

Minnesota Volunteer Fire Relief Association

Working Group Meeting

Office of the State Auditor
Thursday, September 29, 2016
11 a.m. to 1 p.m.

- I. Call to Order**
Chair Auditor Otto.
- II. Introductions**
- III. Review and Approval of Working Group Meeting Minutes**
Exhibit A. Draft January 27, 2016 Meeting Minutes
- IV. Working Group Process Discussion**
Exhibits B through E.
 - Working Group Meeting Schedule (B)
 - Working Group Purpose Statement (C)
 - Working Group Process (D)
 - Working Group Membership List (E)
- V. Update on 2016 Legislative Proposals**
Exhibit F.
- VI. Discussion of Working Group Topic Suggestions**
Exhibit G.
- VII. Discussion of Corporate Stock Restriction**
Exhibit H.
- VIII. Other Business**
 - LCPR Discussion
- IX. Next Meeting**
Tuesday, October 11, 2016
11 a.m. to 1 p.m.
Office of the State Auditor
- X. Adjournment**

Individuals with disabilities who need a reasonable accommodation to participate in this event, please contact Rose Hennessy Allen at (651) 296-5985 or (800) 627-3529 (TTY) by September 27, 2016.

Volunteer Fire Relief Association Working Group

Office of the State Auditor
Wednesday, January 27, 2016
11 a.m. to 1 p.m.

Members Present

Rachel Barth, Legislative Commission on Pension and Retirement Deputy Director
Steve Donney, City of Harmony Mayor
Luke Fischer, City of Plymouth Administrative Services Director
Dave Jaeger, Mahnomen Fire Relief Association Vice President (defined benefit lump sum plans)
Ron Johnson, Minnesota State Fire Department Association Representative (defined contribution plans)
(participated by phone)
Aaron Johnston, Coon Rapids Fire Relief Association Treasurer (defined contribution plans)
Susan Lenczewski, Legislative Commission on Pensions and Retirement Executive Director
Rebecca Otto, State Auditor
Michael Kruse, Falcon Heights Fire Relief Association Treasurer (defined contribution plans)
Kevin Wall, Lower Saint Croix Valley Fire Relief Association President (defined benefit lump sum plans)
Nyle Zikmund, Minnesota State Fire Chiefs Association Representative (defined benefit monthly plans)

Members Excused

Bruce Hemstad, Bemidji Fire Relief Association Secretary (defined benefit lump sum plans)

Others Present

Bill Braun, Woodbury Fire Relief Association Representative
Harry Blanek, Edina Fire Relief Association Representative
Candace Gislason, Van Iwaarden Associates Representative
Marisa Hansen, City of Plymouth Representative
Rose Hennessy Allen, Office of the State Auditor Pension Director
Phil Jones, Eden Prairie Fire Relief Association Representative
Abigail Mediger, Office of the State Auditor Pension Analyst
Jeff Reed, Office of the State Auditor Supervisor of Special Investigations
Ryan Sendelbach, Office of the State Auditor Pension Analyst

The following motions were duly made, seconded and approved:

- RESOLVED to approve the December 16, 2015, Working Group Meeting Minutes;
- RESOLVED to adopt the draft language, as amended, that would add a requirement to statute that the fire chief annually certify service credit;
- RESOLVED to adopt the draft language, as amended, that would permit individuals who solely perform emergency medical services to be eligible for relief association service pensions, subject to relief association and municipal approval;
- RESOLVED to adopt the draft language that would expand the authority to provide combined service pensions to defined contribution plans; and
- RESOLVED to adopt the draft language that would create a new subdivision in the Joint Powers statutes for fire departments.

I. Call to Order

Auditor Otto called the meeting to order.

II. Moment of Silence to Remember Working Group Member Dave Ganfield

Auditor Otto shared news of the passing of Dave Ganfield, Working Group member and Apple Valley Fire Relief Association president. The Group shared a moment of silence to remember their colleague.

III. Review and Approval of Working Group Meeting Minutes

The members reviewed the December 16, 2015, meeting minutes that had been provided in advance. Zikmund made a motion to adopt the minutes. Donney seconded the motion that was then adopted unanimously.

IV. Review of Draft Legislation

• **Certification of Service Credit**

The Working Group members reviewed draft language that would add a requirement to statute that service credit be certified annually by the fire chief. The certification would be made to an officer of the relief association and to the municipal clerk. The certification data must be made available for inspection by the individual firefighter whose record it is, by the relief association, and by the municipality that was served with the certification. After discussion, the members agreed to strike “in a timely fashion” from the draft language. The phrase is ambiguous. Johnston made a motion to adopt the draft language as amended. Zikmund seconded the motion that was then adopted unanimously.

• **Limitation of Relief Association Service Credit to Volunteer Service**

The Working Group members reviewed draft language that would clarify statute to prohibit the receipt of concurrent service credit. The language would prohibit a firefighter from being credited with service credit in a volunteer fire relief association for the same hours of service for which coverage is already provided in the Public Employees Retirement Association (PERA). Auditor Otto explained that the change is being pursued because clarity is needed and because the public pension system was never intended to allow for double dipping. Neither the public nor the Legislature would support such an outcome. The language was approved at the previous Working Group meeting and now changes were adopted, so no further action was needed.

• **Expanding Relief Association Pension Eligibility to Emergency Medical Personnel**

The Working Group members reviewed draft language that would permit individuals who solely perform emergency medical services to be eligible for relief association service pensions, subject to relief association and municipal approval. The proposal is permissive and would only apply to those communities that choose to allow the pension coverage. The members agreed to strike “and to” on the third line of the draft language and change it to “or.” The members discussed changing the requirement that all

contracting municipalities approve the expansion if the fire department affiliated with the relief association is an independent nonprofit firefighting corporation. The member decided not to make a change in this regard. The members agreed on an effective date of January 1, 2017. Wall made a motion to adopt the draft language as amended. Fischer seconded the motion that then was adopted unanimously.

V. Review of Joint Powers Sub-Group Recommendations

• Combined Service Pensions

The members reviewed draft language that would expand the authority to provide combined service pensions to defined contribution plans. Kruse shared the challenges involved with administering a combined service pension program in a defined contribution plan. The members agreed on an effective date of January 1, 2017. Donney made a motion to adopt the draft language. Zikmund seconded the motion that then was adopted unanimously.

• New Joint Powers Subdivision

The members reviewed draft language drafted by the Joint Powers Subgroup that creates a new subdivision in the Joint Powers statutes for fire departments. Auditor Otto explained that the provision would be carried in a bill separate from the other Working Group proposals as it would need to go through different legislative committees. The members agreed on an effective date of January 1, 2017. Jaeger made a motion to adopt the draft language. Wall seconded the motion that then was adopted unanimously.

VI. Schedule Form Discussion

Auditor Otto shared that a suggestion had been made during the first Working Group meeting last fall that the members discuss the investment earnings projection amount that relief associations may enter on the Schedule Form. The projection has a direct effect on the calculation required municipal contribution. Statute defines reasonable projection amounts for some of the revenue and expenditures to be entered on the Form, but does not define a reasonable projection for investment earnings. Statute requires that, to the extent possible, the current market value as of the calculation date be used for assets that have a market value readily ascertainable. The members agreed that the projection amount should not be defined. The municipal clerk must sign the Form, which should reduce concerns about the earnings projection being used to manipulate contribution amounts. Auditor Otto offered to provide education on this topic in the monthly Pension Division Newsletter.

VII. Other Business

There was no other business.

VIII. Adjournment

The meeting was adjourned at 12:40.

Exhibit B
Working Group Meeting Schedule

Thursday, September 29, 2016

Tuesday, October 11, 2016

Thursday, October 20, 2016

Wednesday, November 9, 2016

Tuesday, December 6, 2016

Thursday, December 15, 2016

State Auditor Rebecca Otto, Chair
Office of the State Auditor Conference Room
11:00 a.m. to 1:00 p.m.

Exhibit C
Working Group Purpose Statement

To identify and work through current and pressing relief association issues while maintaining effective and efficient Office of the State Auditor oversight. We will do this by bringing together the major volunteer fire relief association stakeholders to develop relationships, facilitate communication, discuss relief association issues and make the Pension Process easier and more effective. The ultimate goal is to help volunteer fire relief association plans be successful.

Exhibit D

Working Group Process

- Identify and discuss topics and make recommendations to clarify state laws,*
- Forward suggested statutory changes to the Legislative Commission on Pensions and Retirement, and
- Identify ways to simplify reporting forms, identify training needs and other issues.

*Unanimous consent is required for all proposals to move forward, although proposals that receive only one dissenting vote may be revisited and reconsidered.

Exhibit E
Working Group Membership List
2016/2017

- 1. Municipal Official**
Steve Donney, Mayor
City of Harmony
PO Box 175
Harmony, MN 55939
(507) 951-4320
stdonney2002@yahoo.com
- 2. Municipal Official**
Luke Fischer, Administrative Services Director
City of Plymouth
3400 Plymouth Boulevard
Plymouth, MN 55447
(763) 509-5051
lfischer@plymouthmn.gov
- 3. Defined Benefit Monthly/Lump Sum Combination Plans**
Philip Jones, Trustee
Eden Prairie Fire Relief Association
14800 Scenic Heights Road
Eden Prairie, MN 55344
(612) 280-1634
pjones@edenprairie.org
- 4. Defined Benefit Lump Sum Plans**
Bruce Hemstad, Secretary
Bemidji Fire Relief Association
318 – 5th Street N.W.
Bemidji, MN 56601
(218) 766-0014
bruce.hemstad@gmail.com

- 5. Defined Benefit Lump Sum Plans**
Dave Jaeger, Vice President
Mahnomen Fire Relief Association
116 SW Roosevelt Street
Mahnomen, MN 56557
(218) 935-5668
jaegerd68@gmail.com
- 6. Minnesota State Fire Department Association**
Ron Johnson, Treasurer
Maple Grove Fire Relief Association
P.O. Box 1174
Maple Grove, MN 55311
(612) 245-0012
ron@johnsonmn.com
- 7. Defined Contribution Plans**
Aaron Johnston, Treasurer
Coon Rapids Fire Relief Association
2831 – 113th Avenue NW
Coon Rapids, MN 55433
(763) 767-6477
ajohnston@coonrapidsmn.gov
- 8. Defined Contribution Plans**
Michael Kruse, Treasurer
Falcon Heights Fire Relief Association
2077 West Larpenteur Avenue
Falcon Heights, MN 55113
(651) 792-7635
mikek1716@hotmail.com
- 9. Legislative Commission on Pensions & Retirement**
Susan Lenczewski, Executive Director
55 State Office Building
Saint Paul, MN 55155
(651) 296-2750
susan.lenczewski@lcpr.leg.mn

10. Minnesota State Fire Chiefs Association

Nealon Thompson, Chief
Apple Valley Fire Department
7100 147th Street West
Apple Valley, MN 55124
(952) 953-2600
nthompson@cityofapplevalley.org

11. Defined Benefit Lump Sum Plans

Kevin Wall, President
Lower Saint Croix Valley Fire Relief Association
P.O. Box 234
Lake St. Croix Beach, MN 55043
(651) 216-7514
wallkcw@gmail.com

12. State Auditor Rebecca Otto

Suite 500
525 Park Street
Saint Paul, MN 55103
(651) 296-2551
state.auditor@osa.state.mn.us

1.1 A bill for an act

1.2 relating to volunteer firefighters relief associations; implementing the
1.3 recommendations of the state auditor's volunteer firefighter working group;
1.4 addressing various service credit and service pension eligibility issues; updating
1.5 references to accommodate joint powers fire departments; amending Minnesota
1.6 Statutes 2014, sections 424A.01, by adding subdivisions; 424A.015, by adding a
1.7 subdivision; 424B.20, subdivision 4; proposing coding for new law in Minnesota
1.8 Statutes, chapter 424A; repealing Minnesota Statutes 2014, section 424A.02,
1.9 subdivision 13.

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

1.11 Section 1. **[424A.003] CERTIFICATION OF SERVICE CREDIT.**

1.12 (a) When a municipal fire department, a joint powers fire department, or an
1.13 independent nonprofit firefighting corporation is directly associated with the volunteer
1.14 firefighters relief association, the fire chief shall certify annually by March 31 the service
1.15 credit for the previous calendar year of each volunteer firefighter rendering active service
1.16 with the fire department.

1.17 (b) The certification shall be made to an officer of the relief association's board
1.18 of trustees and to the municipal clerk or clerk-treasurer of the largest municipality in
1.19 population served by the associated fire department.

1.20 (c) The fire chief shall notify each volunteer firefighter rendering active service with
1.21 the fire department of the amount of service credit rendered by the firefighter for the
1.22 previous calendar year. The service credit notification and a description of the process and
1.23 deadlines for the firefighter to challenge the fire chief's determination of service credit
1.24 must be provided to the firefighter 60 days prior to its certification to the relief association
1.25 and municipality. If the service credit amount is challenged, the fire chief shall accept

2.1 and consider any additional pertinent information and shall make a final determination of
 2.2 service credit.

2.3 (d) The service credit certification must be expressed as the number of completed
 2.4 months of the previous year during which an active volunteer firefighter rendered at least
 2.5 the minimum level of duties as specified and required by the fire department under the
 2.6 rules, regulations, and policies applicable to the fire department. No more than one year of
 2.7 service credit may be certified for a calendar year.

2.8 (e) If a volunteer firefighter who is a member of the relief association leaves active
 2.9 firefighting service to render active military service that is required to be governed by the
 2.10 federal Uniformed Services Employment and Reemployment Rights Act, as amended,
 2.11 the firefighter must be certified as providing service credit for the period of the military
 2.12 service, up to the applicable limit of the federal Uniformed Services Employment
 2.13 and Reemployment Rights Act. If the volunteer firefighter does not return from the
 2.14 military service in compliance with the federal Uniformed Services Employment and
 2.15 Reemployment Rights Act, the service credits applicable to that military service credit
 2.16 period are forfeited and canceled at the end of the calendar year in which the time limit
 2.17 set by federal law occurs.

2.18 **EFFECTIVE DATE.** This section is effective January 1, 2017.

2.19 Sec. 2. Minnesota Statutes 2014, section 424A.01, is amended by adding a subdivision
 2.20 to read:

2.21 Subd. 4a. **Prohibition on receipt of concurrent service credit.** No firefighter may
 2.22 be credited with service credit in a volunteer firefighters relief association for the same
 2.23 hours of service for which coverage is already provided in a fund operated pursuant to
 2.24 chapter 353.

2.25 **EFFECTIVE DATE.** This section is effective January 1, 2017, and applies to
 2.26 service rendered on or after that date.

2.27 Sec. 3. Minnesota Statutes 2014, section 424A.01, is amended by adding a subdivision
 2.28 to read:

2.29 Subd. 5a. **Volunteer emergency medical personnel.** Volunteer emergency
 2.30 medical personnel are eligible to be members of the applicable volunteer firefighters
 2.31 relief association and to qualify for service pension or other benefit coverage of the relief
 2.32 association on the same basis as fire department personnel who perform or supervise fire
 2.33 suppression or fire prevention duties, if:

3.1 (1) the fire department employs or otherwise uses the services of persons solely as
 3.2 volunteer emergency medical personnel to perform emergency medical response duties or
 3.3 supervise emergency medical response activities;

3.4 (2) the bylaws of the relief association authorize the eligibility; and

3.5 (3) the eligibility is approved by:

3.6 (i) the municipality, if the fire department is a municipal department;

3.7 (ii) the joint powers board, if the fire department is a joint powers entity; or

3.8 (iii) the contracting municipality or municipalities, if the fire department is an
 3.9 independent nonprofit firefighting corporation.

3.10 **EFFECTIVE DATE.** This section is effective January 1, 2017, and applies to
 3.11 service rendered on or after that date.

3.12 Sec. 4. Minnesota Statutes 2014, section 424A.015, is amended by adding a
 3.13 subdivision to read:

3.14 Subd. 7. **Combined service pensions.** (a) A volunteer firefighter with credit for
 3.15 service as an active firefighter in more than one volunteer firefighters relief association is
 3.16 entitled to a prorated service pension from each relief association if:

3.17 (1) the articles of incorporation or bylaws of the relief associations provide;

3.18 (2) the applicable requirements of paragraphs (b) and (c) are met; and

3.19 (3) the volunteer firefighter otherwise qualifies.

3.20 (b) A volunteer firefighter receiving a prorated service pension under this subdivision
 3.21 must have a total combined amount of service credit from the two or more relief
 3.22 associations of ten years or more, unless the bylaws of every affected relief association
 3.23 specify less than a ten-year service vesting requirement, in which case, the total amount of
 3.24 required service credit is the longest service vesting requirement of the relief associations.
 3.25 The member must have one year or more of service credit in each relief association. The
 3.26 prorated service pension must be based on:

3.27 (1) for defined benefit relief associations, the service pension amount in effect for
 3.28 the relief association on the date on which active volunteer firefighting services covered
 3.29 by that relief association terminate; and

3.30 (2) for defined contribution relief associations, the member's individual account
 3.31 balance on the date on which active volunteer firefighting services covered by that relief
 3.32 association terminate.

3.33 (c) To receive a prorated service pension under this subdivision, the firefighter
 3.34 must become a member of the second or succeeding association and must give notice of
 3.35 membership to the prior association within two years of the date of termination of active

4.1 service with the prior association. The second or subsequent relief association secretary
 4.2 must certify the notice.

4.3 **EFFECTIVE DATE.** This section is effective January 1, 2017.

4.4 Sec. 5. Minnesota Statutes 2014, section 424B.20, subdivision 4, is amended to read:

4.5 Subd. 4. **Benefit trust fund establishment.** (a) After the settlement of nonbenefit
 4.6 legal obligations of the special fund of the volunteer firefighters relief association under
 4.7 subdivision 3, the board of the relief association shall transfer the remaining assets of the
 4.8 special fund, as securities or in cash, as applicable, to the chief financial official of the
 4.9 municipality in which the associated fire department was located if the fire department was
 4.10 a municipal fire department or to the chief financial official of the municipality with the
 4.11 largest population served by the fire department if the fire department was an independent
 4.12 nonprofit firefighting corporation. If the fire department was a joint powers entity, the
 4.13 remaining assets of the special fund shall be transferred to the chief financial official of
 4.14 the municipality designated as the fiscal agent in the joint powers agreement or, if the
 4.15 agreement does not designate a municipality as the fiscal agent, the remaining assets of
 4.16 the special fund shall be transferred to the chief financial official of the municipality with
 4.17 the largest population served by the joint powers fire department. The board shall also
 4.18 compile a schedule of the relief association members to whom a service pension is or will
 4.19 be owed, any beneficiary to whom a benefit is owed, the amount of the service pension or
 4.20 benefit payable based on the applicable bylaws and state law and the service rendered to
 4.21 the date of the dissolution, and the date on which the pension or benefit would first be
 4.22 payable under the bylaws of the relief association and state law.

4.23 (b) The municipality ~~in which is located~~ receiving the remaining assets of the special
 4.24 fund of a volunteer firefighters relief association that is dissolving under this section shall
 4.25 establish a separate account in the municipal treasury which must function as a trust fund
 4.26 for members of the volunteer firefighters relief association and their beneficiaries to whom
 4.27 the volunteer firefighters relief association owes a service pension or other benefit under
 4.28 the bylaws of the relief association and state law. Upon proper application, on or after the
 4.29 initial date on which the service pension or benefit is payable, the municipal treasurer shall
 4.30 pay the pension or benefit due, based on the schedule prepared under paragraph (a) and the
 4.31 other records of the dissolved relief association. The trust fund under this section must be
 4.32 invested and managed consistent with chapter 356A and section 424A.095. Upon payment
 4.33 of the last service pension or benefit due and owing, any remaining assets in the trust
 4.34 fund cancel to the general fund of the municipality: or, if the fire department was a joint
 4.35 powers entity, any remaining assets in the trust fund cancel to the general fund of each

5.1 municipality that was a contracting party to the joint powers agreement as specified in the
5.2 joint powers agreement. If the joint powers agreement does not specify how the remaining
5.3 assets are to be distributed among the contracting parties, each of the contracting parties
5.4 shall receive a pro rata share of the remaining assets based on the proportion of total
5.5 operating contributions each contracting municipality made to the joint powers entity over
5.6 the most recent ten calendar years. If the special fund of the volunteer firefighters relief
5.7 association had an unfunded actuarial accrued liability upon dissolution, the municipality
5.8 is liable for that unfunded actuarial accrued liability. If the fire department was a joint
5.9 powers entity, the contracting municipalities are liable for their share of the unfunded
5.10 actuarial accrued liability as specified in the joint powers agreement. If the joint powers
5.11 agreement does not specify liability for any unfunded actuarial accrued liability, the
5.12 contracting municipalities are liable for their pro rata share of the unfunded actuarial
5.13 accrued liability based on the proportion of total operating contributions each contracting
5.14 municipality made to the joint powers entity over the most recent ten calendar years.

5.15 **EFFECTIVE DATE.** This section is effective January 1, 2017.

5.16 Sec. 6. **REPEALER.**

5.17 Minnesota Statutes 2014, section 424A.02, subdivision 13, is repealed.

5.18 **EFFECTIVE DATE.** This section is effective January 1, 2017.

Volunteer Fire Relief Association Working Group

2016/2017 Potential Topic List

<u>Topic</u>	<u>Description</u>
Audit/AUP Requirements (69.051, subd. 1 and 1a)	1. Consider updating the definition of political subdivision to include relief associations so that audits must be legal compliance audits. 2. Discuss the new agreed-upon procedures requirement for relief associations with assets and liabilities below the \$500,000 threshold.
Disability Benefits (424A.05, subd. 3)	3. Discuss defining what a "permanent" disability means.
Fire State Aid (69.021 and 69.031, subd. 5)	4. Discuss how fire state aid is determined and whether the formula is equitable.
Investments (356A.06)	5. Consider including preferred stock investments in the five-percent limit on below-investment-grade bonds. 6. Consider removing the second paragraph of the corporate stock provision in Minn. Stat. § 356A.06, subd. 7(g), to be consistent with the intent of the Investment Study Group that securities owned through ETFs or mutual funds be directly authorized on the expanded list.
Membership (424A.01)	7. Discuss duty-crew models and when firefighters who are part of a duty-crew are members of the relief association and eligible for service pensions.
Municipal Certification (424A.02, subd. 3, 424A.092, subd. 4, and 424A.093, subd. 5)	8. Clarify what gets certified to the governing body of the municipality by August 1 when the relief association determines the minimum municipal obligation and maximum allowable benefit level.
Return to Service (424A.01, subd. 6)	9. Clarify that the return to service provision applies only if there is a resumption of active service and membership following a break in service or leave of absence. 10. Clarify how installment payments should be handled for members who return to service and membership. 11. Consider allowing firefighters who return to service after being paid a service pension to have different (lower) vesting requirements than other relief association members. 12. Discuss allowing members who return to service to keep any interest that had been accrued during their period of deferral.
Ratification of Benefit Levels (424A.10, subd. 10)	13. Clarify whether municipal ratification of a benefit level change is needed if the relief association has a deficit but there is no required municipal contribution. 14. Discuss making municipal ratification of a relief association's benefit level to be automatic if the relief association is above a certain funding threshold.
Service Credit (424A.015, subd. 6)	15. Discuss permitting relief associations to use the benefit level in effect when a firefighter's leave of absence begins, instead of the benefit level in effect on the firefighter's date of separation, to calculate service pensions when the leave of absence occurs at the end of the firefighter's career.

Supplemental Benefits (424A.10)	16. Discuss whether EMS-only personnel should be eligible to receive supplemental benefits if they are included in a relief association's membership.
Vesting (424A.016, subd. 3 and 424A.02, subd. 2.)	17. Consider allowing vesting percentages to be prorated monthly for fractional years of service.

Carry-Over Items

2015/2016 Working Group Provisions	<ol style="list-style-type: none">1. Requires the fire chief to annually certify service credit information for each volunteer firefighter to the relief association and to the municipal clerk.2. Prohibits firefighters from receiving service credit in a volunteer fire relief association for the same hours of service for which coverage is already provided in PERA.3. Authorizes, subject to local approval, volunteer emergency medical personnel to become members of a relief association and to be eligible for service pensions from the relief association on the same basis as volunteer firefighters.4. Permits, subject to local approval, a relief association to offer combined service pensions to firefighters who have service in more than one volunteer fire department. This provision is currently in statute for defined benefit plans. The proposal expands the authority to defined contribution plans.5. Updates the statutes that apply when a relief association dissolves to take into consider joint powers fire departments.
Joint Powers Sub-Group Recommendations	<ol style="list-style-type: none">1. Update the definition of "municipality" in the relief association statutes to include joint powers entities.

Exhibit H

Corporate Stock Restriction

Topic:

Several years ago the Office of the State Auditor convened an Investment Study Group to study the investment statutes governing public pension plans and the State Board of Investment. Many of the statutes had been added on a piecemeal approach and they had not been reviewed in their entirety in a long time. One of the main goals of the Investment Study Group was to change the statutes so that compliance would be measured based on the underlying securities owned by the pension plan and not by how the securities were purchased. Thus the amended language to the pension investment statutes provided that securities could be owned directly, or through exchange-traded funds, mutual funds, or unit trusts. Regardless of how the securities were owned, the securities themselves would need to be authorized on either the limited or expanded list of authorized investment securities.

When the Investment Study Group updated the statutes some language in the corporate stock provision on the expanded list was missed. This language creates a loophole by which a relief association can invest in any mutual funds or exchange-traded funds without limitation, even those that hold precious metals, commodities, futures, or other speculative securities. To date, we have seen the loophole used to permit relief associations to invest in leveraged and inverse mutual funds.

An optional change is provided below that would update the corporate stock authority on the expanded list of authorized investment securities to be in keeping with the Investment Study Group's goal and make the expanded list consistent.

Optional Change:

356A.06 INVESTMENTS; ADDITIONAL DUTIES.

Subd. 7. Expanded list of authorized investment securities. (a) **Authority.** A covered pension plan not described by subdivision 6, paragraph (a), is an expanded list plan and shall invest its assets as specified in this subdivision. The governing board of an expanded list plan may select and appoint investment agencies to act for or on its behalf.

(b) **Securities generally; investment forms.** An expanded list plan is authorized to purchase, sell, lend, and exchange the investment securities authorized under this subdivision, including puts and call options and future contracts traded on a contract market regulated by a governmental agency or by a financial institution regulated by a governmental agency. These securities may be owned directly or through shares in exchange-traded or mutual funds, or as units in commingled trusts, subject to any limitations specified in this subdivision.

...

(g) **Corporate stocks.** An expanded list plan is authorized to invest in stocks or convertible issues of any corporation organized under the laws of the United States or any of its states, any corporation organized under the laws of the Dominion of Canada or any of its provinces, or any corporation listed on an exchange that is regulated by an agency of the United States or of the Canadian national government.

An investment in any corporation must not exceed five percent of the total outstanding shares of that corporation, ~~except that an expanded list plan may hold up to 20 percent of the shares of a real estate investment trust and up to 20 percent of the shares of a closed mutual fund.~~ Purchase of shares of exchange-traded or mutual funds shall be consistent with paragraph (b).