

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

Office of the State Auditor

Tuesday, August 19, 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 August 7, 2008 Meeting Minutes

**III. Discussion of Sub-Group Legislative Suggestions**

- Exhibit B. Military Breaks in Service Information
- Investment Return Allocations

**IV. Chapter 424A Re-Codification**

Exhibit C. Initial Draft Prepared by Larry Martin

Exhibit D. Corrective Amendments

- Deferred Interest
- Plan Consolidations
- Administrative Expense Deductions
- Order of Sections

**V. Other Business**

**VI. Next Meeting**

Thursday, September 18, 2008 [PROPOSED]

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

Office of the State Auditor

**VII. Adjournment**

# **Volunteer Fire Relief Association Defined Contribution Plan Sub-Group**

Office of the State Auditor

Tuesday, August 19, 2008

11 a.m. to 1 p.m.

## **Members Present**

Jim Adams, West Metro Fire Relief Association Secretary  
Wayne Anderson, Coon Rapids Fire Department Inspector  
Ron Johnson, Maple Grove Fire Relief Association Treasurer  
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**

## **Others Present**

Ed Burek, Legislative Commission on Pensions and Retirement Deputy Director  
Aaron Dahl, Pension Analyst  
Celeste Grant, Deputy State Auditor/General Counsel  
Colleen Hartmon Bollom, Minnesota Firefighter Pension Consultants Representative  
Rose Hennessy Allen, Pension Director  
Lucas Hinz, Pension Analyst  
Aaron Johnston, Coon Rapids Fire Relief Association Treasurer

The following motions were duly made, seconded and approved:

- RESOLVED To adopt the August 7, 2008 Meeting Minutes.
- RESOLVED To adopt language (the 4-A amendment) that treats members as though they were active while on a military break in service.
- RESOLVED To amend the draft language to read that any investment return on the assets of the special fund must be credited in proportion to the share of the assets of the special fund to the credit of each individual active member account.
- RESOLVED To forward to the Working Group for consideration the issue of whether paying interest to deferred members of defined contribution plans should be mandatory or remain voluntary.
- RESOLVED To adopt language (the 1-A amendment, as modified) authorizing defined contribution plans to establish separate investment accounts or separate investment vehicles for deferred members.
- RESOLVED To adopt the draft language that specifies procedures for defined contribution plan consolidations.

RESOLVED To adopt language (the 2-A amendment) that requires service pension credit and allocations to be applied in a uniform manner.

RESOLVED To allow administrative expenses to be deducted in a manner as prescribed in the relief association's bylaws.

**I. Call to Order**

Chair Auditor Otto called the meeting to order.

**II. Review and Approval of Sub-Group Meeting Minutes**

The members reviewed the August 7 meeting minutes that had been provided in advance. Scheerer made a motion to adopt the meeting minutes. Adams seconded the motion, which was adopted unanimously.

**III. Discussion of Sub-Group Legislative Suggestions**

- **Military Breaks in Service Information**

Information regarding service credit for members on a military break in service was obtained from Kevin Nagel, an employee with the U.S. Department of Labor, after the last sub-group meeting. The members reviewed the information from Mr. Nagel and Auditor Otto indicated that the Pension Division would provide education on this topic in its email Newsletter. The group discussed proposed legislation drafted by Martin that would treat members as though they were active while on a military break in service. Roed made a motion to accept the draft language. Scheerer seconded the motion and it was adopted unanimously.

- **Investment Return Allocations**

State law currently specifies that any investment return on the assets of the special fund must be prorated for active members through the date on which the investment return is recognized by and credited to the special fund. Most defined contribution plans prorate investment returns based on each member's beginning account balance. The group discussed modifying the statutory language to make it clear that current practice is authorized. Martin explained that the current statutory language wasn't drafted by members of defined contribution plans, and the intent was simply to ensure that money being received by the relief association was divided in an equitable manner. Scheerer made a motion to amend the draft language to read that any investment return on the assets of the special fund must be credited in proportion to the share of the assets of the special fund to the credit of each individual active member account. Johnson seconded the motion that was adopted unanimously. Martin observed that the change is not substantive and is being made to reflect current practice.

**IV. Chapter 424A Re-Codification**

- **Deferred Interest**

The current draft deferred interest language for defined contribution plans does not include the "board set, up to five percent" interest option. The language as drafted would allow defined contribution plan deferred members to share in the full investment gains or

losses, or to set up separate investment accounts or investment vehicles for the deferred members (if the 1-A amendment is adopted). The group discussed the purpose of deferred interest and the differences between defined contribution and defined benefit plans at length. Some of the members were uncomfortable with capping deferred interest in defined contribution plans, since the excess earnings would be shared among the active members rather than credited to the deferred member accounts on which the interest was earned. There are some defined contribution plans that offer deferred interest at a flat five percent or at a rate set by the board of trustees, up to five percent. The members agreed that the options for paying deferred interest should be simple to administer and inclusive of views held by other defined contribution plans. Anderson made a motion to forward to the full Working Group for consideration the issue of whether paying interest to deferred members of defined contribution plans should be mandatory or remain voluntary. Scheerer seconded the motion that was adopted unanimously.

The group continued its discussion of the deferred interest options allowed and decided not to add language that would authorize deferred interest payments at a flat five percent or at a rate set by the board of trustees, up to five percent. Scheerer made a motion to adopt the 1-A amendment with the typo correction and an effective date of January 1, 2010. The 1-A amendment provides authority to establish separate investment accounts or separate investment vehicles for deferred members. These options are allowed under current law, but were not included in the initial re-codification draft. Anderson seconded the motion and it was adopted unanimously.

- Plan Consolidations

Martin explained that the plan consolidation language was largely built from the Crystal/New Hope consolidation experience. The current language in Chapter 424B doesn't anticipate a merger or consolidation involving a defined contribution plan. The draft language specifies procedures for defined contribution plan consolidations, and also for defined contribution/defined benefit plan consolidations. Scheerer made a motion to adopt the draft language. Anderson seconded the motion that was adopted unanimously.

- Uniformity of Benefits

Language requiring that service pension credit or allocations be done in a uniform manner was added to the defined contribution plan language during the re-codification but left out of the draft defined benefit plan language. The 2-A amendment adds the uniformity requirements currently in state law to the defined benefit portion of the re-codified language. Scheerer made a motion to adopt the 2-A amendment. VanOverbeke seconded the motion that was adopted unanimously.

The members briefly discussed defining the term month of active service, which will be added to the agenda for the next sub-group meeting.

- **Administrative Expense Deductions**

Martin explained that when the current defined contribution plan language was written it was thought that expenses would be deducted from revenues, and that the net amount would be allocated among the members. The practice of most relief associations is to allocate revenues and expenditures separately. Since deductions are not discussed in the current or draft language, there is no particular procedure for how they should be done. Scheerer made a motion to allow administrative expenses to be deducted in a manner as prescribed in the relief association's bylaws. Anderson seconded the motion that was adopted unanimously.

**V. Other Business**

The members decided to hold a final sub-group meeting on Thursday, September 18. Skjerven and VanOverbeke may not be available on that day, but the other members should be able to attend. The members will review the final draft with incorporated amendments at the next meeting. Permission was given to make minor edits as needed to make the language work and accurately reflect the group's intent.

**VI. Next Meeting Date**

Thursday, September 18, 2008

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

Office of the State Auditor

**VII. Adjournment**

The meeting was adjourned shortly after 1:00 p.m.

## Military Breaks in Service Information

The Office of the State Auditor contacted Kevin D. Nagel, Veterans' Employment and Training Service Director with the U.S. Department of Labor, following the August 7, 2008 Defined Contribution Plan Sub-Group meeting. We asked Mr. Nagel several questions regarding relief association service credit for members absent due to a military break in service. The questions and Mr. Nagel's responses are provided below.

Q: Are there differences in how service is credited between defined contribution plans and defined benefit plans? If so, what are the differences?

A: See 1002.265 for differences. (Copy attached.)

Q: Must members return to service with their respective plan upon reemployment for at least a certain length of time?

A: No timeframe is specified.

Q: State law specifies that members "may obtain service credit." Is it mandatory that members meeting the minimum eligibility requirements be credited with service during their military break? Does language need to be included in a relief association's bylaws in order to provide the service credit?

A: If I understand this question, the military member's active duty time counts for seniority purposes. Therefore, this seniority is also applied to their pension. This includes the authorized time servicemembers have before they report back to work (example: A servicemember is deployed for 9 months on active duty. Upon return that servicemember has up to 90-days to return to work. That period of time counts towards pension).

Q: Can the five-year cap on service credit be increased under state law? For example, could state law be changed to allow members on a military break in service to be gone for a period of up to ten years and still receive relief association service credit for the entire period?

A: USERRA states a five-year limit with several caveats (see Section 1002.99). As one example, many active duty periods, such as Operation Iraqi Freedom and Operation Enduring Freedom (our two current wars) are not counted against the five-year limit. The State can go beyond this if they want however USERRA does not require it. And, under USERRA, it is feasible a servicemember could be deployed for more than five years but not reach that ceiling because of the type of orders they are on.

Q: Is the five-year cap per-deployment, or is it a total cap? For example, a member had a military break in service for three years, was reemployed, and then had a military break in service for another three years. Is service credit to the member capped at five years, or does the member receive service credit for all six years that he or she was gone, since each period was below the five-year cap?

A: The five-year limit is per employer, not per event. Your example would probably disqualify the individual if they enlisted for two separate three year terms.

Q: Because relief associations provide pension coverage for volunteer firefighters, the plan members usually have other, non-firefighting, full-time jobs. Occasionally, a volunteer firefighter is employed in a position with the military for his or her full-time career. Are members that are employed full-time by the military treated differently for relief association pension purposes if they are gone on a military break in service?

A: You would treat all members the same way.

Q: What steps must members take before leaving for military service and upon their return to be eligible for service credit with the relief association?

A: To be eligible there are five steps. First, the serviceperson must provide notice they are leaving for service. This can be written or orally (we recommend both). They must enter the service after leaving their employer. They must not exceed the five-year limit (again, many current active duty periods are not counted against that ceiling). They must make a timely application for reemployment (see Section 1002.115 for the timeframes) and they must have a qualifying discharge (see Section 1002.135).



# Federal Register

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**Monday,  
December 19, 2005**

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## **Part II**

## **Department of Labor**

**Veterans' Employment and Training  
Service**

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**20 CFR Part 1002**

**Uniformed Services Employment and  
Reemployment Rights Act of 1994; Final  
Rules**

series of unlikely events could have prevented the employee from gaining the right or benefit.

### Disabled Employees

#### **§ 1002.225 Is the employee entitled to any specific reemployment benefits if he or she has a disability that was incurred in, or aggravated during, the period of service?**

Yes. A disabled service member is entitled, to the same extent as any other individual, to the escalator position he or she would have attained but for uniformed service. If the employee has a disability incurred in, or aggravated during, the period of service in the uniformed services, the employer must make reasonable efforts to accommodate that disability and to help the employee become qualified to perform the duties of his or her reemployment position. If the employee is not qualified for reemployment in the escalator position because of a disability after reasonable efforts by the employer to accommodate the disability and to help the employee to become qualified, the employee must be reemployed in a position according to the following priority. The employer must make reasonable efforts to accommodate the employee's disability and to help him or her to become qualified to perform the duties of one of these positions:

(a) A position that is equivalent in seniority, status, and pay to the escalator position; or,

(b) A position that is the nearest approximation to the equivalent position, consistent with the circumstances of the employee's case, in terms of seniority, status, and pay. A position that is the nearest approximation to the equivalent position may be a higher or lower position, depending on the circumstances.

#### **§ 1002.226 If the employee has a disability that was incurred in, or aggravated during, the period of service, what efforts must the employer make to help him or her become qualified for the reemployment position?**

(a) USERRA requires that the employee be qualified for the reemployment position regardless of any disability. The employer must make reasonable efforts to help the employee to become qualified to perform the duties of this position. The employer is not required to reemploy the employee on his or her return from service if he or she cannot, after reasonable efforts by the employer, qualify for the appropriate reemployment position.

(b) "Qualified" has the same meaning here as in § 1002.198.

### Rate of Pay

#### **§ 1002.236 How is the employee's rate of pay determined when he or she returns from a period of service?**

The employee's rate of pay is determined by applying the same escalator principles that are used to determine the reemployment position, as follows:

(a) If the employee is reemployed in the escalator position, the employer must compensate him or her at the rate of pay associated with the escalator position. The rate of pay must be determined by taking into account any pay increases, differentials, step increases, merit increases, or periodic increases that the employee would have attained with reasonable certainty had he or she remained continuously employed during the period of service. In addition, when considering whether merit or performance increases would have been attained with reasonable certainty, an employer may examine the returning employee's own work history, his or her history of merit increases, and the work and pay history of employees in the same or similar position. For example, if the employee missed a merit pay increase while performing service, but qualified for previous merit pay increases, then the rate of pay should include the merit pay increase that was missed. If the merit pay increase that the employee missed during service is based on a skills test or examination, then the employer should give the employee a reasonable amount of time to adjust to the reemployment position and then give him or her the skills test or examination. No fixed amount of time for permitting adjustment to reemployment will be deemed reasonable in all cases. However, in determining a reasonable amount of time to permit an employee to adjust to reemployment before scheduling a makeup test or examination, an employer may take into account a variety of factors, including but not limited to the length of time the returning employee was absent from work, the level of difficulty of the test itself, the typical time necessary to prepare or study for the test, the duties and responsibilities of the reemployment position and the promotional position, and the nature and responsibilities of the service member while serving in the uniformed service. The escalator principle also applies in the event a pay reduction occurred in the reemployment position during the period of service. Any pay adjustment must be made effective as of the date it would have occurred had the

employee's employment not been interrupted by uniformed service.

(b) If the employee is reemployed in the pre-service position or another position, the employer must compensate him or her at the rate of pay associated with the position in which he or she is reemployed. As with the escalator position, the rate of pay must be determined by taking into account any pay increases, differentials, step increases, merit increases, or periodic increases that the employee would have attained with reasonable certainty had he or she remained continuously employed during the period of service.

### Protection Against Discharge

#### **§ 1002.247 Does USERRA provide the employee with protection against discharge?**

Yes. If the employee's most recent period of service in the uniformed services was more than 30 days, he or she must not be discharged except for cause—

(a) For 180 days after the employee's date of reemployment if his or her most recent period of uniformed service was more than 30 days but less than 181 days; or,

(b) For one year after the date of reemployment if the employee's most recent period of uniformed service was more than 180 days.

#### **§ 1002.248 What constitutes cause for discharge under USERRA?**

The employee may be discharged for cause based either on conduct or, in some circumstances, because of the application of other legitimate nondiscriminatory reasons.

(a) In a discharge action based on conduct, the employer bears the burden of proving that it is reasonable to discharge the employee for the conduct in question, and that he or she had notice, which was express or can be fairly implied, that the conduct would constitute cause for discharge.

(b) If, based on the application of other legitimate nondiscriminatory reasons, the employee's job position is eliminated, or the employee is placed on layoff status, either of these situations would constitute cause for purposes of USERRA. The employer bears the burden of proving that the employee's job would have been eliminated or that he or she would have been laid off.

### Pension Plan Benefits

#### **§ 1002.259 How does USERRA protect an employee's pension benefits?**

On reemployment, the employee is treated as not having a break in service with the employer or employers

maintaining a pension plan, for purposes of participation, vesting and accrual of benefits, by reason of the period of absence from employment due to or necessitated by service in the uniformed services.

(a) Depending on the length of the employee's period of service, he or she is entitled to take from one to ninety days following service before reporting back to work or applying for reemployment (See § 1002.115). This period of time must be treated as continuous service with the employer for purposes of determining participation, vesting and accrual of pension benefits under the plan.

(b) If the employee is hospitalized for, or convalescing from, an illness or injury incurred in, or aggravated during, service, he or she is entitled to report to or submit an application for reemployment at the end of the time period necessary for him or her to recover from the illness or injury. This period, which may not exceed two years from the date the employee completed service, except in circumstances beyond his or her control, must be treated as continuous service with the employer for purposes of determining the participation, vesting and accrual of pension benefits under the plan.

**§ 1002.260 What pension benefit plans are covered under USERRA?**

(a) The Employee Retirement Income Security Act of 1974 (ERISA) defines an employee pension benefit plan as a plan that provides retirement income to employees, or defers employee income to a period extending to or beyond the termination of employment. Any such plan maintained by the employer or employers is covered under USERRA. USERRA also covers certain pension plans not covered by ERISA, such as those sponsored by a State, government entity, or church for its employees.

(b) USERRA does not cover pension benefits under the Federal Thrift Savings Plan; those benefits are covered under 5 U.S.C. 8432b.

**§ 1002.261 Who is responsible for funding any plan obligation to provide the employee with pension benefits?**

With the exception of multiemployer plans, which have separate rules discussed below, the employer is liable to the pension benefit plan to fund any obligation of the plan to provide benefits that are attributable to the employee's period of service. In the case of a defined contribution plan, once the employee is reemployed, the employer must allocate the amount of its make-up contribution for the employee, if any; his or her make-up employee

contributions, if any; and his or her elective deferrals, if any; in the same manner and to the same extent that it allocates the amounts for other employees during the period of service. In the case of a defined benefit plan, the employee's accrued benefit will be increased for the period of service once he or she is reemployed and, if applicable, has repaid any amounts previously paid to him or her from the plan and made any employee contributions that may be required to be made under the plan.

**§ 1002.262 When is the employer required to make the plan contribution that is attributable to the employee's period of uniformed service?**

(a) The employer is not required to make its contribution until the employee is reemployed. For employer contributions to a plan in which the employee is not required or permitted to contribute, the employer must make the contribution attributable to the employee's period of service no later than ninety days after the date of reemployment, or when plan contributions are normally due for the year in which the service in the uniformed services was performed, whichever is later. If it is impossible or unreasonable for the employer to make the contribution within this time period, the employer must make the contribution as soon as practicable.

(b) If the employee is enrolled in a contributory plan he or she is allowed (but not required) to make up his or her missed contributions or elective deferrals. These makeup contributions or elective deferrals must be made during a time period starting with the date of reemployment and continuing for up to three times the length of the employee's immediate past period of uniformed service, with the repayment period not to exceed five years. Makeup contributions or elective deferrals may only be made during this period and while the employee is employed with the post-service employer.

(c) If the employee's plan is contributory and he or she does not make up his or her contributions or elective deferrals, he or she will not receive the employer match or the accrued benefit attributable to his or her contribution because the employer is required to make contributions that are contingent on or attributable to the employee's contributions or elective deferrals only to the extent that the employee makes up his or her payments to the plan. Any employer contributions that are contingent on or attributable to the employee's make-up contributions or elective deferrals must be made

according to the plan's requirements for employer matching contributions.

(d) The employee is not required to make up the full amount of employee contributions or elective deferrals that he or she missed making during the period of service. If the employee does not make up all of the missed contributions or elective deferrals, his or her pension may be less than if he or she had done so.

(e) Any vested accrued benefit in the pension plan that the employee was entitled to prior to the period of uniformed service remains intact whether or not he or she chooses to be reemployed under the Act after leaving the uniformed service.

(f) An adjustment will be made to the amount of employee contributions or elective deferrals the employee will be able to make to the pension plan for any employee contributions or elective deferrals he or she actually made to the plan during the period of service.

**§ 1002.263 Does the employee pay interest when he or she makes up missed contributions or elective deferrals?**

No. The employee is not required or permitted to make up a missed contribution in an amount that exceeds the amount he or she would have been permitted or required to contribute had he or she remained continuously employed during the period of service.

**§ 1002.264 Is the employee allowed to repay a previous distribution from a pension benefits plan upon being reemployed?**

Yes, provided the plan is a defined benefit plan. If the employee received a distribution of all or part of the accrued benefit from a defined benefit plan in connection with his or her service in the uniformed services before he or she became reemployed, he or she must be allowed to repay the withdrawn amounts when he or she is reemployed. The amount the employee must repay includes any interest that would have accrued had the monies not been withdrawn. The employee must be allowed to repay these amounts during a time period starting with the date of reemployment and continuing for up to three times the length of the employee's immediate past period of uniformed service, with the repayment period not to exceed five years (or such longer time as may be agreed to between the employer and the employee), provided the employee is employed with the post-service employer during this period.

**§ 1002.265 If the employee is reemployed with his or her pre-service employer, is the employee's pension benefit the same as if he or she had remained continuously employed?**

The amount of the employee's pension benefit depends on the type of pension plan.

(a) In a non-contributory defined benefit plan, where the amount of the pension benefit is determined according to a specific formula, the employee's benefit will be the same as though he or she had remained continuously employed during the period of service.

(b) In a contributory defined benefit plan, the employee will need to make up contributions in order to have the same benefit as if he or she had remained continuously employed during the period of service.

(c) In a defined contribution plan, the benefit may not be the same as if the employee had remained continuously employed, even though the employee and the employer make up any contributions or elective deferrals attributable to the period of service, because the employee is not entitled to forfeitures and earnings or required to experience losses that accrued during the period or periods of service.

**§ 1002.266 What are the obligations of a multiemployer pension benefit plan under USERRA?**

A multiemployer pension benefit plan is one to which more than one employer is required to contribute, and which is maintained pursuant to one or more collective bargaining agreements between one or more employee organizations and more than one employer. The Act uses ERISA's definition of a multiemployer plan. In addition to the provisions of USERRA that apply to all pension benefit plans, there are provisions that apply specifically to multiemployer plans, as follows:

(a) The last employer that employed the employee before the period of service is responsible for making the employer contribution to the multiemployer plan, if the plan sponsor does not provide otherwise. If the last employer is no longer functional, the plan must nevertheless provide coverage to the employee.

(b) An employer that contributes to a multiemployer plan and that reemploys the employee pursuant to USERRA must provide written notice of reemployment to the plan administrator within 30 days after the date of reemployment. The returning service member should notify the reemploying employer that he or she has been reemployed pursuant to USERRA. The 30-day period within

which the reemploying employer must provide written notice to the multiemployer plan pursuant to this subsection does not begin until the employer has knowledge that the employee was reemployed pursuant to USERRA.

(c) The employee is entitled to the same employer contribution whether he or she is reemployed by the pre-service employer or by a different employer contributing to the same multiemployer plan, provided that the pre-service employer and the post-service employer share a common means or practice of hiring the employee, such as common participation in a union hiring hall.

**§ 1002.267 How is compensation during the period of service calculated in order to determine the employee's pension benefits, if benefits are based on compensation?**

In many pension benefit plans, the employee's compensation determines the amount of his or her contribution or the retirement benefit to which he or she is entitled.

(a) Where the employee's rate of compensation must be calculated to determine pension entitlement, the calculation must be made using the rate of pay that the employee would have received but for the period of uniformed service.

(b)(1) Where the rate of pay the employee would have received is not reasonably certain, such as where compensation is based on commissions earned, the average rate of compensation during the 12-month period prior to the period of uniformed service must be used.

(2) Where the rate of pay the employee would have received is not reasonably certain and he or she was employed for less than 12 months prior to the period of uniformed service, the average rate of compensation must be derived from this shorter period of employment that preceded service.

**Subpart F—Compliance Assistance, Enforcement and Remedies**

**Compliance Assistance**

**§ 1002.277 What assistance does the Department of Labor provide to employees and employers concerning employment, reemployment, or other rights and benefits under USERRA?**

The Secretary, through the Veterans' Employment and Training Service (VETS), provides assistance to any person or entity with respect to employment and reemployment rights and benefits under USERRA. This assistance includes a wide range of compliance assistance outreach activities, such as responding to

inquiries; conducting USERRA briefings and Webcasts; issuing news releases; and, maintaining the elaws USERRA Advisor (located at <http://www.dol.gov/elaws/userra.htm>), the e-VETS Resource Advisor and other web-based materials (located at <http://www.dol.gov/vets>), which are designed to increase awareness of the Act among affected persons, the media, and the general public. In providing such assistance, VETS may request the assistance of other Federal and State agencies, and utilize the assistance of volunteers.

**Investigation and Referral**

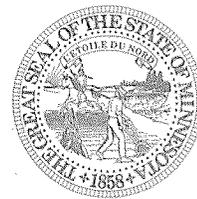
**§ 1002.288 How does an individual file a USERRA complaint?**

If an individual is claiming entitlement to employment rights or benefits or reemployment rights or benefits and alleges that an employer has failed or refused, or is about to fail or refuse, to comply with the Act, the individual may file a complaint with VETS or initiate a private legal action in a court of law (see § 1002.303). A complaint may be filed with VETS either in writing, using VETS Form 1010, or electronically, using VETS Form e1010 (instructions and the forms can be accessed at <http://www.dol.gov/elaws/vets/userra/1010.asp>). A complaint must include the name and address of the employer, a summary of the basis for the complaint, and a request for relief.

**§ 1002.289 How will VETS investigate a USERRA complaint?**

(a) In carrying out any investigation, VETS has, at all reasonable times, reasonable access to and the right to interview persons with information relevant to the investigation. VETS also has reasonable access to, for purposes of examination, the right to copy and receive any documents of any person or employer that VETS considers relevant to the investigation.

(b) VETS may require by subpoena the attendance and testimony of witnesses and the production of documents relating to any matter under investigation. In case of disobedience or resistance to the subpoena, the Attorney General may, at VETS' request, apply to any district court of the United States in whose jurisdiction such disobedience or resistance occurs for an order enforcing the subpoena. The district courts of the United States have jurisdiction to order compliance with the subpoena, and to punish failure to obey a subpoena as a contempt of court. This paragraph does not authorize VETS to seek issuance of a subpoena to the legislative or judicial branches of the United States.



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
<b><u>Article 1: Volunteer Firefighters' Relief Association Recodification</u></b>			
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"> <li>1. Specifically authorizes defined contribution lump sum service pension relief associations (Subd. 1);</li> <li>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);</li> <li>3. Transfers the defined contribution relief association vesting schedule from the last portion of current M.S., Sec. 424A.02, Subd. 2 (Subd. 3);</li> <li>4. Transfers the defined contribution relief association individual account provisions from the current M.S., Sec. 424A.02, Subd. 4 (Subd. 4);</li> <li>5. Adapts for defined contribution relief associations the installment payment authority of the current M.S., Sec. 424A.02, Subd. 8 (Subd. 5);</li> <li>6. Transfers the defined contribution relief association deferred service pension provision from the current M.S., Sec. 424A.02, Subd. 7 (Subd. 6);</li> <li>7. Adapts the limitation on ancillary benefits of the current M.S., Sec. 424A.02m, Subd. 9, for defined contribution relief associations (Subd. 7);</li> <li>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</li> <li>9. Adapts the bylaw amendment filing requirement of the current M.S., Sec. 424A.02, Subd. 10, for defined contribution relief associations (Subd. 9)</li> </ol>
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	23.3024.3	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:~~

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

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.



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"