dollar amount service pension amount of any prior volunteer
 35.2 firefighters relief association in effect immediately before the consolidation initiation if the
 35.3 pension amount was implemented consistent with section 424A.02; or

35.4 (2) for service rendered by each individual volunteer firefighter before consolidation,
 35.5 the service pension amount under the consolidating volunteer firefighters relief association
 35.6 that the firefighter belonged to immediately before the consolidation if the pension amount
 35.7 was implemented consistent with section 424A.02 and for service rendered after the
 35.8 effective date of the consolidation, the highest dollar amount service pension of any of the
 35.9 consolidating volunteer firefighters relief associations in effect immediately before the
 35.10 consolidation if the pension amount was implemented consistent with section 424A.02.

35.11 ~~(b)~~ (c) Any increase in the service pension amount beyond the amount implemented
 35.12 under paragraph (a) must conform with the requirements and limitations of sections
 35.13 69.771 to 69.775 and section 424A.02.

35.14 Subd. 2. **Funding.** (a) Unless the applicable municipalities agree in writing to
 35.15 allocate the minimum municipal obligation in a different manner, the minimum municipal
 35.16 obligation under section 69.772 or 69.773, whichever applies, must be allocated between
 35.17 the applicable municipalities in proportion to their fire state aid.

35.18 (b) If any applicable municipality fails to meet its portion of the minimum municipal
 35.19 obligation to the subsequent relief association, all other applicable municipalities are
 35.20 jointly obligated to provide the required funding upon certification by the relief association
 35.21 secretary. An applicable municipality that pays the minimum municipal obligation
 35.22 amount for another applicable municipality, the municipality may collect the that payment
 35.23 amount, plus a 25 percent surcharge, from the responsible applicable municipality by any
 35.24 available means, including a deduction from any state aid or payment amount payable
 35.25 to the responsible municipality upon certification of the necessary information to the
 35.26 commissioner of finance.

35.27 Sec. 45. **[424B.11] CONSOLIDATING DEFINED CONTRIBUTION RELIEF**
 35.28 **ASSOCIATIONS; INDIVIDUAL ACCOUNTS; FUNDING.**

35.29 Subdivision 1. **Applicability.** This section applies when all of the volunteer
 35.30 firefighters' relief associations involved in the consolidation are defined contribution relief
 35.31 associations as defined in section 424A.001, subdivision 1c.

35.32 Subd. 2. **Individual accounts.** The successor relief association following the
 35.33 consolidation of two or more defined contribution relief associations must be a defined
 35.34 contribution relief association and the successor relief association board shall establish
 35.35 individual accounts for every active member, deferred member, or retired member

36.1 receiving installment payments with that status as of the consolidation date. To each
 36.2 individual account the successor relief association must credit the amount to the credit
 36.3 of each person by a predecessor relief association as of the date of consolidation plus a
 36.4 proportional share, based on account value, of any subsequent net revenue during the
 36.5 consolidation process.

36.6 Subd. 3. **Funding.** Unless the articles of incorporation or bylaws of the successor
 36.7 relief association specify that municipal contributions are wholly voluntary or unless the
 36.8 municipalities associated with the consolidating defined contribution relief associations
 36.9 agree in writing to a different municipal support arrangement, each municipality must
 36.10 continue to provide the same amount of municipal support to the successor relief
 36.11 association as the municipality provided to the applicable predecessor relief association in
 36.12 the calendar year immediately prior to the calendar year in which the consolidation occurs.

36.13 Sec. 46. **[424B.12] MIXED CONSOLIDATING RELIEF ASSOCIATIONS;**
 36.14 **BENEFIT PLAN; FUNDING.**

36.15 Subdivision 1. **Applicability.** This section applies where one or more of the
 36.16 volunteer firefighters' relief associations involved in the consolidation are defined benefit
 36.17 relief associations as defined in section 424A.001, subdivision 1b, and one or more of
 36.18 the volunteer firefighters' relief associations involved in the consolidation are defined
 36.19 contribution relief associations as defined in section 424A.001, subdivision 1c.

36.20 Subd. 2. **Benefit plan.** The articles of incorporation or bylaws of the relief successor
 36.21 relief association must specify whether the relief association is a defined benefit relief
 36.22 association or whether the relief association is a defined contribution relief association. If
 36.23 the successor relief association is a defined benefit relief association, the relief association
 36.24 benefits must comply with sections 424A.02 and 424B.11, subdivision 1a. If the successor
 36.25 relief association is a defined contribution relief association, the relief association must
 36.26 comply with sections 424A.017 and 424B.12, subdivision 2.

36.27 Subd. 3. **Funding.** If the successor relief association is a defined benefit relief
 36.28 association, the relief association funding is governed by section 424B.11, subdivision 2.
 36.29 If the successor relief association is a defined contribution relief association, the relief
 36.30 association funding is governed by section 424B.12, subdivision 3.

36.31 Sec. 47. **REPEALER.**

36.32 Subdivision 1. **Repealed for recodification.** Minnesota Statutes 2006, sections
 36.33 424A.001, subdivision 7; and 424A.02, subdivisions 4, 6, 8a, and 8b, are repealed.

37.1 Subd. 2. Repealed as obsolete. Minnesota Statutes 2006, section 424A.09, is
37.2 repealed.

37.3 Sec. 48. EFFECTIVE DATE.

37.4 Sections 1 to 31 and 36 to 47 are effective July 1, 2009. Sections 32 to 35 are
37.5 effective retroactively from July 1, 2008.

37.6 **ARTICLE 2**
37.7 **CONFORMING CHANGES**

37.8 Section 1. Minnesota Statutes 2006, section 69.771, subdivision 3, is amended to read:

37.9 Subd. 3. **Remedy for noncompliance; determination.** (a) A municipality in which
37.10 there exists a firefighters' relief association as specified in subdivision 1 which does not
37.11 comply with the applicable provisions of sections 69.771 to 69.776 or the provisions of
37.12 any applicable special law relating to the funding or financing of the association does
37.13 not qualify initially to receive, and is not entitled subsequently to retain, fire state aid
37.14 under sections 69.011 to 69.051 until the reason for the disqualification specified by the
37.15 state auditor is remedied, whereupon the municipality or relief association, if otherwise
37.16 qualified, is entitled to again receive fire state aid for the year occurring immediately
37.17 subsequent to the year in which the disqualification is remedied.

37.18 (b) The state auditor shall determine if a municipality to which a firefighters' relief
37.19 association is directly associated or a firefighters' relief association fails to comply with
37.20 the provisions of sections 69.771 to 69.776 or the funding or financing provisions of any
37.21 applicable special law based upon the information contained in the annual financial report
37.22 of the firefighters' relief association required under section 69.051, the actuarial valuation
37.23 of the relief association, if applicable, the relief association officers' financial requirements
37.24 of the relief association and minimum municipal obligation determination documentation
37.25 under section 69.772, subdivisions 3 and 4; 69.773, subdivisions 4 and 5; or 69.774,
37.26 subdivision 2, if requested to be filed by the state auditor, the applicable municipal or
37.27 nonprofit firefighting corporation budget, if requested to be filed by the state auditor, and
37.28 any other relevant documents or reports obtained by the state auditor.

37.29 (c) The municipality or nonprofit firefighting corporation and the associated relief
37.30 association are not eligible to receive or to retain fire state aid if:

37.31 (1) the relief association fails to prepare or to file the financial report or financial
37.32 statement under section 69.051;

37.33 (2) the relief association treasurer is not bonded in the manner and in the amount
37.34 required by section 69.051, subdivision 2;

38.1 (3) the relief association officers fail to determine or improperly determine the
38.2 accrued liability and the annual accruing liability of the relief association under section
38.3 69.772, subdivisions 2, 2a, and 3, paragraph (c), clause (2), if applicable;

38.4 (4) if applicable, the relief association officers fail to obtain and file a required
38.5 actuarial valuation or the officers file an actuarial valuation that does not contain the
38.6 special fund actuarial liability calculated under the entry age normal actuarial cost
38.7 method, the special fund current assets, the special fund unfunded actuarial accrued
38.8 liability, the special fund normal cost under the entry age normal actuarial cost method,
38.9 the amortization requirement for the special fund unfunded actuarial accrued liability
38.10 by the applicable target date, a summary of the applicable benefit plan, a summary of
38.11 the membership of the relief association, a summary of the actuarial assumptions used
38.12 in preparing the valuation, and a signed statement by the actuary attesting to its results
38.13 and certifying to the qualifications of the actuary as an approved actuary under section
38.14 356.215, subdivision 1, paragraph (c);

38.15 (5) the municipality failed to provide a municipal contribution, or the nonprofit
38.16 firefighting corporation failed to provide a corporate contribution, in the amount equal
38.17 to the minimum municipal obligation if the relief association is governed under section
38.18 69.772, or the amount necessary, when added to the fire state aid actually received
38.19 in the plan year in question, to at least equal in total the calculated annual financial
38.20 requirements of the special fund of the relief association if the relief association is
38.21 governed under section 69.773, and, if the municipal or corporate contribution is deficient,
38.22 the municipality failed to include the minimum municipal obligation certified under
38.23 section 69.772, subdivision 3, or 69.773, subdivision 5, in its budget and tax levy or the
38.24 nonprofit firefighting corporation failed to include the minimum corporate obligation
38.25 certified under section 69.774, subdivision 2, in the corporate budget;

38.26 (6) the defined benefit relief association did not receive municipal ratification for
38.27 the most recent plan amendment when municipal ratification was required under section
38.28 69.772, subdivision 6; 69.773, subdivision 6; or 424A.02, subdivision 10;

38.29 (7) the relief association invested special fund assets in an investment security
38.30 that is not authorized under section 69.775;

38.31 (8) the relief association had an administrative expense that is not authorized under
38.32 section 69.80 or 424A.05, subdivision 3, or the municipality had an expenditure that
38.33 is not authorized under section 424A.08;

38.34 (9) the relief association officers fail to provide a complete and accurate public
38.35 pension plan investment portfolio and performance disclosure under section 356.219;

39.1 (10) the relief association fails to obtain the acknowledgment from a broker of the
39.2 statement of investment restrictions under section 356A.06, subdivision 8b;

39.3 (11) the relief association officers permitted to occur a prohibited transaction under
39.4 section 356A.06, subdivision 9, or ~~424A.001~~ 424A.04, subdivision 7 2a, or failed to
39.5 undertake correction of a prohibited transaction that did occur; or

39.6 (12) the relief association pays a defined benefit service pension in an amount
39.7 that is in excess of the applicable service pension maximum under section 424A.02,
39.8 subdivision 3.

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

39.10 Sec. 2. Minnesota Statutes 2006, section 424B.21, is amended to read:

39.11 **424B.21 ANNUITY PURCHASES UPON DISSOLUTION.**

39.12 The board of trustees of a volunteer firefighters relief association that is scheduled
39.13 for dissolution may purchase annuity contracts under section ~~424A.02~~ 424A.015,
39.14 subdivision ~~8a~~ 3, instead of transferring special fund assets to a municipal trust fund
39.15 under section 424B.20, subdivision 4. Payment of an annuity for which a contract is
39.16 purchased may not commence before the retirement age specified in the relief association
39.17 bylaws and in compliance with section 424A.016, subdivision 2, or 424A.02, subdivision
39.18 1. Legal title to the annuity contract transfers to the municipal trust fund under section
39.19 424B.20, subdivision 4.

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