

**Minnesota Volunteer Fire Relief Association
Working Group Meeting**

State Auditor's Office
Monday, December 13, 2004
11 a.m. to 1 p.m.

I. Call to Order

Rotating Chair Don Rambow.

II. Welcome and Introductions

III. Review and Approval of December 6, 2004 Draft Minutes
Exhibit A.

IV. Working Group Discussion

Exhibits B through H.

- Experience Loss Amortization
- Compliance Requirement Clarification
- MFIRS Reporting for State Fire Aid Eligibility
- 75% Maximum on Mutual Fund Investments
- Investment Authority Clarification
- Military Leaves of Absence
- Working Group Approval Composite

V. Compilation and Investment Report Consolidation

VI. Fire Relief Association Membership Issues
Larry Martin to outline Minn. Stat. § 424A.01.

VII. Other Business

Volunteer Fire Relief Association Working Group

State Auditor's Office
Monday, December 6, 2004
11 a.m. to 1 p.m.

Members Present

Delano City Administrator Phil Kern, League of Minnesota Cities Representative Anne Finn, Legislative Commission on Pensions and Retirement Director Larry Martin, Mahnommen Fire Relief Association Treasurer Dave Jaeger (defined benefit lump sum plans), Maple Grove Fire Relief Association President Curt Roberts (defined contribution plans), Maplewood Fire Relief Association Treasurer Ed Dietz (defined benefit lump sum plans), Minnesota Area Relief Association Coalition Representative Jim Hansen, Minnesota State Fire Chief Association Representative Nyle Zikmund (defined benefit monthly plans), Minnesota State Fire Department Association Representative Dave Ganfield (defined benefit monthly/lump sum combination plans), Northfield Fire Relief Association Secretary Tom Nelson, State Auditor Patricia Anderson and White Bear Lake Finance Manager Don Rambow.

Others Present

Brooklyn Park Fire Relief Association Secretary Andy Hansen, Minneapolis StarTribune Reporter Mark Brunswick, Deputy State Auditor/General Counsel Carla Heyl, Pension Director Judith Strobel and Pension Analysts Rose Hennessy Allen, Eric Bulygo, Jami Crummy, Brian Martenson and Paul Rosen.

Welcome and Introductions

Rotating Chair Jim Hansen welcomed the Working Group members and asked that they introduce themselves to the audience.

November 22, 2004 Draft Minutes

Nyle Zikmund moved to approve the November 22, 2004 draft minutes. The motion, which was seconded by Anne Finn, passed unanimously.

Trustee Training Discussion

Hansen explained that the focus of the meeting would be trustee training. He said he believes the goal should be to educate as many trustees as possible. In his view, it is possible to do a better job by addressing trustee turnover and time availability to attend meetings and receive training. Some trustees are only available to meet during the day while others can meet only at night or not at all, he said.

At Hansen's request, Larry Martin gave a brief overview of Minn. Stat. § 356A.13 that establishes the continuing education criteria for trustees. He said the law was enacted in 1989 to address a number of issues related to the paid fire and police plans and the Public Employees Retirement Association (PERA) that had occurred in the mid-1980s.

The manner in which these trustees were exercising their duties served as a catalyst for the state legislature to create the Public Pension Fiduciary Law under Chapter 356A. The law is not a detailed piece of work, according to Martin, because the lawmakers were uncertain how to come up with requirements that would apply to both small volunteer fire pension plans and large public pension plans. In the end, they went in the direction of the small plans by allowing them to determine what would be an appropriate level of continuing education. For this reason, he said there is no requirement that proof of participation be filed with the State Auditor's Office or mandate on how complete the continuing education plans must be.

Hansen said the framework of the Working Group discussion should be to set the direction for trustee training. He said some Working Group members have attended training offered through MSFDA and MARAC and now a combination of these groups has formed to provide further training.

Dave Ganfield said the State Auditor's Office offers classes at the annual MSFDA conference in addition to other classes on investments and new trustees. He agreed that the biggest issue is trustee turnover saying some new treasurers get a box of records and don't know what to do. He recalled that the State Auditor's Office held annual training conferences years ago but now only MARAC tries to hold a conference.

Auditor Anderson said the State Auditor's Office would soon be providing a financial package to relief association trustees to assist them in their efforts. The package is called FRPAS (Fire Relief Pension Accounting System) and is modeled after a program presently used by about 1200 cities and towns. She said it would be distributed this spring at no charge to defined benefit lump sum plans. Someone must learn how to enter transactions throughout the year but this will greatly ease the preparation of forms at the end of the year and hopefully improve the timeliness of submissions. She said she would like to work jointly with the Working Group and League of Minnesota Cities on this training initiative. Another resource will be city clerks many of whom use a similar package.

In response to a question from Zikmund about funding for training initiatives, Auditor Anderson said CTAS training is free and clerks are invited to attend training sessions at the State Auditor's Office. She said costs are absorbed by her office or in some cases they are recouped if there is a charge.

Dave Jaeger said he was asked many years ago to put together a training session on reporting forms for presentation at technical colleges in northern Minnesota. Despite his efforts, he said some relief association representatives did not come to the sessions even though it was provided at a convenient location.

Zikmund said forms completion improved when the State Auditor's Office began providing automated forms. Auditor Anderson said she hopes FRPAS will make form completion even better.

Anne Finn asked who specifically needs training. Jaeger said everyone. He said small town administrators do not seem to be familiar with relief association issues and they hold positions on those boards.

Zikmund said the three main training areas for the 5,000 to 6,000 trustees in Minnesota are: bylaws, administration and investments. Although he thinks it would be impossible to train all of the trustees, it is a policy question whether to mandate training and who should provide it.

He said the Statewide Pension Plan Study is the real reform but the training coalition did train 17 groups last year at \$600 each and have three set up for this year. Trustees may resist mandatory training but without it there may be lower investment returns and higher legal fees, he said.

Ganfield said his relief association sends one to two representatives to training and they report back to the full board.

Jaeger said city administrators should learn what the Schedules mean and how to verify financial information when it is presented to their attention for budget levy purposes.

Hansen said Finn's presence on the Working Group is important in this regard.

Zikmund said the League could open up dialogue between relief associations and cities because some relief associations don't want to discuss anything with their city. He suggested that it is important to offer face-to-face training on bylaws and investments.

Auditor Anderson agreed that most issues involve bylaw provisions. For this reason, the State Auditor's Office encourages trustees with bylaw questions to call the Pension Division that is familiar with the bylaws of the state's 700-plus relief associations. Sample bylaws for small relief associations are being prepared for placement on the State Auditor's website with optional provisions for larger plans to be added over time.

Ganfield said city clerks, treasurers and mayors need to learn more. Acknowledging that some progress has been made in the past few years, he concurred that the goal should be to get communication going between relief association representatives and city officials. Finn said the League intends to conduct regional training on relief association issues.

Zikmund sought to know what steps must be taken to get cities involved.

Don Rambow said cities should stay involved because what's in the relief association's bylaws will affect the city. While he said he hoped that most relief associations work with professional managers and CPAs, it is rare that the treasurer is also a financial person. Part of the job of being a city official is to go to meetings, he said, and it's up to the city official to absorb the information or be there. He expressed concern that communication is a local concern that should not necessarily have to be fixed by the state.

Phil Kern said it comes down to education and recognition of the financial relationship between the relief association and city.

Ed Dietz said relief associations should do their part in fostering a relationship with their cities. We need to know about the budget timing and process and work to reduce any friction between relief associations and cities, he said.

Kern said this issue was briefly discussed a few weeks ago when the Working Group members reviewed the statutory requirements for board composition. Curt Roberts asked whether ex-officio trustees need training.

Hansen said the goal would be that when you go to certain city representatives that they be educated on the issues.

Martin explained the board composition requirements under current law noting that the Working Group is proposing a law change. Auditor Anderson said that she had received no formal training when she was a mayor working with a volunteer fire relief association.

Roberts asked if she would have gone to training. Auditor Anderson said she would have gone to League training if offered at the annual training conference. Finn said training possibly could be offered.

Ganfield asked Rambow if he is notified of and attends relief association meetings. Rambow said he is aware of the meetings and goes to some depending on the agenda topics. Some mayors aren't always able to attend.

Auditor Anderson said instead of just having the Mayor on the board automatically each year, someone should be appointed to the trustee position. The appointee would take ownership of the position and would attend meetings, she said.

Jaeger said city representatives don't think they need to go to quarterly meetings thinking there's not much to discuss. Because cities need to attend meetings to learn about pension payments and calculations, relief associations can make a mistake, he said.

Martin said the League has credibility in training. In the 1970s the League had sample relief association bylaws and conducted training although he is not sure where things are at today. Minnesota and Oregon are the only states that use non-profit corporations for government functions. If non-profit corporations were not employed, there would be a cleaner line of responsibility for the cities and relief associations.

Rambow motioned to break for lunch.

Hansen said the Working Group needs to narrow in on who needs to deliver training, how it should be delivered and if legislation is needed.

Rambow said White Bear Lake meets monthly so there needs to be something of value on meeting agenda to get city representatives to attend. It was determined that the open meeting law applies to relief association meetings, following an inquiry from Finn.

Auditor Anderson recommended changing the Mayoral requirement to have someone appointed by the Mayor. Dietz said training could be on how to run a good meeting.

Ganfield provided each Working Group member with a copy of Apple Valley's 2003 Annual Report. He said it contains information about the Special Fund and General Fund finances, investment policy, audit summary and bylaws so members can see that things are being done right. He expressed interest in coming up with more best practices suggestions in the next year or two.

Hansen concluded that the Working Group is on the right track to get board members trained. He said there is a new training coalition to get the message out and invited the State Auditor's Office to participate.

Zikmund said he would like the State Auditor's Office to consider sponsoring an annual training conference like it used to do many years ago.

Carla Heyl said the League has good contacts for a conference but the trustees who would attend could be those who already know what they are doing. Zikmund said the training coalition and various fire groups would be willing to help.

Auditor Anderson said the State Auditor's Office could do a session at the League's annual conference and expressed willingness to consider the suggestions.

Hansen summarized the key training deliverables as: finances, bylaws, administration and investments. He then moved to the review of previous consensus items on the agenda.

MFIRS Reporting Requirement for State Fire Aid

Martin asked if the consensus of the Working Group was captured correctly in the memo.

Ganfield said he had not attended the meeting when the MFIRS requirement was discussed and hadn't seen a motion in the minutes to request the drafting. It was stated that the Working Group had only recently begun making formal motions regarding draft language requests to Martin.

Ganfield asked if the requirement would apply to all fire relief associations including Minneapolis Fire Relief Association (MFRA). Martin replied that the fire state aid requirement would affect eligibility for state fire aid and therefore would apply to all fire relief associations.

Ganfield expressed concern that the language would affect groups not represented by the Working Group. Zikmund said the idea had been unanimously received at the meeting. He said he would like to drop self-reporting in lieu of MFIRS because it's not necessarily what is popular but what is needed to be proactive to protect state aid.

Ganfield agreed that MFIRS is more progressive but said there is a need to clean up the language eliminating reporting. He said he has been contacted by groups that do not agree with the draft.

Martin said would clarify that the Working Group's intent is to replace self-reporting with MFIRS. Ganfield asked whether a relief association that starts reporting during year would lose state aid. Zikmund said an effective date of 2006 would provide a relief association with sufficient notice. Finn said she would discuss with MFRA and others before next week. It was decided to table until next week.

Trigger Date for Filing Financial Reports

Hansen asked Martin if a relief association must have a full audit done even if it drops below \$200,000 after exceeding that threshold in any previous year. Martin confirmed that that was the consensus of the Working Group with a year's advance notice. The draft language was moved by Zikmund, with a second by Rambow, and approved without dissent.

Revised Financial Requirements for Monthly Plans

Martin said the revised financial requirements apply to a relatively small number of volunteer fire plans. The draft language resets the minimum funding requirement per firefighter because the statutory table was more conservative than it had to be, he added

Zikmund moved the draft language that splits the difference between the current and necessary financing.

In response to a question from Kern, it was stated that the language affects monthly or monthly lump sum combination plans of which there are only a few in greater Minnesota.

Military Leaves of Absence

Ganfield inquired whether the Working Group had formally asked Martin to draft language authorizing military leaves of absence. Jaeger moved, with a second from Zikmund, that Martin provide draft language at a future meeting. Martin said he can model the language after legislation that was adopted last session in regard to USSERA for some of the large public pension plans.

Next Meeting

Zikmund asked the members to clear their afternoon schedules on Monday, December 13, 2004 should more time be needed for the next Working Group meeting.

Rambow will chair the meeting that will begin at 11 a.m. and be held in the State Auditor's Conference Room. Member suggestions for the agenda must be forwarded to the Pension Division by Tuesday, December 7, 2004.

A motion to adjourn the meeting at 1 p.m. was made by Finn and seconded by Dietz. It passed without dissent.



TO: Volunteer Fire Relief Association Working Group
FROM: Lawrence A. Martin, Executive Director
RE: Draft Proposed Legislation LCPR04-278; Experience Loss Amortization
DATE: December 7, 2004

Summary of Draft Proposed Legislation LCPR04-278

Draft proposed legislation LCPR04-278 amends Minnesota Statutes, Sections 69.772, Subdivision 3, and 69.773, Subdivisions 4 and 5, the annual volunteer firefighter relief association financial requirement calculation provisions and minimum municipal obligation calculation provisions, by making the following changes:

1. Clarifies Lump Sum Volunteer Firefighter Relief Association 10-Year Amortization Requirement. (Page 3, Lines 11-23) The obsolete 1971-related amortization references are eliminated and the amortization requirement is clarified to match the procedure represented for several years in the applicable State Auditor's forms, with the original benefit increase-related unfunded liabilities required to be retired by one-tenth of the amount annually.
2. Extends Volunteer Firefighter Relief Association Amortization Requirement to Investment Losses. (Page 3, Lines 23-24; Page 6, Lines 12-17) The revised lump sum volunteer firefighter relief association 10-year amortization requirement is extended to relief association investment losses and a five-year amortization requirement for monthly benefit volunteer firefighter relief associations is added for relief association experience (mortality, retirement age, or investment) losses which previously were not required to be amortized.
3. Annual Lump Sum Volunteer Firefighter Relief Association Amortization Contribution Limited to Remaining Unfunded Liability Amount. (Page 3, Lines 26-27) The one-tenth of the original unfunded liability amortization amount is capped at the remaining total unfunded liability amount, so the late amortization contribution requirement does not exceed the actual principal unfunded amount remaining after having been reduced by other investment or contribution gains.
4. Clarification of Deduction of Reasonably Anticipated Fire State Aid. (Page 4, Lines 1-5 and Lines 11-14; Page 8, Lines 3-14) The deduction of expected fire state aid in determining the minimum municipal contribution is limited to a reasonable estimate and a maximum on the reasonably expected fire state aid is set at the prior year's fire state aid increased by 3.5 percent.
5. Language Style and Usage Updates; Paragraph Divisions and Redesignations. (Pages 1-9) The language style and usage of the provisions are updated to reflect current drafting conventions and the provisions are newly divided into paragraphs or paragraphs are redesignated.

Background Information on Volunteer Firefighter Relief Association Funding Requirements

1. Volunteer Firefighter Relief Association Financing Guidelines Act of 1971. Minnesota Statutes, Sections 69.771 through 69.776, the Volunteer Firefighter Relief Association Financing Guidelines Act of 1971, governs the calculation of the actuarial accrued liability and annual funding requirement of volunteer firefighter relief associations, the determination of the financial requirements of volunteer firefighter relief associations, the determination of the minimum obligation of municipalities or independent nonprofit firefighting corporations toward the volunteer firefighter relief association, the requirement for municipal ratification of volunteer firefighter relief association plan amendments, and the investment of volunteer firefighter relief association special fund assets.
2. Calculation of Volunteer Firefighter Relief Association Actuarial Accrued Liability and Annual Funding Requirement. State law differentiates in the calculation of volunteer firefighter relief association actuarial accrued liabilities or its equivalent and the annual funding requirements. For volunteer firefighter relief associations providing monthly benefit service pensions, because there is a mortality risk and the need for making complicated computations, the relief association is required by Minnesota Statutes, Section 69.773, to utilize an approved actuary and have a quadrennial actuarial valuation prepared. For volunteer firefighter relief associations providing lump sum service pensions,

because there is no mortality risk and the liability and funding calculations are less complicated, the relief association officers are required by Minnesota Statutes, Section 69.772, to estimate the association's actuarial liabilities and its annual funding requirement by using a simplified statutory valuation procedure.

The monthly benefit volunteer firefighter relief association actuarial work is governed essentially by the same requirements applicable for other Minnesota public pension plans, Minnesota Statutes, Sections 356.215, and 356.216. The actuarial valuations will disclose the relief association's actuarial accrued liability, the assets, unfunded actuarial accrued liability, normal cost, and amortization of the unfunded actuarial accrued liability (typically using a 20-year amortization period.) The financial requirement of the monthly benefit relief association is the combination of four items:

- i. The normal cost;
- ii. The amortization requirement if the relief association has an unfunded actuarial accrued liability;
- iii. The prior year's administrative expenses, multiplied by a factor of 1.035; and
- iv. One-tenth of the relief association's funding surplus, if the relief association has assets in excess of its actuarial accrued liability.

The lump sum volunteer firefighter relief association computations are required to follow simplified calculation procedures set forth in Minnesota Statutes, Section 69.772, Subdivision 2. The Commission and its consulting actuary developed the table and related provisions in Minnesota Statutes, Section 69.772, Subdivision 2, in 1970-1971. The statutory table is basically a present value table assuming a lump sum benefit payable immediately after 20 years of service, based on a three percent interest assumption, and assuming no pre-retirement turnover or mortality. The following is the statutory pension liability table, applicable for a \$100 per year of service lump sum benefit:

<u>Cumulative Year</u>	<u>Accrued Liability</u>
1	\$60
2	124
3	190
4	260
5	334
6	410
7	492
8	576
9	666
10	760
11	858
12	962
13	1070
14	1184
15	1304
16	1428
17	1560
18	1698
19	1844
20	2000
21 and thereafter	100 additional per year

The relief association's accrued liability is calculated annually using the table, after being multiplied by a factor to adjust the \$100 lump sum per year of service table to the actual lump sum service pension amount provided by the volunteer firefighter relief association. Thus, for a volunteer firefighter relief association paying a \$1,000 per year of service lump sum service pension, the factor would be 10 (\$1,000 divided by \$100.) The calculated accrued liability is compared to the special

fund assets to determine whether or not the relief association has an unfunded accrued liability. The following year's projected accrued liability is then calculated, based on an additional year of service per member, and the increase in the accrued liability over the current year's accrued liability is the annual accruing liability of the relief association, which is the functional equivalent of the normal cost calculation in an actuarial valuation prepared by an actuary under Minnesota Statutes, Section 356.215. The financial requirements of the relief association are the combination of three or four items:

- i. The computed annual accruing liability;
 - ii. One-tenth of each unfunded accrued liability resulting from benefit increases during the past ten years, if the relief association has an unfunded accrued liability;
 - iii. The prior year's administrative expense, multiplied by a factor of 1.035; and
 - iv. One-tenth of the relief association's funding surplus, if the relief association has assets in excess of the accrued liability.
3. Calculation of the Minimum Municipal Obligation. The Volunteer Firefighter Relief Association Financing Guidelines Act of 1971, Minnesota Statutes, Sections 69.771 through 69.776, requires municipal support of a relief association if the main other revenue source, the fire state aid program under Minnesota Statutes, Sections 69.011 through 69.051, is insufficient. Specifically, Minnesota Statutes, Section 69.772, Subdivision 3, for lump sum volunteer firefighter relief associations, and Minnesota Statutes, Section 69.773, Subdivision 5, for monthly benefit volunteer firefighter relief associations, require that the municipality include in its budget, levy for, and pay over to the relief association the amount of the financial requirements of the relief association, reduced by the amount of the fire state aid anticipated to be received in the following year. For lump sum volunteer firefighter relief associations, the relief association financial requirement additionally are reduced by an amount equal to five percent of the assets of the relief association, to adjust for the next year's future expected interest earnings. The determination of the minimum municipal obligation must be made by the officers of the relief association, and must be certified to the municipality as part of the municipal budget preparation process.
4. Compliance with Municipal Funding Requirement. If the municipality fails to include the minimum municipal obligation in its budget or fails to spread the obligation in its property tax levy, Minnesota Statutes, Section 69.772, Subdivision 4, for lump sum volunteer firefighter relief associations, and Minnesota Statutes, Section 69.773, Subdivision 5, for monthly benefit volunteer firefighter relief associations, require that the relief association officers certify the required municipal obligation amount to the county auditor, who is required to levy that amount as part of the property taxes of that municipality.

Discussion and Analysis

Draft proposed legislation LCPR04-278 would clarify the current lump sum volunteer firefighter relief association amortization contribution requirement, requires the amortization of investment or other experience losses, sets a limit on annual lump sum volunteer firefighter relief association unfunded liabilities, requires use of reasonably anticipated fire state aid and defines maximum reasonable amount, and updates the language style and usage of the various provisions.

The draft proposed legislation, if eventually introduced during the 2005 Legislative Session and considered by the Legislative Commission on Pensions and Retirement, will raise several pension and related public policy issues, as follows:

1. Appropriateness of Clarifying the Lump Sum Volunteer Firefighter Relief Association Amortization Procedure. The policy issue is the appropriateness of modifying the lump sum volunteer firefighter relief association amortization period so Minnesota Statutes, Section 69.772, reflects the longstanding practice utilized in the Department of Commerce, State Auditor's Office forms. Minnesota Statutes, Section 69.772, Subdivision 3, provides that the 1971 unfunded liability be amortized over ten years, with one-tenth of the 1971 unfunded liability amount paid per year, and that the unfunded liability from post-1971 benefit increases also be amortized over ten years from the year of the service pension increase, with one-tenth of the original benefit increase unfunded liability amount paid per year. The schedules that have been used by the Department of Commerce previously and the State Auditor's Office currently require the remaining unfunded liability amount from the last nine years and any new unfunded liability amount from the current year to be totaled, with one-tenth of that total amount

required to be paid in the year following the calculation. The two procedures appear to result in a lump sum volunteer firefighter relief association amortizing its unfunded liability over ten years with an essentially similar stream of municipal contributions, so having the law reflect the actual practice used by most volunteer firefighter relief associations, even if implemented without prior legislative authority, achieves the policy end intended. The year in which the departure from the precise strategy procedure first occurred has not been determined and may not be determinable.

2. Appropriateness of Amortizing Experience Losses. The policy issue is the appropriateness of adding a requirement that all lump sum, monthly benefit, and combination volunteer firefighter relief associations amortize their experience losses. For lump sum volunteer firefighter relief associations, the sole experience loss will be investment losses. For monthly benefit and combination volunteer firefighter relief associations, experience losses can be investment losses, mortality losses, and retirement age losses. For an undeterminable reason, because few contemporaneous records remain from the 1970-1971 Commission deliberations on the issue, the Volunteer Firefighter Relief Association Financing Guidelines Act of 1971 (Laws 1971, Chapter 261) did not require the amortization of these experience losses. Since experience losses can, and do, occur and the policy end is to insure that volunteer firefighter relief associations do become fully funded over a reasonable period of time, the experience loss amortization requirement appears appropriate.
3. Appropriateness of Different Amortization Periods for Lump Sum and Monthly volunteer firefighter relief associations. The policy issue is the appropriateness of specifying a 10-year amortization period for lump sum volunteer firefighter relief associations and a five-year amortization period for monthly benefit and combination volunteer firefighter relief associations. Experience losses reflect deviations from actuarial funding expectations, rather than long-term liability exposures such as benefit increases, and are viewed by pension experts as most appropriately paid off over a short period of time. The federal Employee Retirement Income Security Act of 1974 (ERISA), which sets the practice boundaries in private sector retirement plans, sets a five-year amortization period for experience losses in single employer plans (ten years in multiple employer plans) and longer periods for service pension increases, actuarial assumption changes, and actuarial method changes. The proposed five-year amortization period for monthly benefit volunteer firefighter relief associations reflects the federal law perspective. The proposed 10-year amortization period for lump sum volunteer firefighter relief associations is simply a practical accommodation to the practices of those plans and a recognition of a need for as much simplicity in performing funding calculations as possible for these plans. While it would be preferable to amortize lump sum volunteer firefighter relief association experience-related unfunded liabilities over five years, it was the judgement of the Pension Oversight Division of the State Auditor's Office that a different amortization period than the current ten-year amortization procedure would work a hardship on many lump sum volunteer firefighter relief association officials.
4. Appropriateness of Setting an Annual Limit on the Lump Sum Volunteer Firefighter Relief Association Amortization Contribution. The policy issue is the appropriateness of limiting the annual amortization contribution requirement of a lump sum volunteer firefighter relief association at the amount of the remaining unfunded liability. The staff of the Pension Oversight Division of the State Auditor's Office indicate that in some unusual instances, under the current lump sum volunteer firefighter relief association amortization procedures used in the State Auditor's forms, a large unfunded amount in one prior year and nominal unfunded amounts in the balance of the ten years can result in a computed amortization contribution that is greater than the total unfunded liability, making the city required contribution larger than it otherwise needs to be to achieve the policy goal of lump sum volunteer firefighter relief associations working towards full funding.
5. Appropriateness of a Statutory Requirement of Including "Reasonably Anticipated" Fire State Aid in Volunteer Firefighter Relief Association Funding Determination. The policy issue is the appropriateness of requiring volunteer firefighter relief association officials to use a "reasonably anticipated" fire state aid amount in calculating minimum municipal obligations towards volunteer firefighter relief associations. The State Auditor's Office has required for some period of time the use of a reasonably anticipated fire state aid amount in reviewing the minimum city contribution to its volunteer firefighter relief associations, without absolute statutory clarity on the requirement. The proposed change would be to add a very specific requirement that the fire state aid deduction amount be a "reasonably anticipated" amount. The use of unreasonably determined anticipated fire state aid amounts appears difficult to defend, since any short-term advantage produced by such manipulation will damage the volunteer firefighter relief association over the longer term.

6. Appropriateness of the Proposed Definition of the Maximum Amount of Reasonably Anticipated Fire State Aid. The policy issue is the appropriateness of defining the maximum amount of the reasonably anticipated fire state aid as the prior year's aid multiplied by the factor 1.035. Fire state aid amounts do vary over time, but generally increase modestly year to year. The following compares the fire state aid amounts for 11 years for four volunteer firefighter relief associations somewhat randomly:

Year	Ada		Finland		Montevideo		Zumbo Falls	
	\$	% Incr.	\$	% Incr.	\$	% Incr.	\$	% Incr.
1993	6,860	--	3,058	--	12,797	--	4,870	--
1994	7,206	+5.04	3,222	+5.36	13,691	+6.98	5,177	+6.30
1995	7,713	+7.04	2,549	-20.89	14,406	+5.22	5,545	+7.11
1996	9,803	+27.10	5,820	+128.3	18,812	+30.58	7,173	+29.41
1997	9,307	-5.10	5,769	-0.88	18,393	-2.22	6,961	-3.00
1998	9,427	+1.29	6,889	+18.37	19,168	+4.21	7,361	+5.75
1999	9,641	+2.27	7,068	+2.60	19,886	+3.75	7,556	+2.65
2000	9,746	+3.38	7,245	+2.50	20,437	+2.77	7,820	+3.49
2001	8,856	-9.13	7,185	-0.01	20,504	+0.33	7,838	+0.20
2002	9,683	+9.34	6,200	-13.71	23,035	+12.34	9,005	+14.89
2003	11,383	+17.56	7,758	+25.13	27,628	+19.94	11,091	+23.16
Annual Compound Rate		4.70%		9.00%		7.25%		7.75%

The 3.5 percent increase rate incorporated into the reasonableness maximum is an expansion of the historic view of the State Auditor's Office, which was the prior fire state aid amount without any increase and parallels the inflation factor used in calculating an anticipated administrative expense figure.

1.1 A bill for an act

1.2 relating to retirement; volunteer firefighters relief
1.3 associations; specifying the amortization calculation
1.4 for experience losses; amending Minnesota Statutes
1.5 2004, sections 69.772, subdivision 3; and 69.773,
1.6 subdivisions 4 and 5.

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

1.8 Section 1. Minnesota Statutes 2004, section 69.772,
1.9 subdivision 3, is amended to read:

1.10 Subd. 3. **FINANCIAL REQUIREMENTS OF RELIEF ASSOCIATION;**

1.11 **MINIMUM OBLIGATION OF MUNICIPALITY.** (a) During the month of
1.12 July, the officers of the relief association shall determine the
1.13 overall funding balance of the special fund for the current
1.14 calendar year, the financial requirements of the special fund
1.15 for the following calendar year and the minimum obligation of
1.16 the municipality with respect to the special fund for the
1.17 following calendar year in accordance with the requirements of
1.18 this subdivision.

1.19 ~~(1)~~ (b) The overall funding balance of the special fund for
1.20 the current calendar year ~~shall~~ must be determined in the
1.21 following manner:

1.22 ~~(a)~~ (1) The total accrued liability of the special fund for
1.23 all active and deferred members of the relief association as of
1.24 December 31 of the current year ~~shall~~ must be calculated
1.25 ~~pursuant to~~ under subdivisions 2 and 2a, if applicable.

1.26 ~~(b)~~ (2) The total present assets of the special fund

2.1 projected to December 31 of the current year, including receipts
2.2 by and disbursements from the special fund anticipated to occur
2.3 on or before December 31 ~~shall~~, must be calculated. To the
2.4 extent possible, for those assets for which a market value is
2.5 readily ascertainable, the current market value as of the date
2.6 of the calculation for those assets ~~shall~~ must be utilized in
2.7 making this calculation. For any asset for which no market
2.8 value is readily ascertainable, the cost value or the book
2.9 value, whichever is applicable, ~~shall~~ must be utilized in making
2.10 this calculation.

2.11 ~~(e)~~ (3) The amount of the total present assets of the
2.12 special fund calculated ~~pursuant to~~ under clause ~~(b)~~ (2)
2.13 must be subtracted from the amount of the total accrued
2.14 liability of the special fund calculated ~~pursuant to~~ under
2.15 clause ~~(a)~~ (1). If the amount of total present assets exceeds
2.16 the amount of the total accrued liability, then the special fund
2.17 ~~shall be~~ is considered to have a surplus over full funding. If
2.18 the amount of the total present assets is less than the amount
2.19 of the total accrued liability, then the special fund ~~shall be~~
2.20 is considered to have a deficit from full funding. If the
2.21 amount of total present assets is equal to the amount of the
2.22 total accrued liability, then the special fund ~~shall be~~ is
2.23 considered to be fully funded.

2.24 ~~(2)~~ (c) The financial requirements of the special fund for
2.25 the following calendar year ~~shall~~ must be determined in the
2.26 following manner:

2.27 ~~(a)~~ (1) The total accrued liability of the special fund for
2.28 all active and deferred members of the relief association as of
2.29 December 31 of the calendar year next following the current
2.30 calendar year ~~shall~~ must be calculated ~~pursuant to~~ under
2.31 subdivisions 2 and 2a, if applicable.

2.32 ~~(b)~~ (2) The increase in the total accrued liability of the
2.33 special fund for the following calendar year over the total
2.34 accrued liability of the special fund for the current year ~~shall~~
2.35 must be calculated.

2.36 ~~(e)~~ (3) The amount of anticipated future administrative

3.1 expenses of the special fund ~~shall~~ must be calculated by
3.2 multiplying the dollar amount of the administrative expenses of
3.3 the special fund for the most recent prior calendar year by the
3.4 factor of 1.035.

3.5 ~~(d)~~ (4) If the special fund is fully funded, the financial
3.6 ~~requirement~~ requirements of the special fund for the following
3.7 calendar year ~~shall be~~ are the ~~figure which represents the~~
3.8 ~~increase in the total accrued liability~~ of the ~~special fund as~~
3.9 amounts calculated ~~pursuant to subclause (b)~~ under clauses (2)
3.10 and (3).

3.11 ~~(e)~~ (5) If the special fund has a deficit from full
3.12 funding, the financial requirements of the special fund for the
3.13 following calendar year ~~shall be~~ are the financial requirements
3.14 of the special fund calculated as though the special fund were
3.15 fully funded ~~pursuant to subclause (d)~~ under clause (4) plus an
3.16 amount equal to one-tenth of the original amount of the deficit
3.17 from full funding of the special fund as determined ~~pursuant to~~
3.18 ~~this section for the calendar year 1971 until that deficit from~~
3.19 ~~full funding is fully retired, and plus an amount equal to~~
3.20 ~~one tenth of the increase in the deficit from full funding of~~
3.21 ~~the special fund~~ under clause (2) resulting either from an
3.22 increase in the amount of the service pension ~~accruing after~~
3.23 ~~December 31, 1971~~ occurring in the last ten years or from a net
3.24 annual investment loss occurring during the last ten years until
3.25 each increase in the deficit from full funding is fully
3.26 retired. The annual amortization contribution under this clause
3.27 may not exceed the amount of the deficit from full funding.

3.28 ~~(f)~~ (6) If the special fund has a surplus over full
3.29 funding, the financial requirements of the special fund for the
3.30 following calendar year ~~shall be~~ are the financial requirements
3.31 of the special fund calculated as though the special fund were
3.32 fully funded ~~pursuant to subclause (d)~~ under clause (4) reduced
3.33 by an amount equal to one-tenth of the amount of the surplus
3.34 over full funding of the special fund.

3.35 ~~(3)~~ (d) The minimum obligation of the municipality with
3.36 respect to the special fund ~~shall be~~ is the financial

4.1 requirements of the special fund reduced by the amount of any
 4.2 fire state aid payable ~~pursuant to~~ under sections 69.011 to
 4.3 69.051 reasonably anticipated to be received by the municipality
 4.4 for transmittal to the special fund during the following
 4.5 calendar year, an amount of interest on the assets of the
 4.6 special fund projected to the beginning of the following
 4.7 calendar year calculated at the rate of five percent per annum,
 4.8 and the amount of any ~~anticipated~~ contributions to the special
 4.9 fund required by the relief association bylaws from the active
 4.10 members of the relief association reasonably anticipated to be
 4.11 received during the following calendar year. A reasonable amount
 4.12 of anticipated fire state aid is an amount that does not exceed
 4.13 the fire state aid actually received in the prior year
 4.14 multiplied by the factor 1.035.

4.15 Sec. 2. Minnesota Statutes 2004, section 69.773,
 4.16 subdivision 4, is amended to read:

4.17 Subd. 4. **FINANCIAL REQUIREMENTS OF SPECIAL FUND.** ~~Prior~~
 4.18 ~~to~~ (a) On or before August 1 of each year, the officers of the
 4.19 relief association shall determine the financial requirements of
 4.20 the special fund of the relief association in accordance with
 4.21 the requirements of this subdivision.

4.22 (b) The financial requirements of the relief
 4.23 association ~~shall~~ must be based on the most recent actuarial
 4.24 valuation of the special fund prepared in accordance with
 4.25 subdivision 2. If the relief association has an unfunded
 4.26 actuarial accrued liability as reported in the most recent
 4.27 actuarial valuation, the financial requirements ~~shall~~ must be
 4.28 determined by adding the figures calculated ~~pursuant to~~ under
 4.29 paragraph (d), clauses (a) (1), (b) (2), and (c) (3). If
 4.30 the relief association does not have an unfunded actuarial
 4.31 accrued liability as reported in the most recent actuarial
 4.32 valuation, the financial requirements ~~shall~~ must be an amount
 4.33 equal to the figure calculated ~~pursuant to~~ under paragraph (d),
 4.34 clauses (a) (1) and (b) (2), reduced by an amount equal to
 4.35 one-tenth of the amount of any assets in excess of the actuarial
 4.36 accrued liability of the relief association.

5.1 (c) The determination of whether or not the relief
5.2 association has an unfunded actuarial accrued liability
5.3 ~~shall~~ must be based on the current market value of assets for
5.4 which a market value is readily ascertainable and the cost or
5.5 book value, whichever is applicable, for assets for which no
5.6 market value is readily ascertainable.

5.7 ~~(a)~~ (d) The components of the financial requirements of the
5.8 relief association are the following:

5.9 (1) The normal level cost requirement for the following
5.10 year, expressed as a dollar amount, ~~shall be~~ is the figure for
5.11 the normal level cost of the relief association as reported in
5.12 the actuarial valuation.

5.13 ~~(b)~~ (2) The amount of anticipated future administrative
5.14 expenses of the special fund ~~shall~~ must be calculated by
5.15 multiplying the dollar amount of the administrative expenses of
5.16 the special fund for the most recent prior calendar year by the
5.17 factor of 1.035.

5.18 ~~(e)~~ (3) The amortization contribution requirement to retire
5.19 the current unfunded actuarial accrued liability by the
5.20 established date for full funding ~~shall be~~ is the figure for the
5.21 amortization contribution as reported in the actuarial
5.22 valuation. If there has not been a change in the actuarial
5.23 assumptions used for calculating the actuarial accrued liability
5.24 of the special fund, a change in the bylaws of the relief
5.25 association governing the service pensions, retirement benefits,
5.26 or both, payable from the special fund, or a change in the
5.27 actuarial cost method used to value all or a portion of the
5.28 special fund which change or changes, which by themselves,
5.29 without inclusion of any other items of increase or decrease,
5.30 produce a net increase in the unfunded actuarial accrued
5.31 liability of the special fund ~~since December 31, 1970,~~ the
5.32 established date for full funding ~~shall be~~ is the December 31-
5.33 ~~1990~~ occurring five years later. If there has been a change in
5.34 the actuarial assumptions used for calculating the actuarial
5.35 accrued liability of the special fund, a change in the bylaws of
5.36 the relief association governing the service pensions,

6.1 retirement benefits, or both payable from the special fund or a
6.2 change in the actuarial cost method used to value all or a
6.3 portion of the special fund and the change or changes, by
6.4 themselves and without inclusion of any other items of increase
6.5 or decrease, produce a net increase in the unfunded actuarial
6.6 accrued liability of the special fund ~~since December 31, 1970,~~
6.7 ~~but prior to January 1, 1979~~ within the past 20 years, the
6.8 established date for full funding ~~shall be December 31, 1998,~~
6.9 ~~and if there has been a change since December 31, 1978, the~~
6.10 ~~established date for full funding shall~~ must be determined using
6.11 the following procedure:

6.12 (i) the unfunded actuarial accrued liability of the special
6.13 fund attributable to experience losses that have occurred since
6.14 the most recent prior actuarial valuation must be determined and
6.15 the level annual dollar contribution needed to amortize the
6.16 experience loss over a period of five years ending on the
6.17 December 31 occurring five years later must be calculated;

6.18 (ii) the unfunded actuarial accrued liability of the
6.19 special fund ~~shall~~ must be determined in accordance with the
6.20 provisions governing service pensions, retirement benefits, and
6.21 actuarial assumptions in effect before an applicable change;

6.22 ~~(ii)~~ (iii) the level annual dollar contribution needed to
6.23 amortize this unfunded actuarial accrued liability amount by the
6.24 date for full funding in effect ~~prior to~~ before the change ~~shall~~
6.25 must be calculated using the interest assumption specified in
6.26 section 356.215, subdivision 8, in effect before any applicable
6.27 change;

6.28 ~~(iii)~~ (iv) the unfunded actuarial accrued liability of the
6.29 special fund ~~shall~~ must be determined in accordance with any new
6.30 provisions governing service pensions, retirement benefits, and
6.31 actuarial assumptions and the remaining provisions governing
6.32 service pensions, retirement benefits, and actuarial assumption
6.33 in effect before an applicable change;

6.34 ~~(iv)~~ (v) the level annual dollar contribution needed to
6.35 amortize the difference between the unfunded actuarial accrued
6.36 liability amount calculated ~~pursuant to~~ under subclause ~~(i)~~ (ii)

7.1 and the unfunded actuarial accrued liability amount
 7.2 calculated ~~pursuant to~~ under subclause ~~(iii)~~ (iv) over a period
 7.3 of 20 years starting December 31 of the year in which the change
 7.4 is effective ~~shall~~ must be calculated using the interest
 7.5 assumption specified in section 356.215, subdivision 8, in
 7.6 effect after any applicable change;

7.7 ~~(v)~~ (vi) the annual amortization contribution calculated
 7.8 ~~pursuant to~~ under subclause ~~(iv)~~ (v) ~~shall~~ must be added to the
 7.9 annual amortization contribution calculated ~~pursuant to~~
 7.10 ~~subclause (ii)~~ under subclauses (i) and (iii);

7.11 ~~(vi)~~ (vii) the period in which the unfunded actuarial
 7.12 accrued liability amount determined in subclause ~~(iii)~~ (iv) will
 7.13 be amortized by the total annual amortization contribution
 7.14 computed ~~pursuant to~~ under subclause ~~(v)~~ (vi) ~~shall~~ must be
 7.15 calculated using the interest assumption specified in section
 7.16 356.215, subdivision 8, in effect after any applicable change,
 7.17 rounded to the nearest integral number of years, but which ~~shall~~
 7.18 must not exceed a period of 20 years from the end of the year in
 7.19 which the determination of the date for full funding using this
 7.20 procedure is made and which ~~shall~~ must not be less than the
 7.21 period of years beginning in the year in which the determination
 7.22 of the date for full funding using this procedure is made and
 7.23 ending by the date for full funding in effect before the change;

7.24 ~~(vii)~~ (viii) the period determined ~~pursuant to~~ under
 7.25 subclause ~~(vi)~~ (vii) ~~shall~~ must be added to the date as of which
 7.26 the actuarial valuation was prepared and the resulting
 7.27 date ~~shall be~~ is the new date for full funding.

7.28 Sec. 3. Minnesota Statutes 2004, section 69.773,
 7.29 subdivision 5, is amended to read:

7.30 Subd. 5. **MINIMUM MUNICIPAL OBLIGATION.** (a) The officers
 7.31 of the relief association shall determine the minimum obligation
 7.32 of the municipality with respect to the special fund of the
 7.33 relief association for the following calendar year ~~prior to~~
 7.34 before August 1 of each year in accordance with the requirements
 7.35 of this subdivision.

7.36 (b) The minimum obligation of the municipality with respect

8.1 to the special fund ~~shall be~~ is an amount equal to the financial
8.2 requirements of the special fund of the relief association
8.3 determined ~~pursuant to~~ under subdivision 4, reduced by the
8.4 estimated amount of any fire state aid payable ~~pursuant to~~ under
8.5 sections 69.011 to 69.051 reasonably anticipated to be received
8.6 by the municipality for transmittal to the special fund of the
8.7 relief association during the following year and the amount of
8.8 any anticipated contributions to the special fund required by
8.9 the relief association bylaws from the active members of the
8.10 relief association reasonably anticipated to be received during
8.11 the following calendar year. A reasonable amount of anticipated
8.12 fire state aid is an amount that does not exceed the fire state
8.13 aid actually received in the prior year multiplied by the factor
8.14 1.035.

8.15 (c) The officers of the relief association shall certify
8.16 the financial requirements of the special fund of the relief
8.17 association and the minimum obligation of the municipality with
8.18 respect to the special fund of the relief association as
8.19 determined ~~pursuant to~~ under subdivision 4 and this subdivision
8.20 to the governing body of the municipality by August 1 of each
8.21 year.

8.22 (d) The municipality shall provide for at least the minimum
8.23 obligation of the municipality with respect to the special fund
8.24 of the relief association by tax levy or from any other source
8.25 of public revenue. The municipality may levy taxes for the
8.26 payment of the minimum municipal obligation without any
8.27 limitation as to rate or amount and irrespective of any
8.28 limitations imposed by other provisions of law or charter upon
8.29 the rate or amount of taxation until the balance of the special
8.30 fund or any fund of the relief association has attained a
8.31 specified level. In addition, any taxes levied ~~pursuant to~~
8.32 under this section ~~shall~~ may not cause the amount or rate of any
8.33 other taxes levied in that year or to be levied in a subsequent
8.34 year by the municipality which are subject to a limitation as to
8.35 rate or amount to be reduced.

8.36 (e) If the municipality does not include the full amount of

9.1 the minimum municipal obligation in its levy for any year, the
9.2 officers of the relief association shall certify that amount to
9.3 the county auditor, who shall spread a levy in the amount of the
9.4 minimum municipal obligation.

9.5 Sec. 4. **EFFECTIVE DATE.**

9.6 Sections 1, 2, and 3 are effective on July 1, 2005.



TO: Volunteer Firefighter Relief Association Working Group
FROM: Lawrence A. Martin, Executive Director
RE: Potential Draft Proposed Legislation LCPR04-279; Clarifying Compliance Requirements For Qualifying For Fire State Aid
DATE: December 7, 2004

Summary of Document LCPR04-279

Potential draft proposed legislation LCPR04-279 amends Minnesota Statutes, Sections 69.771; 69.772, Subdivision 4; and 69.773, Subdivision 5, a portion of the 1971 Volunteer Firefighter Relief Association Financing Guidelines Act, by making the following changes, effective July 1, 2005:

1. Specifically Enumerates the Reporting, Funding and Investment Requirements for Compliance Determination by the State Auditor. (Section 1) The generic specification of the responsibility for the Office of the State Auditor to determine compliance by volunteer firefighter relief associations for qualification for fire state aid receipt is augmented with a specific enumeration of the reporting, funding, and investment requirements on which a compliance determination will be based, including filing a financial report or statement, meeting treasurer bonding requirements, filing an actuarial valuation that meets minimum contents requirements, failure to obtain a sufficient municipal contribution, failure to obtain municipal ratification of a benefit improvement, investing in an unauthorized investment security, making an unauthorized special fund administrative expense, failure to provide investment portfolio and performance reporting, failure to obtain broker acknowledgements of investment restrictions, permitting or failing to correct a prohibited transaction, or paying a service pension in excess of the applicable service pension maximum.
2. Requires Disclosure of Relief Association Financial Requirements and Minimum Obligation in Relief Association Financial Reporting. (Sections 2 and 3) The annual financial reporting or financial statement of a volunteer firefighter relief association is required to include disclosure of the most recent relief association financial requirements and minimum municipal obligation.
3. Authorizes the State Auditor to Obtain 1971 Guidelines Act Funding Certifications Upon the Determination of Insufficient Funding. (Sections 2 and 3) The Office of the State Auditor is authorized to obtain copies of the relief association financial requirements and minimum municipal obligation certification documents under Minnesota Statutes, Sections 69.771 through 69.775, from the relief association and the applicable municipality if insufficient funding of the relief association is disclosed in the relief association annual financial reporting.

Background Information on the Requirements For Fire State Aid Qualification

Under Minnesota Statutes, Section 69.771, and other volunteer firefighter relief association statutes, the initial qualification for fire state aid by a municipality and its associated volunteer firefighter relief association and the retention of fire state aid is conditioned on compliance with several requirements. Those requirements, in the view of the staff of the Legislative Commission on Pensions and Retirement, are the following:

1. Fire Department Existence Certification. The clerk of a municipality or the secretary of an independent nonprofit firefighting corporation must certify the existence of the fire department on or before March 15 (Minnesota Statutes, Section 69.011, Subdivision 2);
2. Fire Department Minimum Requirements. A municipal fire department must have been officially established and organized for at least one year. An independent nonprofit firefighting corporation must operate exclusively for firefighting purposes and must provide retirement benefits to firefighters. Fire department or firefighting corporation must have at least ten firefighters, have regular meetings and frequent drills, a motorized fire truck with equipment, has suitable housing for apparatus, have alarm system, have second piece of motorized apparatus if service area exceeds municipal limits, and meet other Department of Revenue requirements, with compliance determined by the State Fire Marshal (Minnesota Statutes, Sections 69.011, Subdivisions 4 and 5, and 69.021, Subdivision 4);

3. Relief Association Financial Report or Statement. The volunteer firefighter relief association must file a financial statement (liabilities or assets under \$200,000) by March 31 or a financial report (liabilities or assets of at least \$200,000) by July 1 (Minnesota Statutes, Section 69.051, Subdivisions 1, 1a, 1b, 3, and 4);
4. Relief Association Treasurer Bond. The volunteer firefighter relief association treasurer must be bonded to a minimum amount (Minnesota Statutes, Section 69.051, Subdivision 2);
5. Relief Association Financial Requirements Determination. The volunteer firefighter relief association officers must determine relief association funding requirements, based on liability calculations or actuarial valuation, whichever is required (Minnesota Statutes, Sections 69.771, 69.772, and 69.773);
6. Relief Association Minimum Municipal Contribution. The municipality or the independent nonprofit firefighting corporation must budget for the minimum contribution and the municipality must budget for that contribution amount (Minnesota Statutes, Sections 69.772 and 69.773);
7. Municipal Ratification of Plan Amendments. Unless the volunteer firefighter relief association is fully funded before and after the plan amendment, the municipality must ratify plan amendments affecting benefits (Minnesota Statutes, Sections 69.772, Subdivision 6; 69.773, Subdivision 6; and 424A.02, Subdivision 10);
8. Authorized Relief Association Investments. Volunteer firefighter relief association special fund assets must be investment in authorized investment securities (Minnesota Statutes, Sections 69.775 and 356A.06, Subdivisions 6 or 7);
9. Authorized Relief Association Administrative Expenses. The volunteer firefighter relief association or the municipality must limit administrative expenses to authorized expenses (Minnesota Statutes, Section 69.80 or 424A.05, Subdivision 3);
10. Relief Association Investment Performance Reporting. The volunteer firefighter relief association must make investment portfolio and investment performance report (Minnesota Statutes, Section 356.219);
11. Investment Authority Statement. The volunteer firefighter relief association must provide all investment brokers with written statement of investment restrictions and receive acknowledgement and compliance agreement from the broker annually (Minnesota Statutes, Section 356A.06, Subdivision 8b);
12. No Prohibited Transactions. The volunteer firefighter relief association must not permit a prohibited transaction to occur or must correct a prohibited transaction that did occur (Minnesota Statutes, Section 356A.06, Subdivision 9); and
13. No Excessive Service Pension Amount. The defined benefit volunteer firefighter relief association must not provide a service pension that is in excess of the applicable service pension maximum (Minnesota Statutes, Section 424A.02, Subdivision 3).

Background Information on Required Municipal Funding of Volunteer Firefighter Relief Associations

Prior to the enactment of the 1971 Volunteer Firefighter Relief Association Financing Guidelines Act, under Minnesota Statutes 1969, Section 424.30, various municipalities were required to provide funding to its associated volunteer firefighter relief association equal to one-tenth of one mill on all taxable property in the municipality and were authorized to provide additional volunteer firefighter relief association funding to a maximum of one and nine-tenths mill on all taxable property of the municipality. If the municipality failed to make the required levy, the volunteer firefighter relief association board of trustees was authorized to certify the levy to the county auditor.

In 1971 (Laws 1971, Chapter 261), the Volunteer Firefighter Relief Association Financing Guidelines Act was enacted and was deemed to implicitly repeal Minnesota Statutes 1969, Section 424.30. Minnesota Statutes 1978, Section 424.30, was formally repealed by Laws 1979, Chapter 201. The 1971 Volunteer Firefighter Relief Association Financing Guidelines Act requires that municipalities fund their associated volunteer firefighter relief association based on the actuarial requirements of the relief association and establishes a procedure for determining the annual financial requirements of the special fund of the volunteer firefighter relief association and the minimum municipal obligation to the relief association.

For relief associations providing monthly defined benefit service pensions, the relief association financial requirements are based on periodic actuarial valuations (required quadrennially under statute, more frequently under generally accepted accounting principles (GAAP)). For relief associations providing lump sum defined benefit service pensions, the financial relief association financial requirements are based on a statutory liability table that had been developed by Dr. Franklin Smith, the consulting actuary then retained by the Legislative Commission on Pensions and Retirement. The minimum municipal obligation is the annual financial requirements of the relief association reduced by the anticipated amount of fire state aid, one-tenth of any funding surplus (assets in excess of calculated accrued liability), and, for lump sum volunteer firefighter relief associations, an amount equal to five percent of the current assets of the special fund.

The officers of the volunteer firefighter relief association are required under the 1971 Volunteer Firefighter Relief Association Financing Guidelines Act to certify their calculations of the financial requirements of the relief association and the minimum municipal obligation each August. The municipality, after verifying those calculations, is required to include the minimum municipal obligation in the municipal budget and if the municipality fails to budget for the minimum municipal obligation, the volunteer firefighter relief association officers are obligated to certify the minimum municipal obligation as a tax levy to the applicable county auditor, who is required to spread the levy over the taxable property of the municipality.

Discussion and Analysis

Draft proposed legislation LCPR04-279 provides particularity in the requirements to be enforced by the Office of the State Auditor on volunteer firefighter relief associations and municipalities for the receipt of fire state aid, requires disclosure of relief association financial requirements and minimum municipal obligation in the volunteer firefighter relief association annual financial reporting, and authorizes the Office of the State Auditor to obtain the 1971 Volunteer Firefighter Relief Association Financing Guidelines Act funding certifications from the volunteer firefighter relief association and the municipality if insufficient relief association funding is determined.

The draft proposed legislation, if eventually introduced during the 2005 Legislative Session and considered by the Legislative Commission on Pensions and Retirement, will raise several pension and related public policy issues, as follows:

1. Appropriateness of Specifically Enumerating Fire State Aid Qualification Requirements. The policy issue is the appropriateness of replacing the general fire state aid qualification standard statement for the Office of the State Auditor in Minnesota Statutes, Section 69.771, with a detailed list of fire state aid qualification requirements. The replacement of a generalized review requirement with a specific set of compliance requirements will assist both volunteer firefighter relief associations and the Office of the State Auditor and will provide clarity to the fire state aid qualification process. The Legislature has used fire state aid as a tool to attempt to improve fire department capabilities, to improve volunteer firefighter relief association funding, to insure appropriate volunteer firefighter relief association investment practices, to insure compliance with the flexible service pension maximums, and to discourage inappropriate administrative expenditures and practices. To further these goals and to provide both the regulator and the regulated with the standards by which compliance is to be determined, the replacement of a generic statement of the State Auditor's responsibility with the specific requirements is likely to be a more effective provision of law.
2. Appropriateness of Evaluating Monthly Benefit Volunteer Firefighter Relief Association Funding in Gross. The issue is the appropriateness of determining municipal compliance with the volunteer firefighter relief association funding requirement in gross rather than in components for monthly benefit volunteer firefighter relief associations. Proposed Minnesota Statutes, Section 69.771, Subdivision 3, Paragraph (c), Clause (5), relating to monthly benefit volunteer firefighter relief associations, specifies a funding level compliance standard that compares the total volunteer firefighter relief association funding requirement with the total relief association financial support, rather than focusing on the minimum municipal requirement and the actual municipal contribution. The proposed "funding in gross" requirement is an accommodation to the greater professionalism and greater presumed accuracy of the monthly benefit volunteer firefighter relief association funding requirement determination process that was recommended by one of the actuarial consulting firms retained by Minnesota monthly benefit volunteer firefighter relief associations. Use of actuarial valuations by monthly volunteer firefighter relief associations rather than the simpler liability table process used by lump sum volunteer firefighter relief associations does involve a pension expert in the

process and should involve more rigorous determinations. Comparing the funding requirements and total financial support at large achieves the Commission's pension funding goal without requiring the Office of the State Auditor to spend the extra effort to chase the component funding elements.

3. Appropriateness of Requiring the Filing of 1971 Volunteer Firefighter Relief Association Financing Guidelines Act Certification Upon Insufficient Funding. The policy issue is the appropriateness of requiring volunteer firefighter relief associations and municipal officials to file their annual funding certifications with the Office of the State Auditor upon request. The 1971 Volunteer Firefighter Relief Association Financing Guidelines Act sets forth a process that, if followed, will result in a volunteer firefighter relief association being properly and timely funded. The process, currently, is wholly local, depending on certifications by the relief association officers to the municipalities, without the direct involvement by the Office of the State Auditor. The proposed change would permit the Office of the State Auditor to validate whether or not the 1971 Guidelines Act process was being followed when the annual financial report of the relief association indicates a funding shortfall, but would not burden the relief association and municipal officials unless there is evidence of a problem and would not burden the Office of the State Auditor with the collection of a greater volume of paper. There is anecdotal information that compliance with the 1971 Guidelines Act certification requirements and timing is lacking in a number of volunteer firefighter relief associations and the trend may be increasing. Clarifying that the Office of the State Auditor can request the 1971 Guidelines Act certification may help reverse that trend.

1.1 A bill for an act

1.2 relating to retirement; state auditor oversight of

1.3 volunteer firefighter relief associations; clarifying

1.4 the determination of compliance with applicable laws

1.5 for the state aid qualification; amending Minnesota

1.6 Statutes 2004, sections 69.771; 69.772, subdivision 4;

1.7 and 69.773, subdivision 5.

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

1.9 Section 1. Minnesota Statutes 2004, section 69.771, is

1.10 amended to read:

1.11 69.771 **VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATION**

1.12 **FINANCING GUIDELINES ACT; APPLICATION.**

1.13 Subdivision 1. **COVERED RELIEF ASSOCIATIONS.** The

1.14 applicable provisions of sections 69.771 to 69.776 ~~shall~~ apply

1.15 to any firefighters' relief association other than a relief

1.16 association enumerated in section 69.77, subdivision 1a, which

1.17 is organized under any laws of this state, which is composed of

1.18 volunteer firefighters or is composed partially of volunteer

1.19 firefighters and partially of salaried firefighters with

1.20 retirement coverage provided by the public employees police and

1.21 fire fund and which, in either case, operates subject to the

1.22 service pension minimum requirements for entitlement and

1.23 maximums contained in section 424A.02, or subject to a special

1.24 law modifying those requirements or maximums.

1.25 Subd. 2. **AUTHORIZED EMPLOYER SUPPORT FOR A RELIEF**

1.26 **ASSOCIATION.** Notwithstanding any law to the contrary, a

2.1 municipality may lawfully contribute public funds, including the
2.2 transfer of any applicable fire state aid, or may levy property
2.3 taxes for the support of a firefighters' relief association
2.4 specified in subdivision 1, however organized, which provides
2.5 retirement coverage or pays a service pension to retired
2.6 firefighter or a retirement benefit to a disabled firefighter or
2.7 a surviving dependent of either an active or retired firefighter
2.8 for the operation and maintenance of the relief association only
2.9 if the municipality and the relief association both comply with
2.10 the applicable provisions of sections 69.771 to 69.776.

2.11 Subd. 3. **REMEDY FOR NONCOMPLIANCE; DETERMINATION.**

2.12 ~~Any~~ (a) A municipality in which there exists a firefighters'
2.13 relief association as specified in subdivision 1 which does not
2.14 comply with the applicable provisions of sections 69.771 to
2.15 69.776 or the provisions of any applicable special law relating
2.16 to the funding or financing of the association ~~shall~~ does not
2.17 qualify initially to receive, ~~or be~~ and is not entitled
2.18 subsequently to retain, fire state aid ~~pursuant to~~ under
2.19 sections 69.011 to 69.051 until the reason for the
2.20 disqualification specified by the state auditor is remedied,
2.21 whereupon the municipality or relief association, if otherwise
2.22 qualified, ~~shall be~~ is entitled to again receive fire state aid
2.23 for the year occurring immediately subsequent to the year in
2.24 which the disqualification is remedied.

2.25 (b) The state auditor shall determine if a municipality to
2.26 which a firefighters' relief association is directly associated
2.27 or a firefighters' relief association fails to comply with the
2.28 provisions of sections 69.771 to 69.776 or the funding or
2.29 financing provisions of any applicable special law based upon
2.30 the information contained in the annual financial report of the
2.31 firefighters' relief association required ~~pursuant to~~ under
2.32 section 69.051-, the actuarial valuation of the relief
2.33 association, if applicable, the relief association officers'
2.34 financial requirements of the relief association and minimum
2.35 municipal obligation determination documentation under sections
2.36 69.772, subdivisions 3 and 4, 69.773, subdivisions 4 and 5, or

3.1 69.774, subdivision 2, if requested to be filed by the state
3.2 auditor, the applicable municipal or nonprofit firefighting
3.3 corporation budget, if requested to be filed by the state
3.4 auditor, and any other relevant documents or reports obtained by
3.5 the state auditor.

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

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

3.11 (2) the relief association treasurer is not bonded in the
3.12 manner and in the amount required by section 69.051, subdivision
3.13 2;

3.14 (3) the relief association officers fail to determine or
3.15 improperly determine the accrued liability and the annual
3.16 accruing liability of the relief association under section
3.17 69.772, subdivisions 2, 2a, and 3, clause (2), subclause (b), if
3.18 applicable;

3.19 (4) if applicable, the relief association officers fail to
3.20 obtain and file a required actuarial valuation or the officers
3.21 file an actuarial valuation that does not contain the special
3.22 fund actuarial liability calculated under the entry age normal
3.23 actuarial cost method, the special fund current assets, the
3.24 special fund unfunded actuarial accrued liability, the special
3.25 fund normal cost under the entry age normal actuarial cost
3.26 method, the amortization requirement for the special fund
3.27 unfunded actuarial accrued liability by the applicable target
3.28 date, a summary of the applicable benefit plan, a summary of the
3.29 membership of the relief association, a summary of the actuarial
3.30 assumptions used in preparing the valuation, and a signed
3.31 statement by the actuary attesting to its results and the
3.32 certifying to the qualifications of the actuary as an approved
3.33 actuary under section 356.215, subdivision 1, paragraph (c);

3.34 (5) the municipality failed to provide a municipal
3.35 contribution, or the nonprofit firefighting corporation failed
3.36 to provide a corporate contribution, in the amount equal to the

4.1 minimum municipal obligation if the relief association is
4.2 governed under section 69.772, or the amount necessary, when
4.3 added to the fire state aid actually received in the plan year
4.4 in question, to at least equal in total the calculated annual
4.5 financial requirements of the special fund of the relief
4.6 association and, if the municipal or corporate contribution is
4.7 deficient, the municipality failed to include the minimum
4.8 municipal obligation certified under section 69.772, subdivision
4.9 3, or 69.773, subdivision 5, in its budget and tax levy or the
4.10 nonprofit firefighting corporation failed to include the minimum
4.11 corporate obligation certified under section 69.774, subdivision
4.12 2, in the corporate budget;

4.13 (6) the relief association did not receive municipal
4.14 ratification for the most recent plan amendment when municipal
4.15 ratification was required under section 69.772, subdivision 6,
4.16 69.773, subdivision 6, or 424A.02, subdivision 10;

4.17 (7) the relief association invested special fund assets in
4.18 an investment security that is not authorized under section
4.19 69.775;

4.20 (8) the relief association had an administrative expense
4.21 that is not authorized under section 69.80 or the municipality
4.22 had an expenditure that is not authorized under section 424A.05,
4.23 subdivision 3;

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

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

4.30 (11) the relief association officers permitted to occur a
4.31 prohibited transaction under section 356A.06, subdivision 9, or
4.32 424A.001, subdivision 7, or failed to undertake correction of a
4.33 prohibited transaction that did occur; or

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

5.1 Sec. 2. Minnesota Statutes 2004, section 69.772,

5.2 subdivision 4, is amended to read:

5.3 Subd. 4. **CERTIFICATION OF FINANCIAL REQUIREMENTS AND**

5.4 **MINIMUM MUNICIPAL OBLIGATION; LEVY.** (a) The officers of the

5.5 relief association shall certify the financial requirements of

5.6 the special fund of the relief association and the minimum

5.7 obligation of the municipality with respect to the special fund

5.8 of the relief association as determined ~~pursuant to~~ under

5.9 subdivision 3 to the governing body of the municipality on or

5.10 before August 1 of each year. The financial requirements of the

5.11 relief association and the minimum municipal obligation must be

5.12 included in the financial report or financial statement under

5.13 section 69.051.

5.14 (b) The municipality shall provide for at least the minimum

5.15 obligation of the municipality with respect to the special fund

5.16 of the relief association by tax levy or from any other source

5.17 of public revenue.

5.18 (c) The municipality may levy taxes for the payment of the

5.19 minimum municipal obligation without any limitation as to rate

5.20 or amount and irrespective of any limitations imposed by other

5.21 provisions of law upon the rate or amount of taxation until the

5.22 balance of the special fund or any fund of the relief

5.23 association has attained a specified level. In addition, any

5.24 taxes levied ~~pursuant to~~ under this section ~~shall~~ must not cause

5.25 the amount or rate of any other taxes levied in that year or to

5.26 be levied in a subsequent year by the municipality which are

5.27 subject to a limitation as to rate or amount to be reduced.

5.28 (d) If the municipality does not include the full amount of

5.29 the minimum municipal obligations in its levy for any year, the

5.30 officers of the relief association shall certify that amount to

5.31 the county auditor, who shall spread a levy in the amount of the

5.32 certified minimum municipal obligation on the taxable property

5.33 of the municipality.

5.34 (e) If the state auditor determines that a municipal

5.35 contribution actually made in a plan year was insufficient under

5.36 section 69.771, subdivision 3, paragraph (c), clause (5), the

6.1 state auditor may request a copy of the certifications under
6.2 this subdivision from the relief association or from the city.
6.3 The relief association or the city, whichever applies, must
6.4 provide the certifications within 14 days of the date of the
6.5 request from the state auditor.

6.6 Sec. 3. Minnesota Statutes 2004, section 69.773,
6.7 subdivision 5, is amended to read:

6.8 Subd. 5. **MINIMUM MUNICIPAL OBLIGATION.** (a) The officers
6.9 of the relief association shall determine the minimum obligation
6.10 of the municipality with respect to the special fund of the
6.11 relief association for the following calendar year ~~prior to~~ on
6.12 or before August 1 of each year in accordance with the
6.13 requirements of this subdivision.

6.14 (b) The minimum obligation of the municipality with respect
6.15 to the special fund ~~shall be~~ is an amount equal to the financial
6.16 requirements of the special fund of the relief association
6.17 determined ~~pursuant to~~ under subdivision 4, reduced by the
6.18 estimated amount of any fire state aid payable ~~pursuant to~~ under
6.19 sections 69.011 to 69.051 anticipated to be received by the
6.20 municipality for transmittal to the special fund of the relief
6.21 association during the following year and the amount of any
6.22 anticipated contributions to the special fund required by
6.23 the relief association bylaws from the active members of the
6.24 relief association during the following calendar year.

6.25 (c) The officers of the relief association shall certify
6.26 the financial requirements of the special fund of the relief
6.27 association and the minimum obligation of the municipality with
6.28 respect to the special fund of the relief association as
6.29 determined ~~pursuant to~~ under subdivision 4 and this subdivision
6.30 to the governing body of the municipality by August 1 of each
6.31 year. The financial requirements of the relief association and
6.32 the minimum municipal obligation must be included in the
6.33 financial report or financial statement under section 69.051.

6.34 (d) The municipality shall provide for at least the minimum
6.35 obligation of the municipality with respect to the special fund
6.36 of the relief association by tax levy or from any other source

7.1 of public revenue. The municipality may levy taxes for the
7.2 payment of the minimum municipal obligation without any
7.3 limitation as to rate or amount and irrespective of any
7.4 limitations imposed by other provisions of law or charter upon
7.5 the rate or amount of taxation until the balance of the special
7.6 fund or any fund of the relief association has attained a
7.7 specified level. In addition, any taxes levied ~~pursuant to~~
7.8 under this section ~~shall~~ must not cause the amount or rate of
7.9 any other taxes levied in that year or to be levied in a
7.10 subsequent year by the municipality which are subject to a
7.11 limitation as to rate or amount to be reduced.

7.12 (e) If the municipality does not include the full amount of
7.13 the minimum municipal obligation in its levy for any year, the
7.14 officers of the relief association shall certify that amount to
7.15 the county auditor, who shall spread a levy in the amount of the
7.16 minimum municipal obligation on the taxable property of the
7.17 municipality.

7.18 (f) If the state auditor determines that a municipal
7.19 contribution actually made in a plan year was insufficient under
7.20 section 69.771, subdivision 3, paragraph (c), clause (5), the
7.21 state auditor may request from the relief association or from
7.22 the city a copy of the certifications under this subdivision.
7.23 The relief association or the city, whichever applies, must
7.24 provide the certifications within 14 days of the date of the
7.25 request from the state auditor.

7.26 Sec. 4. **EFFECTIVE DATE.**

7.27 Sections 1 to 3 are effective on July 1, 2005.



TO: Volunteer Firefighter Relief Association Working Group
FROM: Lawrence A. Martin, Executive Director
RE: Document LCPR04-311; Adding MFIRS Reporting to Minimum Fire Department Requirements for Fire State Aid Qualification
DATE: December 7, 2004

Summary of Document LCPR04-311

Document LCPR04-311 amends Minnesota Statutes, Section 69.011, Subdivision 4, the minimum fire department requirements for qualifying for fire state aid and the State Fire Marshal fire department inspection provisions, by adding regular reporting to the State Fire Marshal through the Minnesota Fire Incident Reporting System (MFIRS) as a minimum fire department requirement for fire state aid qualification and by repealing Minnesota Statutes, Section 69.011, Subdivision 5, the State Fire Marshal's inspection provision, both effective on January 1, 2007.

Background Information on the Development of the Fire State Aid Program

The fire state aid program was initially established in 1885 (Laws 1885, Chapter 187) and was significantly modified in 1903, 1943, 1945, 1969, 1971, 1988, 1991, 1995, and 1996.

In 1903 (Laws 1903, Chapter 20), the fire insurance premium tax was raised to the two percent premium tax level and specified uses for the money modified, with the funds to be used to provide retirement and disability benefits to fire department members and their survivors, and to help maintain the fire department, including covering purchase and maintenance costs of fire equipment. In 1943 (Laws 1943, Chapter 323, Section 2), the authority to use the fire state aid to purchase fire equipment and to cover other costs of operating the fire service was deleted. In 1945 (Laws 1945, Chapter 225), the use of fire state aid for firefighting equipment purposes was permitted only if no firefighter relief association is associated with the fire department. In 1969 (Laws 1969, Chapter 399), the fire state aid allocation method was modified, shifting it from the location of insured property for each premium tax payment to a distribution half in proportion to the population according to the last federal census and half in proportion to property market values, excluding mineral values but including tax-exempt property. The 1969 law also established minimum fire department requirements for fire state aid qualification and required fire relief association financial reporting. In 1971 (Laws 1971, Chapter 695), minimum volunteer firefighter relief association funding and financing requirements were added and compliance with the 1971 Volunteer Firefighter Relief Association Financing Guidelines Act was made a condition for fire state aid. In 1988 (Laws 1988, Chapter 719, Article 2, Sections 1 to 5), the fire and related insurance premium tax rates were reduced for certain mutual insurance companies. In 1991 (Laws 1991, Chapter 291, Article 13), the fire state aid program appropriation was reduced to the amount of fire insurance premium taxes raised. In 1995 (Laws 1995, Chapter 264, Article 9, Section 3), insurance premium tax rates were increased to two percent of all life insurance premiums, one percent of all other insurance premiums for all town and farmers' mutual insurance companies and for the smaller mutual property and casualty companies (assets of no more than \$5 million) and 1.26 percent of all other insurance premiums for the larger mutual property and casualty companies (assets over \$5 million and no greater than \$1.6 billion) and increased the insurance premium tax revenue dedicated to the fire state aid program to the greater of either 107 percent of the fire, lightning, sprinkler leakage, and extended coverage insurance premium taxes collected or an amount equal to one percent of the fire, lightning, sprinkler leakage, and extended coverage premiums written by town and farmers' mutual insurance companies and by mutual property and casualty companies with assets not exceeding \$5 million and to two percent of the fire, lightning, sprinkler leakage, and extended coverage premiums written by all other fire risk insurers. In 1996 (Laws 1996, Chapter 390, Sections 29 and 30), a minimum fire state aid floor amount for volunteer firefighter relief associations was implemented that would otherwise receive a disproportionately small amount of fire state aid on a per-active-member basis, funded from a portion of excess police state aid.

Background Information on the Minimum Fire Department Requirements for Fire State Aid

The minimum fire department requirements for qualifications for fire state aid set forth in Minnesota Statutes, Section 69.011, Subdivision 4, are:

1. Fire Department Establishment. The municipal fire department must be established for at least one year by the municipal governing body or the independent nonprofit firefighting corporation must be operated exclusively for firefighting purposes and must provide retirement benefits to volunteer firefighters directly or through a separate subsidiary incorporated firefighters relief association.
2. Minimum Number of Firefighters. The fire department must have ten paid or volunteer firefighters including a fire chief and assistant fire chief.
3. Minimum Meetings and Drills. The fire department must have regular scheduled meetings and frequent drills, including instructions in firefighting tactics and in the use, care, and operation of all fire apparatus and equipment.
4. Minimum Fire Department Equipment. The fire department must have a motorized fire truck equipped with a motorized pump, 250 gallon or larger water tank, 300 feet of one inch or larger fire hose in two lines with combination spray and straight stream nozzles, five-gallon hand pumps—tank extinguisher or equivalent, dry chemical extinguisher or equivalent, extension ladders, pike poles, crow bars, axes, lanterns, fire coats, helmets, and boots.
5. Minimum Fire Station Requirements. The fire department must have a reliable and adequate method of receiving fire alarms by telephone or with electric siren and suitable means of sounding an alarm.
6. Minimum Fire Alarm System Requirements. The fire department must have a reliable and adequate method of receiving fire alarms by telephone or with electric siren and suitable means of sounding an alarm.
7. Minimum Second Response Requirements. If a response is to be provided outside the corporate limits of the municipality where in the fire department is located, the municipality must have another piece of motorized apparatus to make the response.
8. Other Requirements. The fire department must meet any other requirements the Commissioner of Revenue establishes by rule.

Under Minnesota Statutes, Section 69.011, Subdivision 5, the State Fire Marshal has the duty to inspect municipal fire departments and independent nonprofit firefighting corporations and may enter those facilities at any reasonable hour. If the inspection discloses that the fire department does not meet the minimum fire department requirements, the State Fire Marshal must report that fact and the Commissioner of Revenue is required to disqualify the municipality or independent nonprofit firefighting corporation from future fire state aid.

Background Information on the Minnesota Fire Incident Reporting System

The Minnesota Fire Incident Reporting System (MFIRS) is a tool operated by the Minnesota State Fire Marshal for fire departments to report and maintain records of fires and other fire department incidents in a uniform manner. The MFIRS process is part of a National Fire Incident Reporting System (NFIRS).

MFIRS is intended to assist the fire service, policymakers, and the public in order to justify budget requests and provide a basis for resource allocation; generate statistical reports; assess department activity on a national scale, including emergency medical services, department apparatus, wild land fires, and personnel activities; summarize annual activities; answer questions about the nature and causes of injuries, deaths, and property loss resulting from fires; predict fire-related problems within the State; and measure the success of fire prevention and safety programs.

The reporting consists of information on the timing of fire department incidents, the location of fire department incidents, the incident type, the extent of aid provided or received, the actions taken in response to the incident, the fire department resources committed to the incident, the estimated dollar loss involved in the incident, the casualties caused by the incident, the extent of fire detection in the incident, the extent of any hazardous material released, the use of the property involved in the incident, the details of the property involved, the cause and extent of ignition, the human factors and

Potential Policy Analysis and Discussion

Document LCPR04-311 replaces the current seven requirements for a fire department for the applicable municipality or independent firefighting corporation to qualify for fire state aid, with a new requirement of complete reporting of fire department activity to the State Fire Marshal under the Minnesota Fire Incident Reporting System (MFIRS) procedure during the preceding calendar year.

The proposed change, if forwarded by the working group to the Legislature for consideration during the 2005 Legislative Session, will likely raise the following pension and related public policy issues for consideration by the Legislative Commission on Pensions and Retirement, as identified by the Commission staff:

1. Appropriateness of Conditioning Fire State on a Non-Pension Reporting Requirement. The policy issue is the appropriateness of conditioning fire state aid on the participation of the applicable fire department with the Minnesota Fire Incident Reporting System (MFIRS), which relates to the functioning of the fire department and the fire service statewide, but has no direct pension application. The current minimum fire department requirements for qualifying for fire state aid were added in 1969, in order to use the fire state aid program, upgraded in 1969, to encourage a betterment in the provision of firefighting service throughout the state. If MFIRS reporting actually would work to improve the provision of fire services in the state, then adding MFIRS participation would be an extension of the 1969 legislative policy of leveraging fire state aid to gain improved fire departments statewide. The MFIRS reporting, however, focuses on firefighting activities and, if applicable, emergency medical activities, but does not appear to focus on fire prevention activities. Testimony may be appropriate about the role of fire prevention compared to fire suppression and firefighting activities in measuring the value of the fire service locally and statewide.

2. Appropriateness of Requiring MFIRS Participation if Reporting is Difficult or Onerous. The policy issue is the appropriateness of adding MFIRS participation as a replacement fire state aid qualifying requirement if that reporting responsibility is difficult or onerous for the non-participating fire departments. Of the 72 fire departments that do not participate in the MFIRS program, several are serving small population locales (18.06 percent are under 200 in population and 15.28 percent are without available population numbers), but a large number are larger population locales (37.49 percent are between 200 and 500 in population and 29.17 percent are in excess of 500 in population). MFIRS participation may be as much a question of motivation as of capability, at least as capability is measured by the firetown population, since several very small municipalities have good or perfect MFIRS participation records, as follows:

Municipality	County	Population	MFIRS Participa- tion
Arco	Lincoln	99	4/5
Beltrami	Polk	98	5/5
Borup	Norman	90	5/5
Correll	Big Stone	45	5/5
Dovray	Murray	67	5/5
Goodridge	Pennington	97	5/5
Kenneth	Rock	58	3/5
Kerrick	Pine	71	3/5
LaSalle	Watonwan	89	5/5
Lake Henry	Stearns	91	4/5

3. Precedent. The policy issue is the question of whether or not there is a past precedent for the replacement fire state aid requirement and whether or not the proposed additional requirement would become a precedent for further fire state aid requirement additions. Within the fire state aid program, there is no direct precedent for a fire department reporting requirement, but pension fund reporting requirements (financial and investment) as a fire state aid qualification do exist. Within the fire service, there is a precedent in a number of grants to fire departments with the requirement that they report their incidents, including fire grants from the United States Fire Administration (USFA) and Minnesota Department of Natural Resources (DNR) grants. With the exception of potentially adding the reporting of fire prevention activities, it is unclear what future additional fire department reporting requirements could be added based on this proposal as a precedent.

1.1 A bill for an act

1.2 relating to retirement; volunteer firefighter relief
1.3 associations; modifying the minimum fire department
1.4 requirements to qualify for fire state aid; amending
1.5 Minnesota Statutes 2004, section 69.011, subdivision
1.6 4; repealing Minnesota Statutes 2004, section 69.011,
1.7 subdivision 5.

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

1.9 Section 1. Minnesota Statutes 2004, section 69.011,
1.10 subdivision 4, is amended to read:

1.11 Subd. 4. **QUALIFICATION FOR STATE AID.** ~~Any~~ A municipality
1.12 in this state having for more than one year an organized fire
1.13 department ~~and~~ that was officially established by the governing
1.14 body of the municipality or an independent nonprofit fire
1.15 fighting corporation created under the nonprofit corporation act
1.16 of this state and operating for more than one year exclusively
1.17 for fire fighting purposes and providing retirement and relief
1.18 benefits to its members or having a separate subsidiary
1.19 incorporated firefighter's relief and pension association
1.20 providing retirement and relief benefits may qualify to
1.21 receive fire state aid if it ~~meets the following minimum~~
1.22 ~~requirements or equivalent as determined by the state fire~~
1.23 ~~marshal by July 1, 1972:~~

1.24 ~~(a) ten paid or volunteer firefighters including a fire~~
1.25 ~~chief and assistant fire chief, and~~

1.26 ~~(b) regular scheduled meetings and frequent drills~~

2.1 ~~including instructions in fire fighting tactics and in the use,~~
 2.2 ~~care, and operation of all fire apparatus and equipment, and~~
 2.3 ~~(c) a motorized fire truck equipped with a motorized pump,~~
 2.4 ~~250 gallon or larger water tank, 300 feet of one inch or larger~~
 2.5 ~~fire hose in two lines with combination spray and straight~~
 2.6 ~~stream nozzles, five gallon hand pumps tank extinguisher or~~
 2.7 ~~equivalent, dry chemical extinguisher or equivalent, ladders,~~
 2.8 ~~extension ladders, pike poles, crow bars, axes, lanterns, fire~~
 2.9 ~~coats, helmets, boots, and~~

2.10 ~~(d) apparatus suitably housed in a building of good~~
 2.11 ~~construction with facilities for care of hose and equipment, and~~

2.12 ~~(e) a reliable and adequate method of receiving fire alarms~~
 2.13 ~~by telephone or with electric siren and suitable means of~~
 2.14 ~~sounding an alarm, and~~

2.15 ~~(f) if response is to be provided outside the corporate~~
 2.16 ~~limits of the municipality wherein the fire department is~~
 2.17 ~~located, the municipality has another piece of motorized~~
 2.18 ~~apparatus to make the response, and~~

2.19 ~~(g) other requirements the commissioner establishes by rule~~
 2.20 has filed a complete 12-month set of Minnesota fire incident
 2.21 reporting system reports with the State Fire Marshal Division of
 2.22 the Department of Public Safety for the preceding calendar year.

2.23 Sec. 2. **REPEALER.**

2.24 Minnesota Statutes 2004, section 69.011, subdivision 5, is
 2.25 repealed.

2.26 Sec. 3. **EFFECTIVE DATE.**

2.27 Sections 1 and 2 are effective on January 1, 2007.



TO: Volunteer Firefighter Relief Association Working Group
FROM: Lawrence A. Martin, Executive Director
RE: Document LCPR04-298; Relaxation of 75 Percent Maximum on Volunteer Firefighter Relief Association Mutual Fund Investments
DATE: December 3, 2004

Summary of Document LCPR04-298

Document LCPR04-298 amends Minnesota Statutes, 69.775, the investment authority provision of the Volunteer Firefighter Relief Association Financing Guidelines Act of 1971, by excluding the amount of any investment of money market mutual funds from the calculation of the 75 percent market value maximum on investments in mutual funds by volunteer firefighter relief associations.

Background Information on the 1971 Volunteer Firefighter Relief Association Financing Guidelines Act

- a. In General. The Volunteer Firefighter Relief Association Financing Guidelines Act of 1971 was the result of an interim study by the Legislative Commission on Pensions and Retirement during the 1969-1971 Interim. The 1971 Guidelines Act was adapted from the Local Police and Paid Firefighter Relief Association Guidelines Act of 1969.

Minnesota Statutes, Sections 69.771 through 69.776, Volunteer Firefighter Relief Association Financing Guidelines Act of 1971, governs the calculation of the actuarial accrued liability and annual funding requirement of volunteer firefighter relief associations, the determination of the financial requirements of volunteer firefighter relief associations, the determination of the minimum obligation of municipalities or independent nonprofit firefighting corporations toward the volunteer firefighter relief association, the requirement for municipal ratification of volunteer firefighter relief association plan amendments, and the investment of volunteer firefighter relief association special fund assets.

- b. Calculation of Volunteer Firefighter Relief Association Actuarial Accrued Liability and Annual Funding Requirement. State law differentiates in the calculation of volunteer firefighter relief association actuarial accrued liabilities or its equivalent and the annual funding requirements. For volunteer firefighter relief associations providing monthly benefit service pensions, because there is a mortality risk and the need for making complicated computations, the relief association is required by Minnesota Statutes, Section 69.773, to utilize an approved actuary and have a quadrennial actuarial valuation prepared. For volunteer firefighter relief associations providing lump sum service pensions, because there is no mortality risk and the liability and funding calculations are less complicated, the relief association officers are required by Minnesota Statutes, Section 69.772, to estimate the association's actuarial liabilities and its annual funding requirement.

The monthly benefit volunteer firefighter relief association actuarial work is governed essentially by the same requirements applicable for other Minnesota public pension plans, Minnesota Statutes, Sections 356.215, and 356.216. The actuarial valuations will disclose the relief association's actuarial accrued liability, the assets, unfunded actuarial accrued liability, normal cost, and amortization of the unfunded actuarial accrued liability (typically using a 20-year amortization period.) The financial requirement of the monthly benefit relief association is the combination of four items:

1. The normal cost;
2. The amortization requirement; and
3. The prior year's administrative expenses, multiplied by a factor of 1.035.

The lump sum volunteer firefighter relief association computations are required to follow simplified calculation procedures set forth in Minnesota Statutes, Section 69.772, Subdivision 2. The Commission and its consulting actuary developed the table and related provisions in Minnesota Statutes, Section 69.772, Subdivision 2, in 1970-1971. The statutory table is basically a present value table assuming a lump sum benefit payable immediately after 20 years of service, based on a three-percent interest assumption, and assuming no pre-retirement turnover or mortality.

- c. Calculation of the Minimum Municipal Obligation. The Volunteer Firefighter Relief Association Financing Guidelines Act of 1971, Minnesota Statutes, Sections 69.771 through 69.776, requires municipal support of a relief association if the main other revenue source, the fire state aid program under Minnesota Statutes, Sections 69.011 through 69.051, is insufficient. Specifically, Minnesota Statutes, Section 69.772, Subdivision 3, for lump sum volunteer firefighter relief associations, and Minnesota Statutes, Section 69.773, Subdivision 5, for monthly benefit volunteer firefighter relief associations, require that the municipality include in its budget, levy for, and pay over to the relief association the amount of the financial requirements of the relief association, reduced by the amount of the fire state aid anticipated to be received in the following year. The determination of the minimum municipal obligation must be made by the officers of the relief association, and must be certified to the municipality as part of the municipal budget preparation process.
- d. Compliance with Municipal Funding Requirement. If the municipality fails to include the minimum municipal obligation in its budget or fails to spread the obligation in its property tax levy, Minnesota Statutes, Section 69.772, Subdivision 4, for lump sum volunteer firefighter relief associations, and Minnesota Statutes, Section 69.773, Subdivision 5, for monthly benefit volunteer firefighter relief associations, require that the relief association officers certify the required municipal obligation amount to the county auditor, who is required to levy that amount.
- e. Municipal Ratification of Plan Amendments. Minnesota Statutes, Section 772, Subdivision 6, for lump sum volunteer firefighter relief associations, and Minnesota Statutes, Section 69.773, Subdivision 6, for monthly benefit volunteer firefighter relief associations, generally require municipal ratification of benefit plan amendments made by volunteer firefighter relief associations. This municipal ratification requirement applies unless the volunteer firefighter relief association has assets in excess of its actuarial accrued liability and hence does not require municipal support, when the relief association can approve benefit plan amendments and improve benefit increases with an estimate of the actuarial impact of the change if the actuarial impact does not exceed 90 percent of the asset surplus and does not require the annual financial requirements to exceed the anticipated fire state aid of the municipality. After a benefit change that is subject to relief association approval only is implemented, if the financial requirements of the relief association exceed the fire state aid, the benefit change is no longer effective without subsequent municipal ratification.
- f. Application to Relief Associations Subsidiary to Independent Nonprofit Firefighting Corporations. Volunteer firefighter relief associations that are subsidiaries of independent nonprofit firefighting corporations are also covered by the 1971 Guidelines Act. Subsidiary volunteer firefighter relief associations that provide lump sum service pensions are governed through Minnesota Statutes, Section 69.774, Subdivision 2, Clause (a), by the applicable provisions of the lump sum volunteer firefighter relief association accrued liability and financial requirements determination statute. Subsidiary volunteer firefighter relief associations that provide monthly benefit service pensions are governed through Minnesota Statutes, Section 69.774, Subdivision 2, Clause (b), by the applicable provisions of the monthly benefit volunteer firefighter relief association accrued liability and financial requirements determination statute. Under Minnesota Statutes, Section 69.724, Subdivision 2, Clauses (c) and (d), the independent nonprofit firefighting corporation has the same obligation that a municipality would have under Minnesota Statutes, Section 69.772 or 69.773.
- g. Investments. Volunteer firefighter relief associations are required to invest special fund assets under the short list of authorized investments or the long list of authorized investments set forth in public pension plan fiduciary obligation law, whichever applies. An exception is provided for sizeable (maximum of 75 percent) mutual fund investments if the mutual fund conforms with the authorized investment list in its holdings. Volunteer firefighter relief associations are also permitted to invest through the State Board of Investment in the Minnesota Supplemental Investment Fund.

Potential Policy Analysis

Document LCPR04-298 relaxes the current 75 percent of the market value of the special fund assets maximum on volunteer firefighter relief association mutual fund investments by excluding money market mutual fund investments.

The proposed change, if forwarded by the working group to the Legislature for consideration during the 2005 Legislative Session, will likely raise the following issues for Legislative Commission on Pensions and Retirement consideration as identified by the Commission staff:

1. Appropriateness of the 75 Percent Mutual Fund Investment Limitation. The policy issue is the appropriateness of the current 75 percent market value maximum on mutual fund investments by volunteer firefighter relief associations under Minnesota Statutes, Section 69.775. The volunteer firefighter relief association mutual fund investment maximum replicates the maximum applicable to the local police and paid fire relief association maximum enacted in 1969 in Minnesota Statutes, Section 69.77. In 1969, Minnesota Statutes 1969, Section 11.16, governing the authorized investments for the State Board of Investment, did not appear to permit mutual fund investments by the State Board of Investment. A de facto family of mutual funds operated by the State Board of Investment, the Minnesota Supplemental Investment Fund, was created in 1967 and the 1969-1971 local police and fire relief association guidelines acts included authority of the local relief association to utilize the Minnesota Supplemental Investment Fund. The 75 percent mutual fund investment maximum was part of the 1969-1971 enactments and has not been modified since 1971. The Commission's records on the 1969 and 1971 Sessions do not include anything that sets forth the sense of the policy discussion or discussions that resulted in the specific percentage. The provision was clearly intended, along with the Minnesota Supplemental Investment Fund authority, to encourage local relief associations to utilize available investment management services rather than engaging in active investment management themselves. The selection of a limit lower than 100 percent probably reflected both diversification and liquidity considerations, although this is Commission staff conjecture.
2. Appropriateness of the Exception for Money Market Mutual Fund Investments. The policy issue is the appropriateness of the proposed exception in calculating the 75 percent mutual fund investments for money market mutual fund investments. The proposal attempts to address a practical problem of some volunteer firefighter relief associations which utilize mutual funds heavily, including money market mutual fund investments for liquidity purposes, and hit the current maximum periodically as market values change. By excluding money market mutual fund investments, these volunteer firefighter relief associations will have some additional margin for error before they reach the maximum. These relief associations, however, have a non-legislative remedy to the problem if the relief association utilized the State Board of Investment's Minnesota Supplemental Investment Fund for either its money market needs, since the Minnesota Supplemental Investment Fund has a money market account, or its other mutual fund-like investment needs, since the Minnesota Supplemental Investment Fund has six other accounts (Income, International, Fixed Interest, Bond Market, Common Stock, and Growth). The Minnesota Supplemental Investment Fund provides a mutual fund-like investment approach, but does not count against the 75 percent mutual fund investment maximum. A number of volunteer firefighter relief associations, however, have been disinclined to invest with the State Board of Investment.
3. Appropriateness of Providing an Incentive for Money Market Mutual Fund Investments Beyond Liquidity Needs. The policy issue is the potential that the proposed change would induce some volunteer firefighter relief associations to change their asset mix and invest in money market mutual fund exposure in excess of the maximum and not for liquidity needs. The optimal use of money market mutual fund investments would be to meet liquidity needs, either because of impending retirements that necessitate holding a certain amount of cash or because of the need to amass cash when changing its portfolio mix or when reacting to investment market fluctuations. Cash equivalents, including money market mutual fund investments, have an appropriate role in pension fund investments, but rarely would that role be as a long-term investment. The proposed change could become an unintended incentive to increase long term investments in money market mutual funds. To clarify that the proposed exception is not to provide this unintended incentive, amendment LCPR04-309 would specify that the proposed exception is limited to money market mutual fund investments to those necessitated by liquidity needs. The amendatory language would indicate a policy perspective and would not be readily enforceable however.

- 1.1 M moves to amend S.F. No.; H.F. No.
- 1.2, Document LCPR04-298, as follows:
- 1.3 Page 1, line 16, after "funds" insert "utilized solely for
- 1.4 liquidity purposes"

1.1 A bill for an act

1.2 relating to retirement; volunteer firefighter relief

1.3 associations; clarifying the mutual fund investment

1.4 maximum; amending Minnesota Statutes 2004, section

1.5 69.775.

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

1.7 Section 1. Minnesota Statutes 2004, section 69.775, is

1.8 amended to read:

1.9 69.775 **INVESTMENTS.**

1.10 (a) The special fund assets of ~~the a relief associations~~

1.11 association governed by sections 69.771 to 69.776 must be

1.12 invested in securities that are authorized investments under

1.13 section 356A.06, subdivision 6 or 7.

1.14 (b) Notwithstanding the foregoing, up to 75 percent of the

1.15 market value of the assets of the special fund, not including

1.16 any money market mutual funds, may be invested in open-end

1.17 investment companies registered under the federal Investment

1.18 Company Act of 1940, if the portfolio investments of the

1.19 investment companies comply with the type of securities

1.20 authorized for investment under section 356A.06, subdivision 7.

1.21 (c) Securities held by the associations before June 2,

1.22 1989, that do not meet the requirements of this section may be

1.23 retained after that date if they were proper investments for the

1.24 association on that date.

1.25 (d) The governing board of the association may select and

2.1 appoint investment agencies to act for and in its behalf or may
2.2 certify special fund assets for investment by the State Board of
2.3 Investment under section 11A.17.

2.4 (e) The governing board of the association may certify
2.5 general fund assets of the relief association for investment by
2.6 the State Board of Investment in fixed income pools or in a
2.7 separately managed account at the discretion of the State Board
2.8 of Investment as provided in section 11A.14.

2.9 (f) The governing board of the association may select and
2.10 appoint a qualified private firm to measure management
2.11 performance and return on investment, and the firm shall use the
2.12 formula or formulas developed by the state board under section
2.13 11A.04, clause (11).

2.14 Sec. 2. **EFFECTIVE DATE.**

2.15 Section 1 is effective on July 1, 2005.



TO: Volunteer Firefighter Relief Association Working Group
FROM: Lawrence A. Martin, Executive Director
RE: Document LCPR04-297: Clarification of Common Stock and Exchange-Traded Volunteer Firefighter Relief Association Investment Authority
DATE: December 2, 2004

Summary of Document LCPR04-297

Document LCPR04-297 amends Minnesota Statutes, Section 356A.06, Subdivision 7, the expanded authorized investment list of the public pension plan fiduciary law, by expanding the authorized corporate stocks from stocks listed on the New York Stock Exchange or the American Stock Exchange to stocks listed on any exchange regulated by the United States federal government or the Canadian national government and by adding as a specific authorized investment security exchange traded funds.

Background Information on Minnesota Public Pension Plan Investment Authority

In Minnesota, the assets of the local retirement plans (i.e., the first class city teacher retirement fund associations, the Minneapolis Employees Retirement Fund (MERF), and the local police, paid fire, and volunteer fire relief associations) are invested by the particular retirement plan board and the assets of the statewide retirement plans are invested by the State Board of Investment.

Prior to 1961, the responsibility to invest statewide public pension plan assets lay with the State Board of Investment (see Minnesota Statutes 1953, Sections 135.04, Subdivision 4; 352.06; and 353.06), but neither the retirement plan governing laws nor the State Board of Investment governing laws specifically regulated the types of investment securities in which those assets could be invested. In 1961 (Laws 1961, Chapter 380), the investment authority over state retirement funds was first delineated, with the legislation coded in the Minnesota State Retirement System (MSRS) governing law. The 1961 enactment set the prudent person rule as the general investment standard and included a "legal list" of authorized types of investment securities, which included the following:

1. U.S. Government bonds or notes;
2. Minnesota or other U.S. state bonds;
3. Dominion of Canada or Canadian province bonds;
4. Minnesota municipal bonds, notes, or obligations;
5. Other U.S. state municipal bonds;
6. Canadian municipal bonds;
7. International Bank for Reconstruction and Development obligations;
8. U.S. agency insured obligations;
9. Minnesota public housing obligations;
10. Other state, municipal, or public authority obligations with income for each of the prior five years at least equal to 120 percent of its average annual debt service;
11. U.S. or Canadian corporate bonds, if Canadian bond debt service is payable in U.S. dollars, and if the corporation has assets of at least \$10 million and has capital stock equal to at least 50 percent of its debt, has pretax earnings over each of the prior five years of 150 percent of annual interest charges, and has gross operating revenues of at least \$1 million, and the bond issue is rated at least "A" by a recognized commercial rating agency. Total corporate bond investments were limited to 40 percent of the total assets of the fund;
12. U.S. corporate stock of a corporation with at least \$10 million, with corporate earnings equal to the prior five-year average of interest and preferred dividend requirements for preferred stock, and with the payment of cash dividends for at least five years before the purchase. Investment in any one corporation was limited to one percent of the assets of the fund. The total corporate stock investments were limited to 25 percent of the assets of the fund, with a maximum increase in the stock investment in any year of five percent of the assets of the fund. The investment of all Minnesota public pension plans in any one corporation was limited to five percent of its voting stock;

13. Bank certificates of deposit and savings account if insured by a federal agency and if needed for liquidity; and
14. Commercial paper of less than 270-day maturity if the corporation has assets equal to 150 percent of current liabilities and longterm debt, and has average annual income over the past five years of at least \$1 million. Commercial paper in total cannot exceed five percent of the book value of the fund and in any one corporation cannot exceed two percent of the book value of the fund.

In 1961, the State Board of Investment created the predecessor the current Investment Advisory Council to advise the board on the entry of statewide Minnesota public pension plans into corporate stock investments.

In 1967 (Laws 1967, Chapter 404), the authorized retirement plan investment specification was moved out of the MSRS statutes and was added to the State Board of Investment statutes. During the 1970s and 1980s, the investment authority of the State Board of Investment was expanded and the requirements and maximums relaxed. In 1989, a separate public pension plan fiduciary responsibility law was enacted for the State's statewide and local retirement plans, including a "prudent person" rule as a general fiduciary standard and legal lists of authorized investments. Initially, the fiduciary law legal list for larger or professionally managed local retirement plans replicated the legal list applicable to the State Board of Investment. In 1993-1994, in connection with the issue of authorizing non-investment grade corporate bonds for the State Board of Investment, the fiduciary law legal list retained the pre-1994 authority of the State Board of Investment.

Background Information on Common Stock Investment Securities and Exchanges

Minnesota public pension plans are permitted to invest in corporate stocks. Under Minnesota Statutes, Section 11A.24, Subdivision 5, the State Board of Investment may invest funds in stocks or convertible issues of any corporation that is organized under the laws of the United States or the states thereof, any corporation that is organized under the laws of the Dominion of Canada or its provinces, or any corporation listed on an exchange regulated by an agency of the United States or Canadian national government, if the aggregate value of corporate stock investments, as adjusted for realized profits and losses does not exceed 85 percent of the market or book value, whichever is less, of a fund, less the aggregate value of alternative investments and if the investment does not exceed five percent of the total outstanding shares of any one corporation, or exceed 20 percent of the shares of a real estate investment trust, or exceed 20 percent of the shares of a closed-end mutual fund. Under Minnesota Statutes, Section 356A.06, Subdivision 7, Paragraph (f), any Minnesota public pension plan with assets over \$1 million or is not invested through the State Board of Investment or a professional investment manager for at least 60 percent (75 percent combined) of the book value of assets can invest in the same corporate stocks, except that the exchange listing requirement is limited to the New York Stock Exchange or the American Stock Exchange.

Corporate stocks are a form of equity investment and represent a degree of ownership of a corporation. Stocks are divided into common stocks and preferred stocks. Common stocks and preferred stocks both represent ownership in a corporation, but common stocks have voting rights in the corporation while preferred stocks do not have voting rights in the corporation, and common stocks may receive dividends based on the proportionate ownership while preferred stocks received a fixed dividend year after year and have a preference in receiving distributions from the corporation over the claims of common shareholders if the corporation is liquidated.

Common stock sometimes has different classes. The most common reason for different classes of stock is that the corporate board wants a significant portion of the voting power with respect to the corporation to remain with a particular group. For example, one class of shares could be held by a select group who are given ten votes per share while a second class could be issued to the majority of investors who are given one vote per share.

Common stocks are generally traded on an exchange. An exchange is a place where buyers of corporate stocks and sellers of corporate stocks meet and decide on a transaction price. Some exchanges are physical locations where transactions are carried out on a trading floor. The other type of exchange is a virtual kind, composed of a network of computers where trades are made electronically. A stock market is intended to facilitate the exchange of securities between buyers and sellers, thus reducing the risks of investing.

Stock markets are either primary markets or secondary markets. The primary market is where securities are created through an initial public offering while, in the secondary market, investors trade previously

issued securities without the involvement of the issuing companies. If a corporate stock is not traded on an exchange, the security can be traded on an “over the counter” market. These markets have no central location or floor brokers whatsoever and trading is done through a computer and telecommunications network of dealers.

Securities market regulation is premised on a belief that investors are more likely to trade on a market when prices are current and reflect the value of securities, when they are confident that they will be able to buy and sell securities easily and inexpensively, and when they believe that they can trade on a market without being defrauded or without other investors having an unfair advantage. Appropriate regulation is often necessary to protect these interests, by helping to ensure fair and orderly markets, to prevent fraud and manipulation, and to promote market coordination and competition for the benefit of all investors. Commercial incentives alone are insufficient to protect investors adequately and ensure fair markets. The U.S. Congress, in 1934, noted that, however zealously exchange authorities may supervise the business conduct of their members, the interests with which they are connected frequently conflict with the public interest.

The United States Securities and Exchange Commission (SEC) regulates securities markets, primarily under the Securities Exchange Act of 1934. Congress created the Securities and Exchange Commission in the Securities Exchange Act of 1934, which gives the SEC broad authority over all aspects of the securities industry, including the power to register, regulate, and oversee brokerage firms, transfer agents, and clearing agencies as well as the nation’s securities self regulatory organizations (SROs). A self-regulatory organization is a member organization that creates and enforces rules for its members based on the federal securities laws. The various stock exchanges, such as the New York Stock Exchange, and American Stock Exchange are SROs. The National Association of Securities Dealers, which operates the NASDAQ (National Association of Securities Dealers Automated Quotation System) system, is also an SRO.

In 1975, Congress gave the exchanges authority to enforce their members’ compliance with the goals of the securities laws and, in 1983, required every broker-dealer to become a member of an exchange or securities association. As SROs, every registered exchange and securities association is required to assist the SEC in assuring fair and honest markets, to have effective mechanisms for enforcing the goals of regulation, and to submit their rules for SEC review. This statutory structure has given the SEC ample authority to oversee securities markets and ensure compliance with the securities laws. Although regulation cannot prevent all manipulation, fraud, or collusion, it has proven effective in ridding markets of the most egregious of these practices and consequently in inspiring a high degree of investor confidence.

The Division of Market Regulation of the SEC establishes and maintains standards for fair, orderly, and efficient markets. It does this primarily by regulating the major securities market participants: broker-dealer firms; self-regulatory organizations (SROs), which include the stock exchanges and the National Association of Securities Dealers (NASD), Municipal Securities Rulemaking Board (MSRB), and clearing agencies (SROs that help facilitate trade settlement); transfer agents (parties that maintain records of stock and bond owners); and securities information processors.

There are currently nine securities exchanges registered with the SEC under Section 6(a) of the Securities Exchange Act of 1934 as national securities exchanges:

- American Stock Exchange
- Boston Stock Exchange
- Chicago Board Options Exchange
- Chicago Stock Exchange (includes the former Minneapolis-St. Paul Stock Exchange)
- International Securities Exchange
- National Stock Exchange (formerly the Cincinnati Stock Exchange)
- New York Stock Exchange
- Pacific Exchange
- Philadelphia Stock Exchange

The NASDAQ Stock Market is not a registered national securities exchange. NASD, Inc., is a registered national securities association under Section 15A of the Securities Exchange Act of 1934 that oversees the operations of the NASDAQ Stock Market. The NASDAQ Stock Market is comprised of the NASDAQ National Market, which trades the largest and most active securities, and the NASDAQ SmallCap Market, which lists a smaller number of emerging growth companies. The NASDAQ Stock Market electronically provides real-time quotes for over-the-counter securities and many New York Stock Exchange listed companies.

Background Information of Exchange-Traded Funds

Exchange-traded funds (ETFs) are investment companies that are registered under the Investment Company Act of 1940 as open-end funds or unit investment trusts (UITs). Unlike typical open-end funds or UITs, however, ETFs do not sell or redeem their individual shares (“ETF shares”) at net asset value. Instead, ETFs sell and redeem ETF shares at net asset value only in large blocks (such as 50,000 ETF shares). In addition, national securities exchanges list ETF shares for trading, which allows investors to purchase and sell individual ETF shares among themselves at market prices throughout the day. ETFs therefore possess characteristics of traditional open-end funds and UITs, which issue redeemable shares, and of closed-end funds, which generally issue shares that trade at negotiated prices on national securities exchanges and are not redeemable. A fundamental characteristic of all existing ETFs traded in the United States is that they are based on specific domestic and foreign market indices. An “index-based ETF” seeks to track the performance of an index by holding in its portfolio either the contents of the index or a representative sample of the securities in the index.

During the year 2000, the number of ETFs increased from 30 to 80, and the amount of assets held by ETFs nearly doubled from \$34 billion to \$66 billion. While the total amount of ETF assets at the end of 2000 was still relatively small when compared to the approximately \$4 trillion of assets in equity open-end investment companies (“open-end funds” or “mutual funds”), ETF assets were much closer to the \$89 billion of total assets invested in unit investment trusts and the \$135 billion of total assets invested in closed-end investment companies (“closed-end funds”). The following provides information on the assets and the number of exchange-traded index funds over an 11-year period, by type of fund:

Year	Total	Domestic Equity	Global/ International Equity	Bond
Assets (millions of dollars, end of year)				
1993	\$464	\$464	--	--
1994	424	424	--	--
1995	1,052	1,052	--	--
1996	2,411	2,159	\$252	--
1997	6,707	6,200	506	--
1998	15,568	14,542	1,026	--
1999	33,873	31,881	1,992	--
2000	65,585	63,544	2,041	--
2001	82,993	79,977	3,016	--
2002	102,143	92,904	5,324	\$3,915
2003	150,983	132,332	13,984	4,667
Number of Funds (end of year)				
1993	1	1	--	--
1994	1	1	--	--
1995	2	2	--	--
1996	19	2	17	--
1997	19	2	17	--
1998	29	12	17	--
1999	30	13	17	--
2000	80	55	25	--
2001	102	68	34	--
2002	113	66	39	8
2003	119	72	41	6

*Note: Components may not add to the total because of rounding
Sources: Strategic Insight and Investment Company Institute*

In 1993, a subsidiary of the AMEX introduced the first ETF – the SPDR Trust, organized as a unit investment trust. The SPDR Trust, which issues ETF shares referred to as SPDRs (pronounced “spiders”), is a UIT that tracks the Standard & Poor’s 500 Composite Stock Price Index (“S&P 500 Index”) by holding substantially all of the securities in the S&P 500 Index in substantially the same weightings as in the S&P 500 Index. The trustee adjusts the portfolio of the SPDR Trust only to reflect changes in the composition of the S&P 500 Index. In order to offer SPDRs, the SPDR Trust obtained exemptions from various provisions of the Investment Company Act of 1940. Among other things, the exemptions allow the SPDR Trust to redeem SPDRs in large aggregations only, SPDRs to trade at negotiated prices in the secondary market, dealers to sell SPDRs to purchasers in the secondary market unaccompanied by a prospectus (when prospectus delivery is not required by the Securities Act of 1933), and certain affiliated persons of the SPDR Trust to deposit securities into, and receive securities from, the SPDR Trust in connection with the purchase and redemption of large aggregations of SPDRs.

In 1996, ETF sponsors introduced the first two ETFs organized as open-end funds. The CountryBaskets Index Fund, Inc., consisted of different portfolios that tracked various country indices of the Financial Times/S&P Actuaries World Indices. The Foreign Fund, Inc., offers series that track various Morgan Stanley Capital International (“MSCI”) country indices. These ETFs obtained exemptions from various provisions of the Act that were generally analogous to the exemptions obtained by the ETFs organized as UITs. Many ETFs organized as open-end funds replicate the holdings of their corresponding indices to track the performance of the indices. However, because ETFs organized as open-end funds employ investment advisers, some of these ETFs instead may use “sampling strategies” to track the performance of an index. Using a sampling strategy, an investment advisor can construct a portfolio that is a subset of the component securities in the corresponding index, rather than a replication of the index. The investment adviser also may acquire securities for the ETF portfolio that are not included in the corresponding index. While these ETFs still seek to track the performance of their respective indices, they have greater flexibility in accomplishing that goal. In addition, ETFs that are open-end funds are not prohibited from participating in securities lending programs or from using futures and options in achieving their investment objectives.

ETFs issue shares only in large aggregations or blocks (such as 50,000 ETF shares) called “Creation Units.” An investor, usually a brokerage house or large institutional investor, may purchase a Creation Unit with a “Portfolio Deposit” equal in value to the aggregate net asset value of the ETF Shares in the Creation Unit. The investment adviser or sponsor of the ETF announces the contents of the Portfolio Deposit at the beginning of each business day. The Portfolio Deposit generally consists of a basket of securities that mirrors the composition of the ETF’s portfolio. Because the purchase price of the Creation Unit must equal the net asset value of the underlying ETF shares, the required Portfolio Deposit generally also includes a small amount of cash to account for the difference between the value of the basket of securities and the net asset value of the ETF shares. The value of a Creation Unit typically exceeds several million dollars. After purchasing a Creation Unit, the investor may hold the ETF shares, or sell some or all of the ETF shares to investors in the secondary market.

ETFs register offers and sales of shares under the Securities Act of 1933 and list their ETF shares for trading on a national securities exchange under the Securities Exchange Act of 1934. As with any listed security, investors also may trade ETF shares in off-exchange transactions. In either case, ETF shares trade at negotiated prices. The development of the secondary market in ETF shares depends upon the activities of the exchange specialist assigned to make a market in the ETF shares and upon the willingness of Creation Unit purchasers to sell ETF shares in the secondary market.

ETF shares purchased in the secondary market are not redeemable from the ETF except in Creation Unit aggregations. If an investor purchases a Creation Unit to the ETF for redemption, the redeeming investor receives a “Redemption Basket,” the contents of which are identified by the ETF investment advisor or sponsor at the beginning of the day. The Redemption Basket (usually the same as the Portfolio Deposit) consists of securities and a small amount of cash. An investor holding fewer ETF shares than the amount needed to constitute a Creation Unit may dispose of those ETF shares only by selling them in the secondary market. The investor receives market price for the ETF shares, which may be higher or lower than the net asset value of the ETF shares. The investor also pays customary brokerage commissions on the sale.

Discussion and Policy Analysis

Document LCPR04-297 modestly broadens the corporate stocks available as authorized investment for various public pension plans by replacing references to a listing on the New York Stock Exchange or the American Stock Exchange with a generic requirement of a listing on any exchange regulated by a U.S. or Canadian governmental agency and specifically authorizes exchange-traded funds (ETF), subject to the limitations and requirements applicable to the investment securities underlying the ETF. The potential proposed legislation, if forwarded by the working group to the Legislature for consideration during the 2005 Legislative Session, will likely raise the following issues for Legislative Commission on Pensions and Retirement consideration, as identified by the Commission staff:

1. Appropriateness of the Potential Corporate Stock Expansion. The policy issue is the appropriateness of modifying the corporate stock authorized investment provision to expand to stocks listed on any exchange regulated by an agency of the U.S. government or an agency of the Canadian national government. The potential change replicates a change enacted for the State Board of Investment in Minnesota Statutes, Section 11A.24, Subdivision 5, in 2000 (Laws 2000, Chapter 392, Section 1). The 2000 State Board of Investment corporate stock change, however, was a portion of a bill primarily related to the medical education endowment fund and the tobacco use prevention and local public

health endowment fund and was not reviewed or recommended by the Commission. Under the proposed change, the number of corporate stocks available for investment, if they also meet the prudent person rule, would increase from those listed on two exchanges to those listed on at least seven exchanges. While the number of additional corporate stocks authorized under the potential change is unclear, the additional corporate stocks will generally be capitalized to a lesser extent and will generally be more recently issued. Both characteristics would increase the risk of corporate failure beyond the risk of a loss of corporate stock value.

2. Appropriateness of the Specific Authorization of Exchange-Traded Funds. The policy issue is the appropriateness of specifically authorizing the investment of Minnesota public pension plan assets in exchange-traded funds (ETFs). ETFs are derivatives, representing primarily corporate stocks, but not having a net asset value. According to the Securities and Exchange Commission (SEC), the chief benefits of ETFs for individual investors are to provide trading flexibility, which is important for investment strategies that include market timing, to allow for purchases of ETF shares on margin, and to be able to sell ETF shares short. The chief benefits to ETFs for institutional investors, according to the SEC, are to gain the advantages of an index derivative where investment restrictions may preclude index derivatives, to use ETFs as substitutes for index futures without margins or expiration dates, to use in hedging strategies, or to invest cash in a broad market segment during temporary investment management or strategy transitions. Commentators also note that ETFs have lower expense ratios than mutual funds, but incur broker commissions on their purchase and sale, which make them unattractive compared to mutual funds, and that ETFs can trade at a premium or discount in relation to the net asset value of the underlying securities, opening up arbitrage opportunities. From the available information on ETFs, they appear to be a security generated more as a marketing tool than as a result of investor need or demand and they do not appear to provide any discernible investment portfolio advantage to volunteer firefighter relief associations. The Legislative Commission on Pensions and Retirement would be well advised to take testimony from volunteer firefighter relief associations and other similar institutional investors about ETFs' place in pension plan investing before recommending the change.
3. Need to Consider Other 2000 State Board of Investment Recommended Changes. The policy issue is the question of whether or not the other investment authority changes of Laws 2000, Chapter 392, proposed by the State Board of Investment would also be appropriate for volunteer firefighter relief associations. Laws 2000, Chapter 392, Sections 1 and 2, chiefly expanded various segments of the "other investments" portion of the State Board of Investment authorized investment law, Minnesota Statutes, Section 11A.24. The 2000 State Board of Investment recommended changes in question are the following:
 - a. 20 Percent Limit on Closed-End Mutual Fund Shares. A limit of 20 percent of the shares of a closed-end mutual fund was added to the corporate stock investment authorization.
 - b. Venture Capital Investments. Investments in venture capital investment businesses were expanded beyond limited partnership and corporations to include trusts, private placements, limited liability corporations, limited liability companies, and limited liability partnerships.
 - c. Regional and Mutual Funds. Investments in regional and mutual funds through bank sponsored collective funds and open-end investment companies were expanded to include closed-end mutual funds listed on an exchange regulated by a governmental agency.
 - d. Resource Investments. Investments in resource investments through limited partnership, private placements, and corporations were expanded to include trusts, limited liability corporations, limited liability companies, and limited liability partnerships.

These changes were deemed to be appropriate for the State Board of Investment in 2000, but as of yet have not been considered for all other Minnesota public pension plan investment operations. If the primary argument for the expansion of exchanges for authorized corporate stocks is the precedent of the State Board of Investment in 2000, some consideration should also be given to the wisdom of these changes.

4. Appropriate Extent of volunteer firefighter relief association "Other Investments." The policy issue is the appropriate portion of a volunteer firefighter relief association's portfolio should be permitted to be in "other investments" under Minnesota Statutes, Section 356A.06, Subdivision 7, paragraph (g). Current law permits investment in a large number of historically non-traditional securities with a 35 percent of market value limit on the aggregate amount of "other investments," a requirement of a

minimum of four other unrelated owners in the investment other than international securities with a 20 percent maximum on the investment by a covered pension plan in an investment vehicle, other than international securities, and with a requirement that the covered pension plan in a limited partnership not be general partner or have general liability. The whole category of “other investments” was created for the State Board of Investment and only emerged in 1981 (Laws 1981, Chapter 208, Section 6), when the State Board of Investment was seeking higher rates of return in response to prior criticism leveled by State Auditor Arne Carlson. The volunteer firefighter relief associations gained the “other investment” authority by being indexed to the investment authority of the State Board of Investment before 1994, not by having volunteer firefighter relief associations argue for special legislative authority. The “other investment” category for volunteer firefighter relief associations appears to have created marketing opportunities for investment security sales personnel, but does not appear to be generally suitable for most volunteer firefighter relief associations or to have contributed to good volunteer firefighter relief association investment performance. According to the 2002 State Auditor’s Investment Disclosure Report, only two percent of volunteer firefighter relief association assets (excluding the Eden Prairie Volunteer Firefighter Relief Association) are invested in “other” assets (although the statutory category “other investments” is not purely synonymous with the “other” category) and volunteer firefighter relief associations produced a 9.6 percent total investment loss in 2002. Arguments can be made that investments in “other investments” as a kind are inappropriate for volunteer firefighter relief associations or that investments in “other investments” with outside vendors are inappropriately driven by marketing concerns and marketing pressures. Amendment LCPR04-301 would prohibit all new investments in “other investments” by volunteer firefighter relief associations. Amendment LCPR04-302 would prohibit the investment by volunteer firefighter relief associations in “other investments” except through the Minnesota Supplemental Investment Fund operated by the State Board of Investment. Amendment LCPR04-303 clarifies that the unrelated investor restrictions of the “other investments” provision requires investors other than the State Board of Investment and all Minnesota covered pension plans.

5. Appropriateness of a Specific Prohibition of Volunteer Firefighter Relief Association Investments in Junk Bonds. The policy issue is the potential need for and the appropriateness of a specific prohibition of investments in junk bonds by volunteer firefighter relief associations. In 1994 (Laws 1994, Chapter 604, Article 2, Section 3), the current legal list of authorized investments for Minnesota retirement plans other than those invested by the State Board of Investment replaced a cross-reference to Minnesota Statutes, Section 11A.24, accompanying an expansion of the investment authority of the State Board of Investment (see Laws 1994, Chapter 604, Article 1, Sections 7, 8, 9, 10, and 11), in which the State Board of Investment gained authority to invest in unrated corporate obligations (i.e., junk bonds). The intent of the specific legal list for non-State Board of Investment retirement plans was to exclude those plans from the expansion in investment authority for the State Board of Investment. That intent is clear from the legislative history of Minnesota Statutes, Section 356A.06, Subdivision 7, compared to Minnesota Statutes, Section 11A.24, but the intent may not be conveyed by a reading of Minnesota Statutes, Section 356A.06, Subdivision 7, alone. For a clearer statement of the investment authority of retirement plans which are not invested by the State Board of Investment, specific prohibitions of junk bonds and similar investment securities should be added to Minnesota Statutes, Section 356A.06, Subdivision 7. Amendment LCPR04-304 specifically bans junk bonds for volunteer firefighter relief associations. Amendment LCPR04-305 specifically bans junk bonds for all retirement plans which are not invested by the State Board of Investment. Amendment LCPR04-306 bans for volunteer firefighter relief associations all investment securities which are permitted for the State Board of Investment under Minnesota Statutes, Section 11A.24, and are not specifically authorized under Minnesota Statutes, Section 356A.06. Amendment LCPR04-307 bans for all retirement plans which are not invested by the State Board of Investment all investment securities which are permitted for the State Board of Investment under Minnesota Statutes, Section 11A.24, and are not specifically authorized under Minnesota Statutes, Section 356A.06

- 1.1 M moves to amend S.F. No.; H.F. No.
- 1.2, Document LCPR04-297, as follows:
- 1.3 Page 5, line 11, strike the second "the" and insert "a" and
- 1.4 after "plan" insert "other than a volunteer firefighters relief
- 1.5 association governed by sections 69.771 to 69.775"
- 1.6 Page 6, after line 5, insert "(3) Investments by a
- 1.7 volunteer firefighters relief association under this paragraph
- 1.8 on July 1, 2005, may be retained by the volunteer firefighters
- 1.9 relief association after July 1, 2005, but no further
- 1.10 investments under this paragraph may be made."

- 1.1 M moves to amend S.F. No.; H.F. No.
- 1.2, Document LCPR04-297, as follows:
- 1.3 Page 5, line 28, after "(i)" insert "if the covered pension
- 1.4 plan is a volunteer firefighters relief association governed by
- 1.5 sections 69.771 to 69.775, the investments authorized in clause
- 1.6 (1) after July 1, 2005, may only be purchased or obtained
- 1.7 through the Minnesota supplemental investment fund governed by
- 1.8 section 11A. 17;
- 1.9 Page 5, line 31, strike "(ii)" and insert "(iii)"
- 1.10 Page 5, line 34, strike "(iii)" and insert "(iv)"
- 1.11 Page 6, line 1, strike "(iv)" and insert "(v)"

- 1.1 M moves to amend S.F. No.; H.F. No.
- 1.2, Document LCPR04-297, as follows:
- 1.3 Page 5, line 32, strike "for investments" and insert "of
- 1.4 investment, the covered pension plan, and any other Minnesota
- 1.5 covered pension plan"

- 1.1 M moves to amend S.F. No.; H.F. No.
- 1.2, Document LCPR04-297, as follows:
- 1.3 Page 6, after line 5, insert "(3) Nothing in this paragraph
- 1.4 authorizes a volunteer firefighters relief association governed
- 1.5 by sections 69.771 to 69.775 from investing in a corporate bond
- 1.6 that is not an investment grade security."

- 1.1 M moves to amend S.F. No.; H.F. No.
- 1.2, Document LCPR04-297, as follows:
- 1.3 Page 6, after line 5, insert "(3) Nothing in this paragraph
- 1.4 authorizes a covered retirement plan from investing in a
- 1.5 corporate bond that is not an investment grade security."

- 1.1 M moves to amend S.F. No.; H.F. No.
- 1.2, Document LCPR04-297, as follows:
- 1.3 Page 1, line 14, after "subdivision." insert "A volunteer
- 1.4 firefighters relief association governed by sections 69.771 to
- 1.5 69.775 is prohibited from investing in any investment security
- 1.6 that is authorized for the State Board of Investment under
- 1.7 section 11A.24 and that is not similarly specifically authorized
- 1.8 in this subdivision."

- 1.1 M moves to amend S.F. No.; H.F. No.
- 1.2, Document LCPR04-297, as follows:
- 1.3 Page 1, line 14, after the period, insert "No covered
- 1.4 pension plan may invest in an investment security that is
- 1.5 authorized for the State Board of Investment under section
- 1.6 11A.24 and that is not similarly specifically authorized in this
- 1.7 subdivision."

1.1 A bill for an act

1.2 relating to retirement; public pension plan fiduciary

1.3 responsibility; clarifying the permissible corporate

1.4 stock investments; clarifying certain exchange traded

1.5 funds as permissible investments; amending Minnesota

1.6 Statutes 2004, section 356A.06, subdivision 7.

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

1.8 Section 1. Minnesota Statutes 2004, section 356A.06,

1.9 subdivision 7, is amended to read:

1.10 Subd. 7. **EXPANDED LIST OF AUTHORIZED INVESTMENT**

1.11 **SECURITIES.** (a) **AUTHORITY.** Except to the extent otherwise

1.12 authorized by law or bylaws, a covered pension plan not

1.13 described by subdivision 6, paragraph (a), may invest its assets

1.14 only in accordance with this subdivision.

1.15 (b) **SECURITIES GENERALLY.** The covered pension plan has

1.16 the authority to purchase, sell, lend, or exchange the

1.17 securities specified in paragraphs (c) to ~~(g)~~ (h), including

1.18 puts and call options and future contracts traded on a contract

1.19 market regulated by a governmental agency or by a financial

1.20 institution regulated by a governmental agency. These

1.21 securities may be owned as units in commingled trusts that own

1.22 the securities described in paragraphs (c) to ~~(g)~~ (h).

1.23 (c) **GOVERNMENT OBLIGATIONS.** The covered pension plan may

1.24 invest funds in governmental bonds, notes, bills, mortgages, and

1.25 other evidences of indebtedness provided the issue is backed by

1.26 the full faith and credit of the issuer or the issue is rated

2.1 among the top four quality rating categories by a nationally
2.2 recognized rating agency. The obligations in which funds may be
2.3 invested under this paragraph include guaranteed or insured
2.4 issues of (1) the United States, its agencies, its
2.5 instrumentalities, or organizations created and regulated by an
2.6 act of Congress; (2) Canada and its provinces, provided the
2.7 principal and interest is payable in United States dollars; (3)
2.8 the states and their municipalities, political subdivisions,
2.9 agencies, or instrumentalities; (4) the International Bank for
2.10 Reconstruction and Development, the Inter-American Development
2.11 Bank, the Asian Development Bank, the African Development Bank,
2.12 or any other United States government sponsored organization of
2.13 which the United States is a member, provided the principal and
2.14 interest is payable in United States dollars.

2.15 (d) **CORPORATE OBLIGATIONS.** The covered pension plan may
2.16 invest funds in bonds, notes, debentures, transportation
2.17 equipment obligations, or any other longer term evidences of
2.18 indebtedness issued or guaranteed by a corporation organized
2.19 under the laws of the United States or any state thereof, or the
2.20 Dominion of Canada or any province thereof if they conform to
2.21 the following provisions:

2.22 (1) the principal and interest of obligations of
2.23 corporations incorporated or organized under the laws of the
2.24 Dominion of Canada or any province thereof must be payable in
2.25 United States dollars; and

2.26 (2) obligations must be rated among the top four quality
2.27 categories by a nationally recognized rating agency.

2.28 (e) **OTHER OBLIGATIONS.** (1) The covered pension plan may
2.29 invest funds in bankers acceptances, certificates of deposit,
2.30 deposit notes, commercial paper, mortgage participation
2.31 certificates and pools, asset backed securities, repurchase
2.32 agreements and reverse repurchase agreements, guaranteed
2.33 investment contracts, savings accounts, and guaranty fund
2.34 certificates, surplus notes, or debentures of domestic mutual
2.35 insurance companies if they conform to the following provisions:

2.36 (i) bankers acceptances and deposit notes of United States

3.1 banks are limited to those issued by banks rated in the highest
3.2 four quality categories by a nationally recognized rating
3.3 agency;

3.4 (ii) certificates of deposit are limited to those issued by
3.5 (A) United States banks and savings institutions that are rated
3.6 in the highest four quality categories by a nationally
3.7 recognized rating agency or whose certificates of deposit are
3.8 fully insured by federal agencies; or (B) credit unions in
3.9 amounts up to the limit of insurance coverage provided by the
3.10 National Credit Union Administration;

3.11 (iii) commercial paper is limited to those issued by United
3.12 States corporations or their Canadian subsidiaries and rated in
3.13 the highest two quality categories by a nationally recognized
3.14 rating agency;

3.15 (iv) mortgage participation or pass through certificates
3.16 evidencing interests in pools of first mortgages or trust deeds
3.17 on improved real estate located in the United States where the
3.18 loan to value ratio for each loan as calculated in accordance
3.19 with section 61A.28, subdivision 3, does not exceed 80 percent
3.20 for fully amortizable residential properties and in all other
3.21 respects meets the requirements of section 61A.28, subdivision
3.22 3;

3.23 (v) collateral for repurchase agreements and reverse
3.24 repurchase agreements is limited to letters of credit and
3.25 securities authorized in this section;

3.26 (vi) guaranteed investment contracts are limited to those
3.27 issued by insurance companies or banks rated in the top four
3.28 quality categories by a nationally recognized rating agency or
3.29 to alternative guaranteed investment contracts where the
3.30 underlying assets comply with the requirements of this
3.31 subdivision;

3.32 (vii) savings accounts are limited to those fully insured
3.33 by federal agencies; and

3.34 (viii) asset backed securities must be rated in the top
3.35 four quality categories by a nationally recognized rating agency.

3.36 (2) Sections 16A.58, 16C.03, subdivision 4, and 16C.05 do

4.1 not apply to certificates of deposit and collateralization
4.2 agreements executed by the covered pension plan under clause
4.3 (1), item (ii).
4.4 (3) In addition to investments authorized by clause (1),
4.5 item (iv), the covered pension plan may purchase from the
4.6 Minnesota Housing Finance Agency all or any part of a pool of
4.7 residential mortgages, not in default, that has previously been
4.8 financed by the issuance of bonds or notes of the agency. The
4.9 covered pension plan may also enter into a commitment with the
4.10 agency, at the time of any issue of bonds or notes, to purchase
4.11 at a specified future date, not exceeding 12 years from the date
4.12 of the issue, the amount of mortgage loans then outstanding and
4.13 not in default that have been made or purchased from the
4.14 proceeds of the bonds or notes. The covered pension plan may
4.15 charge reasonable fees for any such commitment and may agree to
4.16 purchase the mortgage loans at a price sufficient to produce a
4.17 yield to the covered pension plan comparable, in its judgment,
4.18 to the yield available on similar mortgage loans at the date of
4.19 the bonds or notes. The covered pension plan may also enter
4.20 into agreements with the agency for the investment of any
4.21 portion of the funds of the agency. The agreement must cover
4.22 the period of the investment, withdrawal privileges, and any
4.23 guaranteed rate of return.
4.24 (f) **CORPORATE STOCKS.** The covered pension plan may
4.25 invest funds in stocks or convertible issues of any corporation
4.26 organized under the laws of the United States or the states
4.27 thereof, any corporation organized under the laws of the
4.28 Dominion of Canada or its provinces, or any corporation listed
4.29 on the New York Stock Exchange or the American Stock Exchange an
4.30 exchange regulated by an agency of the United States or of the
4.31 Canadian national government, if they conform to the following
4.32 provisions:
4.33 (1) the aggregate value of corporate stock investments, as
4.34 adjusted for realized profits and losses, must not exceed 85
4.35 percent of the market or book value, whichever is less, of a
4.36 fund, less the aggregate value of investments according to

5.1 ~~subdivision 6~~ paragraph (h);

5.2 (2) investments must not exceed five percent of the total
5.3 outstanding shares of any one corporation.

5.4 (g) **EXCHANGE TRADED FUNDS.** The covered pension plan may
5.5 invest funds in exchange traded funds, subject to the maximums,
5.6 the requirements, and the limitations set forth in paragraph
5.7 (d), paragraph (e), paragraph (f), or paragraph (h), whichever
5.8 applies.

5.9 (h) OTHER INVESTMENTS. (1) In addition to the
5.10 investments authorized in paragraphs (b) to ~~(f)~~ (g), and subject
5.11 to the provisions in clause (2), the covered pension plan may
5.12 invest funds in:

5.13 (i) venture capital investment businesses through
5.14 participation in limited partnerships and corporations;

5.15 (ii) real estate ownership interests or loans secured by
5.16 mortgages or deeds of trust through investment in limited
5.17 partnerships, bank sponsored collective funds, trusts, and
5.18 insurance company commingled accounts, including separate
5.19 accounts;

5.20 (iii) regional and mutual funds through bank sponsored
5.21 collective funds and open-end investment companies registered
5.22 under the Federal Investment Company Act of 1940;

5.23 (iv) resource investments through limited partnerships,
5.24 private placements, and corporations; and

5.25 (v) international securities.

5.26 (2) The investments authorized in clause (1) must conform
5.27 to the following provisions:

5.28 (i) the aggregate value of all investments made according
5.29 to clause (1) may not exceed 35 percent of the market value of
5.30 the fund for which the covered pension plan is investing;

5.31 (ii) there must be at least four unrelated owners of the
5.32 investment other than the state board for investments made under
5.33 clause (1), item (i), (ii), (iii), or (iv);

5.34 (iii) covered pension plan participation in an investment
5.35 vehicle is limited to 20 percent thereof for investments made
5.36 under clause (1), item (i), (ii), (iii), or (iv); and

6.1 (iv) covered pension plan participation in a limited
6.2 partnership does not include a general partnership interest or
6.3 other interest involving general liability. The covered pension
6.4 plan may not engage in any activity as a limited partner which
6.5 creates general liability.

6.6 Sec. 2. **EFFECTIVE DATE.**

6.7 Section 1 is effective on July 1, 2005.



TO: Volunteer Firefighter Working Group

FROM: Ed Burek, Deputy Director

RE: LCPR04-270: Draft of Volunteer Fire Military Service Credit Provision Consistent with Uniformed Service Employment and Reemployment Rights Act (USERRA)

DATE: October 11, 2004

Attached is draft language which would provide service credit in volunteer fire relief associations when there is a break in firefighter service to provide uniformed (military) service. The working group may wish to discuss this issue, although as noted elsewhere, volunteer fire situations would not be subject to Uniformed Service Employment and Reemployment Rights Act (USERRA) requirements if the firefighting service is truly voluntary and there is no employer/employee situation.

LCPR04-270 is patterned after typical USERRA requirements. USERRA covers employment situations where an individual leaves an employer to provide uniformed service. Under USERRA, the employer must reemploy the individual upon return from that service providing that the individual gave the employer notice of the intention to provide uniformed service, and returns promptly to the same employer upon discharge. USERRA requires the individual to have pension coverage as though there was no break in service, but not to exceed five years (with a few exceptions, such as service aboard nuclear submarines, where the training and minimum required military service period exceeds five years). USERRA does not apply if the military discharge is under less than honorable conditions.

LCPR04-270 would allow up to five years of service credit in a volunteer fire relief association, providing that the individual provides notice to the fire department of the break in service to provided uniformed service, and promptly returns to firefighter service covered by the same relief association (or its successor) upon return from uniformed service, and the discharge from military service is not less than honorable.

LCPR04-270 with some possible revisions could serve as a USERRA-type military service credit provision for volunteer fire defined benefit lump sum, monthly, or combination plans. Additional language seems necessary to clearly address split-the-pie plans. Language may be needed to ensure that allocations to an individual's account under split-the-pie plans continue while the individual is on a break in firefighting service, subject to forfeiture if the individual does not return. The working group may also wish to consider a proper effective date. As drafted, the provision is effective July 1 2005, and applies to breaks in service that end on or after that date.

1.1 A bill for an act

1.2 relating to retirement; volunteer firefighter relief

1.3 associations; authorizing service credit for for break

1.4 in service to provide uniformed service; proposing

1.5 coding for new law in Minnesota Statutes, chapter 424.

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

1.7 Section 1. **424.021 CREDIT FOR BREAK IN SERVICE TO**

1.8 **PROVIDE UNIFORMED SERVICE.**

1.9 Subdivision 1. AUTHORIZATION. Subject to restrictions

1.10 stated in this section, a volunteer firefighter who is absent

1.11 from firefighting service due to service in the uniformed

1.12 services, as defined in United States Code, title 38, section

1.13 4303(13), may obtain service credit for the period of the

1.14 uniformed service, not to exceed five years, unless a longer

1.15 period is required under United States Code, title 38, section

1.16 4312.

1.17 Subd. 2. LIMITATIONS. (a) To be eligible for service

1.18 credit under this section, the volunteer firefighter must return

1.19 to firefighting service with coverage by the same relief

1.20 association or by the successor to that relief association upon

1.21 discharge from service in the uniformed service within the time

1.22 frame required in United States Code, title 38, section 4312(e).

1.23 (b) Service credit is not authorized if the firefighter

1.24 separates from uniformed service with a dishonorable or bad

1.25 conduct discharge or under other than honorable conditions.

2.1 (c) Service credit is not authorized if the firefighter
2.2 fails to provide notice to the fire department that the
2.3 individual is leaving to provide service in the uniformed
2.4 service, unless it is not feasible to provide that notice due to
2.5 the emergency nature of the situation.

2.6 Sec. 2. **EFFECTIVE DATE.**

2.7 Section 1 is effective on July 1, 2005, and applies to
2.8 breaks in service that end on or after the effective date.



Section-By-Section Summary of LCPR04-312

Sec.	Page, Lines	Statute Section	Summary
1	Page 1, Lines 11-27; Page 2, Lines 1-24	Section 69.051, Subdivision 1	Resets the trigger for the requirement for a volunteer firefighter relief association to file a financial report rather than a financial statement, requiring a financial report in the calendar year after a relief association has liabilities or assets in excess of \$200,000 and in every subsequent calendar year.
2	Page 2, Lines 25-36; Page 3, Lines 1-34	Section 69.051, Subdivision 1a	Makes a conforming change as a result of Section 1, making the financial statement requirement applicable to volunteer firefighter relief associations which are not required to file a financial report.
3	Page 3, Lines 35-36; Page 4, Lines 1-36; Page 5, Lines 1-36; Page 6, Lines 1-36; Page 7, Lines 1-36; Page 8, Lines 1-36; Page 9, Lines 1-36; Page 10, Lines 1-14	Section 424A.02, Subdivision 3	Reduces the minimum three-year average amount of available financing per firefighter for monthly benefit service pensions from \$84 per firefighter to \$81 per firefighter for each \$1 of monthly benefit service pension per year of service.
4	Page 10, Lines 15-16	Effective Date	Makes the changes effective on July 1, 2005.

1.1 A bill for an act

1.2 relating to retirement; implementing the

1.3 recommendations of the volunteer firefighter relief

1.4 association working group of the State Auditor;

1.5 modifying the trigger date for filing financial

1.6 reports; revising the per firefighter financing

1.7 requirements for monthly benefit service pensions;

1.8 amending Minnesota Statutes 2004, sections 69.051,

1.9 subdivisions 1 and 1a; and 424A.02, subdivision 3.

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

1.11 Section 1. Minnesota Statutes 2004, section 69.051,

1.12 subdivision 1, is amended to read:

1.13 Subdivision 1. **FINANCIAL REPORT AND AUDIT.** The board of

1.14 each salaried firefighters' relief association, police relief

1.15 association, and volunteer firefighters' relief association as

1.16 defined in section 424A.001, subdivision 4, with assets of at

1.17 least \$200,000 or liabilities of at least \$200,000 in the prior

1.18 year or in any previous year, according to the ~~most recent~~

1.19 applicable actuarial valuation or financial report if no

1.20 valuation is required, shall:

1.21 (1) Prepare a financial report covering the special and

1.22 general funds of the relief association for the preceding fiscal

1.23 year on a form prescribed by the state auditor. The financial

1.24 report ~~shall~~ must contain financial statements and disclosures

1.25 which present the true financial condition of the relief

1.26 association and the results of relief association operations in

1.27 conformity with generally accepted accounting principles and in

2.1 compliance with the regulatory, financing and funding provisions
2.2 of this chapter and any other applicable laws. The financial
2.3 report ~~shall~~ must be countersigned by the municipal clerk or
2.4 clerk-treasurer of the municipality in which the relief
2.5 association is located if the relief association is a
2.6 firefighters' relief association which is directly associated
2.7 with a municipal fire department or is a police relief
2.8 association, or countersigned by the secretary of the
2.9 independent nonprofit firefighting corporation and by the
2.10 municipal clerk or clerk-treasurer of the largest municipality
2.11 in population which contracts with the independent nonprofit
2.12 firefighting corporation if the volunteer firefighter relief
2.13 association is a subsidiary of an independent nonprofit
2.14 firefighting corporation;

2.15 (2) File the financial report in its office for public
2.16 inspection and present it to the city council after the close of
2.17 the fiscal year. One copy of the financial report ~~shall~~ must be
2.18 furnished to the state auditor after the close of the fiscal
2.19 year; and

2.20 (3) Submit to the state auditor audited financial
2.21 statements which have been attested to by a certified public
2.22 accountant, public accountant, or the state auditor within 180
2.23 days after the close of the fiscal year. The state auditor may
2.24 accept this report in lieu of the report required in clause (2).

2.25 Sec. 2. Minnesota Statutes 2004, section 69.051,
2.26 subdivision 1a, is amended to read:

2.27 Subd. 1a. **FINANCIAL STATEMENT.** (a) The board of each
2.28 volunteer firefighters' relief association, as defined in
2.29 section 424A.001, subdivision 4, ~~with assets of less than~~
2.30 ~~\$200,000 and liabilities less than \$200,000, according to the~~
2.31 ~~most recent financial report, shall~~ that is not required to file
2.32 a financial report and audit under subdivision 1 must prepare a
2.33 detailed statement of the financial affairs for the preceding
2.34 fiscal year of the relief association's special and general
2.35 funds in the style and form prescribed by the state auditor.
2.36 The detailed statement must show the sources and amounts of all

3.1 money received; all disbursements, accounts payable and accounts
3.2 receivable; the amount of money remaining in the treasury; total
3.3 assets including a listing of all investments; the accrued
3.4 liabilities; and all items necessary to show accurately the
3.5 revenues and expenditures and financial position of the relief
3.6 association.

3.7 (b) The detailed financial statement required under
3.8 paragraph (a) must be certified by an independent public
3.9 accountant or auditor or by the auditor or accountant who
3.10 regularly examines or audits the financial transactions of the
3.11 municipality. In addition to certifying the financial condition
3.12 of the special and general funds of the relief association, the
3.13 accountant or auditor conducting the examination shall give an
3.14 opinion as to the condition of the special and general funds of
3.15 the relief association, and shall comment upon any exceptions to
3.16 the report. The independent accountant or auditor ~~shall~~ must
3.17 have at least five years of public accounting, auditing, or
3.18 similar experience, and ~~shall~~ must not be an active, inactive,
3.19 or retired member of the relief association or the fire or
3.20 police department.

3.21 (c) The detailed statement required under paragraph (a)
3.22 must be countersigned by the municipal clerk or clerk-treasurer
3.23 of the municipality, or, where applicable, by the secretary of
3.24 the independent nonprofit firefighting corporation and by the
3.25 municipal clerk or clerk-treasurer of the largest municipality
3.26 in population which contracts with the independent nonprofit
3.27 firefighting corporation if the relief association is a
3.28 subsidiary of an independent nonprofit firefighting corporation.

3.29 (d) The volunteer firefighters' relief association board
3.30 must file the detailed statement required under paragraph (a) in
3.31 the relief association office for public inspection and present
3.32 it to the city council within 45 days after the close of the
3.33 fiscal year, and must submit a copy of the detailed statement to
3.34 the state auditor within 90 days of the close of the fiscal year.

3.35 Sec. 3. Minnesota Statutes 2004, section 424A.02,
3.36 subdivision 3, is amended to read:

4.1 Subd. 3. **FLEXIBLE SERVICE PENSION MAXIMUMS.** (a) Annually
 4.2 on or before August 1 as part of the certification of the
 4.3 financial requirements and minimum municipal obligation
 4.4 determined under section 69.772, subdivision 4, or 69.773,
 4.5 subdivision 5, as applicable, the secretary or some other
 4.6 official of the relief association designated in the bylaws of
 4.7 each relief association shall calculate and certify to the
 4.8 governing body of the applicable qualified municipality the
 4.9 average amount of available financing per active covered
 4.10 firefighter for the most recent three-year period. The amount
 4.11 of available financing shall include any amounts of fire state
 4.12 aid received or receivable by the relief association, any
 4.13 amounts of municipal contributions to the relief association
 4.14 raised from levies on real estate or from other available
 4.15 revenue sources exclusive of fire state aid, and one-tenth of
 4.16 the amount of assets in excess of the accrued liabilities of the
 4.17 relief association calculated under section 69.772, subdivision
 4.18 2; 69.773, subdivisions 2 and 4; or 69.774, subdivision 2, if
 4.19 any.

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

4.26 (c) For a relief association where the governing bylaws
 4.27 provide for a monthly service pension to a retiring member, the
 4.28 maximum monthly service pension amount per month for each year
 4.29 of service credited that may be provided for in the bylaws is
 4.30 the maximum service pension figure corresponding to the average
 4.31 amount of available financing per active covered firefighter:

4.32 Minimum Average Amount of 4.33 Available Financing per 4.34 Firefighter	4.35 Maximum Service Pension 4.36 Amount Payable per Month 4.37 for Each Year of Service
4.35 \$...	4.35 \$.25
4.36 42 <u>41</u>	4.36 .50

5.1	84	<u>81</u>	1.00
5.2	126	<u>122</u>	1.50
5.3	168	<u>162</u>	2.00
5.4	209	<u>203</u>	2.50
5.5	252	<u>243</u>	3.00
5.6	294	<u>284</u>	3.50
5.7	335	<u>324</u>	4.00
5.8	378	<u>365</u>	4.50
5.9	420	<u>405</u>	5.00
5.10	503	<u>486</u>	6.00
5.11	587	<u>567</u>	7.00
5.12	672	<u>648</u>	8.00
5.13	755	<u>729</u>	9.00
5.14	839	<u>810</u>	10.00
5.15	923	<u>891</u>	11.00
5.16	1007	<u>972</u>	12.00
5.17	1090	<u>1053</u>	13.00
5.18	1175	<u>1134</u>	14.00
5.19	1259	<u>1215</u>	15.00
5.20	1342	<u>1296</u>	16.00
5.21	1427	<u>1377</u>	17.00
5.22	1510	<u>1458</u>	18.00
5.23	1594	<u>1539</u>	19.00
5.24	1677	<u>1620</u>	20.00
5.25	1762	<u>1701</u>	21.00
5.26	1845	<u>1782</u>	22.00
5.27	1888	<u>1823</u>	22.50
5.28	1929	<u>1863</u>	23.00
5.29	2014	<u>1944</u>	24.00
5.30	2098	<u>2025</u>	25.00
5.31	2183	<u>2106</u>	26.00
5.32	2267	<u>2187</u>	27.00
5.33	2351	<u>2268</u>	28.00
5.34	2436	<u>2349</u>	29.00
5.35	2520	<u>2430</u>	30.00
5.36	2604	<u>2511</u>	31.00

6.1	2689 <u>2592</u>	32.00
6.2	2773 <u>2673</u>	33.00
6.3	2857 <u>2754</u>	34.00
6.4	2942 <u>2834</u>	35.00
6.5	3026 <u>2916</u>	36.00
6.6	3110 <u>2997</u>	37.00
6.7	3194 <u>3078</u>	38.00
6.8	3278 <u>3159</u>	39.00
6.9	3362 <u>3240</u>	40.00
6.10	3446 <u>3321</u>	41.00
6.11	3530 <u>3402</u>	42.00
6.12	3614 <u>3483</u>	43.00
6.13	3698 <u>3564</u>	44.00
6.14	3782 <u>3645</u>	45.00
6.15	3866 <u>3726</u>	46.00
6.16	3950 <u>3807</u>	47.00
6.17	4034 <u>3888</u>	48.00
6.18	4118 <u>3969</u>	49.00
6.19	4202 <u>4050</u>	50.00
6.20	4286 <u>4131</u>	51.00
6.21	4370 <u>4212</u>	52.00

6.22 Effective beginning December 31, 2003:

6.23	4454 <u>4293</u>	53.00
6.24	4538 <u>4374</u>	54.00
6.25	4622 <u>4455</u>	55.00
6.26	4706 <u>4536</u>	56.00

6.27 (d) For a relief association in which the governing bylaws
6.28 provide for a lump sum service pension to a retiring member, the
6.29 maximum lump sum service pension amount for each year of service
6.30 credited that may be provided for in the bylaws is the maximum
6.31 service pension figure corresponding to the average amount of
6.32 available financing per active covered firefighter for the
6.33 applicable specified period:

6.34	Minimum Average Amount	Maximum Lump Sum Service
6.35	of Available Financing	Pension Amount Payable
6.36	per Firefighter	for Each Year of Service

7.1	\$..	\$10
7.2	11	20
7.3	16	30
7.4	23	40
7.5	27	50
7.6	32	60
7.7	43	80
7.8	54	100
7.9	65	120
7.10	77	140
7.11	86	160
7.12	97	180
7.13	108	200
7.14	131	240
7.15	151	280
7.16	173	320
7.17	194	360
7.18	216	400
7.19	239	440
7.20	259	480
7.21	281	520
7.22	302	560
7.23	324	600
7.24	347	640
7.25	367	680
7.26	389	720
7.27	410	760
7.28	432	800
7.29	486	900
7.30	540	1000
7.31	594	1100
7.32	648	1200
7.33	702	1300
7.34	756	1400
7.35	810	1500
7.36	864	1600

8.1	918	1700
8.2	972	1800
8.3	1026	1900
8.4	1080	2000
8.5	1134	2100
8.6	1188	2200
8.7	1242	2300
8.8	1296	2400
8.9	1350	2500
8.10	1404	2600
8.11	1458	2700
8.12	1512	2800
8.13	1566	2900
8.14	1620	3000
8.15	1672	3100
8.16	1726	3200
8.17	1753	3250
8.18	1780	3300
8.19	1820	3375
8.20	1834	3400
8.21	1888	3500
8.22	1942	3600
8.23	1996	3700
8.24	2023	3750
8.25	2050	3800
8.26	2104	3900
8.27	2158	4000
8.28	2212	4100
8.29	2265	4200
8.30	2319	4300
8.31	2373	4400
8.32	2427	4500
8.33	2481	4600
8.34	2535	4700
8.35	2589	4800
8.36	2643	4900

9.1	2697	5000
9.2	2751	5100
9.3	2805	5200
9.4	2859	5300
9.5	2913	5400
9.6	2967	5500
9.7	3021	5600
9.8	3075	5700
9.9	3129	5800
9.10	3183	5900
9.11	3237	6000
9.12	3291	6100
9.13	3345	6200
9.14	3399	6300
9.15	3453	6400
9.16	3507	6500
9.17	3561	6600
9.18	3615	6700
9.19	3669	6800
9.20	3723	6900
9.21	3777	7000

9.22 Effective beginning December 31, 2003:

9.23	3831	7100
9.24	3885	7200
9.25	3939	7300
9.26	3993	7400
9.27	4047	7500

9.28 (e) For a relief association in which the governing bylaws
9.29 provide for a monthly benefit service pension as an alternative
9.30 form of service pension payment to a lump sum service pension,
9.31 the maximum service pension amount for each pension payment type
9.32 must be determined using the applicable table contained in this
9.33 subdivision.

9.34 (f) If a relief association establishes a service pension
9.35 in compliance with the applicable maximum contained in paragraph
9.36 (c) or (d) and the minimum average amount of available financing

10.1 per active covered firefighter is subsequently reduced because
10.2 of a reduction in fire state aid or because of an increase in
10.3 the number of active firefighters, the relief association may
10.4 continue to provide the prior service pension amount specified
10.5 in its bylaws, but may not increase the service pension amount
10.6 until the minimum average amount of available financing per
10.7 firefighter under the table in paragraph (c) or (d), whichever
10.8 applies, permits.

10.9 (g) No relief association is authorized to provide a
10.10 service pension in an amount greater than the largest applicable
10.11 flexible service pension maximum amount even if the amount of
10.12 available financing per firefighter is greater than the
10.13 financing amount associated with the largest applicable flexible
10.14 service pension maximum.

10.15 Sec. 4. **EFFECTIVE DATE.**

10.16 Sections 1, 2, and 3 are effective on July 1, 2005.

Volunteer Fire Relief Association Working Group

State Auditor's Office

Monday, December 13, 2004

11 a.m. to 1 p.m.

Members Present

Delano City Administrator Phil Kern, League of Minnesota Cities Representative Anne Finn, Legislative Commission on Pensions and Retirement Director Larry Martin, Mahnommen Fire Relief Association Treasurer Dave Jaeger (defined benefit lump sum plans), Maple Grove Fire Relief Association President Curt Roberts (defined contribution plans), Maplewood Fire Relief Association Treasurer Ed Dietz (defined benefit lump sum plans), Minnesota Area Relief Association Coalition Representative Jim Hansen, Minnesota State Fire Chief Association Representative Nyle Zikmund (defined benefit monthly plans), Minnesota State Fire Department Association Representative Dave Ganfield (defined benefit monthly/lump sum combination plans), Northfield Fire Relief Association Secretary Tom Nelson (defined benefit lump sum plans), State Auditor Patricia Anderson and White Bear Lake Finance Director Don Rambow.

Others Present

Brooklyn Park Fire Relief Association Secretary Andy Hansen, State Auditor's Office Assistant General Counsel Dave Kenney, Pension Director Judith Strobel and Pension Analysts Rose Hennessy Allen, Eric Bulygo, Jami Crummy, Brian Martenson and Paul Rosen.

Welcome and Introductions

Rotating Chair Rambow welcomed the Working Group members and asked that they introduce themselves to the audience.

December 6, 2004 Draft Minutes

Rambow gave the members some additional time to review the draft minutes of the December 6, 2004 Working Group meeting that had been provided before the meeting. Ganfield moved to approve the draft minutes with a second from Hansen. The motion passed unanimously. Ganfield then suggested that the Working Group begin with the items left to be discussed from the December 6, 2004 meeting.

Limiting Monthly Plan Disability Benefits to Age 50

Hansen moved with a second from Ganfield to approve the disability language as drafted by Martin. Zikmund recommended addressing only that language that would permit monthly plans to wait to start paying disability benefits until a member reaches age 50. Zikmund said monthly plans need the age 50 limitation more than lump sum plans because they have greater financial exposure. Ganfield said the item likely lacks consensus and should be discussed with volunteer firefighters before being brought back to the Working Group next year. He moved to table the language with a second by Jaeger. The motion passed with Zikmund dissenting.

Deferred Interest for Defined Benefit Lump Sum Plans

At Rambow's request, Martin described language that he drafted to capture the Working Group's intent to replace the straight five percent interest option with a more flexible up to five percent interest option. The newly proposed option would need to be approved by the relief association board of trustees and the municipality. Ganfield asked whether relief associations that choose a straight five percent must amend their bylaws if the draft language is enacted into law. Martin said no as long as the bylaw amendment had been approved by the city.

The interest calculations for the proposed option would begin on the first of the month following separation until the last day of the month before a properly made retirement application. Auditor Anderson observed that the language is common in other public pension plans. Rambow said it would provide some certainty for members when deciding when to retire. Ganfield questioned whether the calculation method would apply to all deferred interest options under state law or only the proposed option. Martin said it would apply only to the proposed option to avoid complicated interest calculations caused by daily interest. Nelson moved to accept the language with a second from Hansen. The amended motion was adopted by the full Working Group.

Deferred Interest for Defined Contribution Plans

Martin recapped the draft language in LCPR04-296 that would permit defined contribution plans to pay full gains and losses to deferred members without establishing a separate account or vehicle from active members. Roberts moved the modification with a second by Hansen. It was approved unanimously.

Board of Trustee Composition

Martin presented draft language in LCPR04-284 that would expand the pool of who can serve as ex-officio trustees in addition to the fire chief. The positions of mayor and clerk, clerk-treasurer or finance director, would be replaced with two representatives designated by the governing board of the municipality. The language would provide one-year terms of office and clarify the board composition for relief associations affiliated with joint powers and independent fire departments.

Zikmund moved the draft language saying any change that would encourage better participation of city trustees, whether elected or appointed, would be an improvement. He also recommended a nine-person board for relief associations associated with a nonprofit firefighting corporation. Ganfield said he would prefer requiring a mayor or city council member as one of the ex-officio trustees rather than having two appointed positions. Jaeger said there should be one elected and one appointed position with two-year terms. Finn agreed with Jaeger stating at least one elected official will create the accountability the League of Minnesota Cities is seeking and city councils will take their appointment responsibility seriously.

Nelson proposed an amendment to require at least one elected position to avoid two appointed positions. Rambow said he sees no reason to limit the term of an appointed person because cities make appointments each year and it's their duty to make sure there is adequate representation on relief association boards. Dietz said the fire chief must remain an ex-officio position because it is the link to the administration. Zikmund seconded the amended motion that was approved without dissent.

Process for Proposed Legislation

Auditor Anderson said she and her staff are willing to bring the Working Group's recommendations to the state legislature and encouraged all members to attend the hearings. She also offered to put the Working Group's proposal on her office's website. Zikmund suggested asking State Senator Don Betzold (D-Fridley) and State Rep. Steve Smith (R-Mound) to author the proposal. Auditor Anderson said she would be willing to meet with the state lawmakers about the bill. Those wishing to attend the meetings were encouraged to contact the State Auditor's Office or Zikmund.

Finn asked whether the Working Group should anticipate any opposition to the proposal. Ganfield said no because most stakeholders are represented on the Working Group. Zikmund said there may not be opposition but there may be questions from those who would need a full audit rather than an attestation if the proposal is enacted into state law. Martin said he would draft a bill and send to the State Auditor's Office for review. Ganfield expressed interest in keeping the same Working Group next year. The members then broke for lunch.

Experience Loss Amortization

Martin said the 1971 Police and Firefighters' Relief Association Guidelines Act does not have a provision to address investment losses -- the primary experience losses for lump sum plans -- because the Act only amortizes unfunded liabilities incurred through benefit increases. He presented draft language to clarify that increases in unfunded actuarial accrued liabilities from experience losses are to be amortized over a period of 10 years for lump sum plans and five years for monthly plans. The 10-year amortization for lump sum plans being used now contrasts with the industry standard of five years, he said. It's a policy issue whether it's okay to have different periods for different plan types and 10 years makes sense administratively for small lump sum plans.

The draft language also would broaden the past practice of using the prior year's state fire aid amount when projecting state fire aid. It would give greater grace by permitting relief associations to add up to 3.5 percent to the previous year's aid amount, according to Martin. He then referred the Working Group members to a study on state aid amounts over time in the agenda packets. While state fire aid tends to increase, it does decrease from time to time, he said.

Rambow said a five-year amortization period seems aggressive for monthly plans and puts pressure on cities to make up losses over short period of time. He said 10 years is more rational from a taxpayer's point of view because it would avoid big financial swings. Martin said amortizing any losses would have potential to increase city contributions. Rambow moved the 10-year amortization period for both monthly and lump sum plans. Zikmund seconded the motion that received full member agreement.

State Fire Aid Certification Requirements

Martin explained the draft language in LCPR04-279 that clarifies the state fire aid certification requirements for relief associations by putting them in an easy-to-read summary. The summary lists what the legislature believes are appropriate standards as codified in current law. Ganfield recommended tabling the motion or pushing back its proposed effective date saying many relief associations still may be working on coming into compliance. It was stated that only three relief associations forfeited their 2004 state fire aid and the compliance reason was failure to file their reporting forms by the November 30 deadline. Martin said the compliance requirements have been in state law since 1971.

Auditor Anderson asked why it would make sense to hold off the effective date if the requirements are already in state law. Zikmund said the state law requiring forfeiture penalty is not good public policy because a large plan would lose much more state fire aid than a small plan. He recommended moving back the effective date and capping future forfeitures at \$50,000. Zikmund said the State Auditor's Office does a lot to notify relief associations.

Martin said forfeiture is a serious penalty that may not fit the infraction. He explained that cities are not authorized to contribute to relief associations that do not meet the state fire aid eligibility criteria. Ganfield suggested and subsequently withdrew an idea to change the statutory wording from "retain" to "receive" to not require relief associations to return their state fire aid. Zikmund said high oversight costs could be the result of a few relief associations filing late. He said there should be a penalty for lateness with an effective date one year out to permit training on the topic. Ganfield said if the members wish to wait with the effective date why not wait with the language until next year.

Zikmund withdrew his cap idea and moved to vote on the language as presented. Nelsen seconded with the addition of a cross-reference correction. Finn supported the motion because we have a cooperative State Auditor's Office. Others had expressed concern that future auditors could apply the forfeiture penalty in more than extreme cases. Auditor Anderson said at some point the harshness of the forfeiture penalty should be revisited because her office does a lot of work to bring relief associations into compliance. She said she would consider smaller penalties for lateness.

State Fire Aid Reporting

Zikmund moved, with a second from Nelson, to permit reporting for state fire aid certification purposes through the Minnesota Fire Incident Reporting System (MFIRS) as an alternative to completion of the Department of Revenue FA-1 form. By adding the word “or” to the drafted language MFIRS could be another way to obtain accountability for state fire aid payments. Ganfield said he would prefer to get the MFIRS idea out to the relief associations for feedback because the idea may be controversial.

Zikmund said his experience has shown that if an idea is put in bill form it will get more public discussion. He said he would like to see debate occur and go with what happens because only about 50 fire departments don't use MFIRS. Finn said she is waiting for responses to the MFIRS alternative but the League of Minnesota Cities is not necessarily opposed to the current language. At the same time, she said she could be okay with the MFIRS language since it could be deleted if it's not supported.

Auditor Anderson asked Ganfield whether he opposes the MFIRS alternative or thinks the 2007 effective date is too early. Ganfield said his concern is getting input from the 50 relief associations on why they did not use MFIRS. Auditor Anderson then moved to table the motion until next year. Finn seconded the motion to table that was approved unanimously.

Ganfield then moved Exhibits E through G, exceptions to the 75 percent maximum on mutual fund investments, clarification to investment authority, and a provision permitting up to five years of service credit for military leaves of absence. With clarification of two statutory citations, he moved to pass the three items as presented. Roberts seconded the motion that was approved by all of the members. Exhibit H, a composite of items previously agreed upon by the Working Group, did not receive further discussion.

Relief Association Membership Requirements

Martin said the Roseville Fire Relief Association was seeking clarification under common law trust law rather than pension law to determine whether relief associations must permit paid firefighters to be relief association members. He said the issue has been before the Pension Commission on two or three occasions. In 1978, the Edina Fire Relief Association first tried to get a definition of a volunteer firefighter in state statutes that would have excluded paid firefighters from that definition. There was additional discussion in the Senate in the late 1980s to define the term in a way to exclude paid firefighters from membership and the benefits of a volunteer fire pension plan, he said.

Auditor Anderson said the State Auditor's Office had been asked to enter the action but chose not to do so because relief associations currently may define their own memberships and may restrict the membership of paid firefighters in their individual bylaws.

Dietz said the membership issue should be addressed at the local level in bylaws to meet a relief association's individual needs. Ganfield said Apple Valley is opposed to supporting two pensions for one firefighter. Zikmund said he believes membership in two plans is clearly allowed under state statutes. Finn said she would check to see if the League has a position on membership. Rambow said the issue is beyond the scope of the Working Group and moved the discussion to the next agenda item.

Consolidation of State Auditor Reports

The members were asked to review the 2002 Compilation Report and 2002 Investment Disclosure Report to provide future feedback to the State Auditor's Office. The State Auditor is interested in consolidating the two separate reports to create a single resource on volunteer fire relief associations. Members also learned that the 2004 annual reporting forms would be sent to relief associations on a CD in January, 2005. Paper forms will be provided upon request to those that need them.

There being no other business, Ganfield expressed appreciation to the State Auditor for the successful process of the Working Group. The meeting was adjourned without a formal motion.