**S.F. xxx; LCPR06-015****H.F. xxx****Executive Summary of Commission Staff Materials**

Affected Pension Plan(s): Volunteer Firefighter Relief Associations
Relevant Provisions of Law: Minnesota Statutes, Chapters 6, 69, and 424A
General Nature of Proposal: Implements the Recommendations of the State Auditor's Volunteer Fire Working Group
Date of Summary: February 23, 2006

Specific Proposed Changes

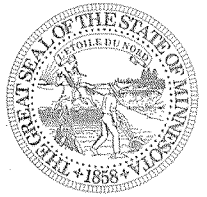
- Provides editorial/presentation flexibility to the State Auditor in the volunteer firefighter relief association data compilation report.
- Clarifies state fire marshal equivalent fire department equipment/personnel fire state aid conditions.
- Adds definition of "volunteer firefighter" to volunteer firefighter relief association law.
- Authorizes individual retirement account transfer for death/survivor benefits.
- Authorizes the payment of certain death benefits to estates.

Policy Issues Raised by the Proposed Legislation

1. Volunteer firefighter relief association data compilation report changes:
 - a. Usefulness of the formal reporting on volunteer firefighter relief associations.
 - b. Appropriateness of making the volunteer firefighter relief association compilation reporting requirement annual.
 - c. Appropriateness of providing discretion to the State Auditor over the report organization and formatting.
2. Fire department equipment/personnel fire state aid requirements changes:
 - a. Appropriateness of updating fire department equipment and personnel equivalency requirements.
 - b. Appropriateness of adding fire department capability and functioning specifications on equivalency.
 - c. Appropriateness of changing the rule promulgation authority to the state fire marshal.
3. Addition of "volunteer firefighter" definition:
 - a. Appropriateness of grandparenting current volunteer firefighting personnel.
 - b. Effectiveness of the potential definition in preventing duplicate concurrent pension coverage.
 - c. Need for complementary revision in the volunteer firefighter definition in PERA-General/ PERA P&F.
 - d. Appropriateness of allowing fire prevention training as an alternative to fire suppression training in definition.
 - e. Applicability of the proposed definition to volunteer departments providing ambulance services also.
 - f. Applicability of the proposed definition to volunteer fire departments with "other" service providers.
4. Addition of individual retirement account survivor benefit transfers authority:
 - a. Appropriate extent of federal income tax planning opportunities provided to volunteer firefighters.
 - b. Appropriateness of authorizing surviving spouse benefit transfers to individual retirement accounts.
 - c. Appropriateness of the retroactive effective date for the spousal benefit inclusion.
5. Addition of death benefit payment authority to estates:
 - a. Unclear need for estate payment authority beyond existing designated beneficiary payment authority.
 - b. Appropriateness of making benefit payments to an estate.
 - c. Appropriateness of encouraging casualty benefits from relief association rather than insurance.

Potential Amendments

- LCPR06-015-A1 removes Section 2 from Document LCPR06-015, as requested by the State Auditor.
- LCPR06-015-A2 simplifies the changes currently proposed in Section 2 of Document LCPR06-015, by limiting the change to the elimination of the obsolete 1972 date that was part of the original 1969 fire state aid revision legislation.



TO: Members of the Legislative Commission on Pensions and Retirement

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

RE: Draft Proposed Legislation Recommended by the State Auditor's Volunteer Fire Working Group

DATE: February 20, 2006

Summary of Draft Proposed Legislation LCPR06-015

Document LCPR06-015 contains the recommendations of the Volunteer Fire Working Group assembled by the State Auditor and amends portions of Minnesota Statutes, Chapters 6, 69, and 424A, relating to the Office of the State Auditor, fire state aid, and volunteer firefighter relief association benefit coverage, by making the following changes:

1. Editorial/Presentation Flexibility in Volunteer Firefighter Relief Association Data Compilation Report. The Office of the State Auditor is provided flexibility in the manner in which data on the financial condition of volunteer firefighter relief associations is presented in order to provide a fair representation of the condition of these pension plans (Section 1);
2. Clarified State Fire Marshal Equivalent Fire Department Equipment/Personnel Fire State Aid Conditions. The authority of the state fire marshal to utilize equivalent fire department equipment and personnel requirements for qualifying for fire state aid is clarified to be an indication of a capable and functioning fire department (Section 2);
3. Addition of Definition of "Volunteer Firefighter." The term "volunteer firefighter," for volunteer firefighter relief association benefit coverage for post-July 1, 2006 firefighters, is defined as fire department members who are eligible for relief association membership, who are engaged in emergency response services or fire prevention activities, who are trained in fire suppression or fire prevention, and who meet any other fire department or volunteer firefighter relief association bylaws (Section 3);
4. Authorization of Individual Retirement Account Transfer for Death/Survivor Benefits. The existing authority for service pensioners to approve an institution-to-institution transfer of a lump sum pension to an individual retirement account is expanded to include transfers of lump sum survivor benefits by survivors (Section 4); and
5. Authorization of Certain Death Benefits to Estates. The current authorization of volunteer firefighter relief association survivor benefits to the surviving spouse and children of a deceased active firefighter is expanded to permit death benefits to a deceased firefighter's estate if there are no survivors or designated beneficiaries (Section 5).

Background Information on the State Auditor's Volunteer Fire Working Group

During the 2004-2005 Interim and during the 2005-2006 Interim, State Auditor Patricia Anderson has assembled a working group to address various volunteer firefighter retirement issues.

The Volunteer Fire Working Group was intended to bring together the major volunteer fire relief association stakeholders to develop relationships, open communication, discuss relief association issues, and make the pension process easier and more effective by clarifying applicable state laws, simplifying reporting forms, discussing training opportunities, and addressing any other relevant issues. The Volunteer Fire Working Group functioned to discuss and make recommendations to clarify state laws, simplify reporting forms, and address training and other issues, to implement recommendations that do not require law changes, and to forward suggested statutory changes upon consensus to the Legislative Commission on Pensions and Retirement.

The Volunteer Fire Working Group was made up of 12 members, representing various perspectives. The membership for the 2005-2006 Volunteer Fire Working Group was:

- | | |
|-----------------------------------|--|
| 1. City Finance Manager | Don Rambow, Finance Director, City of White Bear Lake |
| 2. Defined Contribution Plans | Curt Roberts, President, Maple Grove Fire Relief Association |
| 3. Defined Benefit Lump Sum Plans | Ed Dietz, Treasurer, Maplewood Fire Relief Association |

4. Legislative Commission on Pensions and Retirement	Lawrence A. Martin, Director Edward Burek, Deputy Director
5. Minnesota Area Relief Association Coalition	Jim Hansen, Spring Lake Park, Blaine & Mounds View Relief Association
6. Minnesota State Fire Chiefs Association/ Monthly Plans	Nyle Zikmund, Chief, Spring Lake Park, Blaine & Mounds View Fire Department
7. League of Minnesota Cities	Anne Finn
8. Minnesota State Fire Department Association	Dave Ganfield, Secretary
9. Minnesota Small Cities	Phil Kern, City Administrator, City of Delano
10. Defined Benefit Lump Sum Plans	Dave Jaeger, Treasurer, Mahnommen Firemen's Relief Association
11. Defined Benefit Lump Sum Plans	Tom Nelson, Secretary, Northfield Fire Department Relief Association
12. State Auditor	State Auditor Patricia Anderson

Background Information on Volunteer Firefighter Relief Associations and Related Issues

Background information on the State Auditor's volunteer firefighter relief association data compilation report is set forth in Attachment A. Background information on the Fire State Aid Program is set forth in Attachment B. Background information on statutory specifications of personnel included in the designation of "volunteer firefighter" is set forth in Attachment C. Background information on the regulation of volunteer firefighter relief association ancillary benefits is set forth in Attachment D. Background information on authorized volunteer firefighter relief association special fund disbursements is set forth in Attachment E.

Analysis and Discussion

Document LCPR06-015 compiles the recommendations of the Volunteer Firefighter Relief Association Working Group and permits greater editorial and presentation flexibility in the State Auditor's volunteer firefighter relief association data compilation report, clarifies the equivalent fire department equipment and personnel qualification requirements for fire state aid to be used by the state fire marshal, adds a definition of the term "volunteer firefighter" for post-July 1, 2006, fire department personnel, permits transfers of death or survivor benefits to individual retirement accounts, and authorizes the payment of death benefits to a deceased firefighter's estate if no qualified survivor or designated beneficiary exists.

The recommendations assembled in Document LCPR06-015 raise several pension and related public policy issues for consideration and discussion by the Legislative Commission on Pensions and Retirement, as follows:

1. Volunteer Firefighter Relief Association Data Compilation Report Changes
 - a. Usefulness of the Formal Reporting on Volunteer Firefighter Relief Associations. The policy issue is the extent to which the State Auditor's formal reporting on volunteer firefighter relief associations serves any useful purpose for the volunteer firefighting community and the municipal community. The Legislative Commission on Pensions and Retirement is the primary consumer of the information currently contained in the volunteer firefighter relief association compilation report. Since the State Auditor's office is moving steadily towards initial volunteer firefighter relief association financial reporting in a computerized manner, the volunteer firefighter relief association financial data needed by the Commission undoubtedly will be available from the State Auditor's office absent the requirements of Minnesota Statutes, Section 6.72, so the formal reporting requirement for the State Auditor could be eliminated if the report has little or no value in the volunteer fire community or the municipal community.
 - b. Appropriateness of Making the Volunteer Firefighter Relief Association Compilation Reporting Requirement Annual. The policy issue is the appropriateness of changing the Minnesota Statutes, Section 6.72 volunteer firefighter relief association financial reporting requirement of the State Auditor to an annual report from a biennial report. Although the statutory requirement is currently biennial, the actual reporting by the State Auditor historically has been annual, so the change will not add any increased reporting frequency in fact to burden the office of the State Auditor.
 - c. Appropriateness of Providing Discretion to the State Auditor over the Report Organization and Formatting. The policy issue is the appropriateness of reducing the specificity of the regulation of the volunteer firefighter relief association financial results compilation reporting under Minnesota Statutes, Section 6.72, and allowing discretion to the State Auditor over the manner and organization of the compilation reporting. Initially, the specificity of Minnesota Statutes, Section 6.72, reflected initial opposition by the State Auditor's office to undertake the reporting obligation and the need to have the new State Auditor's report provide comparable data to the 1974 and 1977

Commission staff compilations. Over time, the State Auditor's office has become committed to preparing the compilation report and the advent of readily available computerized data processing over hand processing has eliminated Commission staff comparability concerns. Consequently, specificity about the manner and formatting of the compilation reporting is now essentially unnecessary.

2. Fire Department Equipment/Personnel Fire State Aid Requirements Changes

- a. Appropriateness of Updating Fire Department Equipment and Personnel Equivalency Requirements. The policy issue is the appropriateness of the elimination of the current July 1, 1972, date relating to the fire department personnel and equivalency determination by the State Fire Marshal. The intent of the change is to provide flexibility to the State Fire Marshal in determining whether a fire department meets minimum requirements to allow its associated municipality or nonprofit firefighting corporation to qualify for an annual fire state aid distribution, including allowing the State Fire Marshal to qualify fire departments which file the Minnesota Fire Incident Reporting System (MFIRS) report. Syntactically, it is unclear that the 1972 date reference actually modifies the State Fire Marshal equivalency determination standards, but more likely modifies the primary verb in the conditional clause "meets," thereby providing both a deadline for potential fire department equipment and personnel improvements and a grace period for the implementation of those improvements. In either event, the date is obsolete or outdated and either should be reset or should be eliminated.
- b. Appropriateness of Adding Fire Department Capability and Functioning Specifications on Equivalency. The policy issue is the appropriateness of adding to the State Fire Marshal equivalency determination the standards of fire department capability and functioning. The current language either provides no specification or limitation on what constitutes equivalency on one hand or permits only equivalency for each and every of the particular fire department personnel and equipment requirements set forth in Minnesota Statutes, Section 69.011, Subdivision 4, on the other hand. Neither result, either unbridled discretion for the State Fire Marshal or very narrowly drawn discretion for the State Fire Marshal, is probably desirable from a policy standpoint because the result would be discretion that is so vague that it provides fire departments with no true notice of expectations or standards or that it is so confining that it provides little margin for gaining a more global equivalency, such as substituting the Minnesota Fire Incident Reporting System (MFIRS) report. Presumably, the broad intent of the fire department personnel and equipment equivalency is to encourage with fire state aid eligibility the improvement of the capability and functioning of the fire department. The argument that appears to underlie the potential substitution of the MFIRS report for any fire department personnel and equipment minimum requirements is that any fire department that files the MFIRS report truly is a functioning fire department. The MFIRS report alone does not appear, however, to be a very clear measure of the capability of the fire department to actually suppress fires and perform whatever additional emergency activity demanded of the fire department. Because of concerns raised by elements of the volunteer firefighter community and concerns raised by the Department of Revenue, the State Auditor would prefer to defer action on this change this year in order to revisit the topic before the 2007 Session. **Amendment LCPR06-015-A1** would remove the section from Document LCPR06-015, as requested by the State Auditor. **Amendment LCPR06-015-A2** would simplify the changes currently proposed in this section of Document LCPR06-015, by limiting the change to the elimination of the obsolete 1972 date that was part of the original 1969 fire state aid revision legislation.
- c. Appropriateness of Changing the Rule Promulgation Authority to the State Fire Marshal. The policy issue is the appropriateness of replacing the Revenue Commissioner with the State Fire Marshal as the source for the promulgation of other fire department equipment and personnel minimum requirements for qualification for fire state aid. In 1969, when this provision was enacted, the rulemaking authority was vested with the Commissioner of Insurance (subsequently the Commissioner of Commerce following a government consolidation in the late 1970s) and was transferred to the Revenue Commissioner when the Statistical Tax Audit Section of the Department of Commerce was transferred to the Department of Revenue. Neither the Insurance/Commerce Commissioner nor the Revenue Commissioner are required to have any expertise in fire department operations as part of their job qualifications, but the State Fire Marshal presumably is required to have that kind of expertise and would be a more informed rule maker.

3. Addition of “Volunteer Firefighter” Definition

- a. Appropriateness of Grandparenting Current Volunteer Firefighting Personnel. The policy issue is the appropriateness of grandparenting in all current (pre-July 1, 2006) volunteer fire department/volunteer firefighter relief association personnel as “volunteer firefighters.” The provision makes the easiest transition to the incorporation of a standard system-wide definition, but also legitimizes all current practices statewide that might not meet the common understanding of what constitutes a volunteer firefighter, without the Legislature being fully cognizant of the various practices that are legitimized. Appropriateness is a function of the goals behind proposed legislative changes. If the goal in defining the term is to avoid having individuals accrue double retirement plan coverage for the same firefighting service, the full grandparent will correct the perceived abuse in the future, but will not resolve current potential or actual abuses. If the goal is to correct other abuses or resolve other problems, the full grandparent similarly will delay achieving the full benefit of the regulation until all current firefighters terminate active service, essentially a generation.
- b. Effectiveness of the Potential Definition in Preventing Duplicate Concurrent Pension Coverage. The policy issue is the effectiveness of the draft proposed legislation in preventing duplicate volunteer firefighter relief association coverage and coverage by the General Employee Retirement Plan of the Public Employees Retirement Association (PERA-General) or the Public Employees Police and Fire Retirement Plan (PERA-P&F) for rendering firefighting services. PERA-General and PERA-P&F excludes from retirement coverage for service that is credited by a volunteer firefighter relief association for volunteer firefighters who were not members of PERA-General or PERA-P&F for that volunteer firefighting service on June 30, 1989. The proposed definition grandparents in certain current firefighters and the 1989 PERA legislation on volunteer firefighters also grandparented certain firefighters, so some individuals who do not perform customary firefighting duties but are members of a volunteer fire department may continue to have duplicate concurrent retirement coverage. To the extent that the new definition eliminates from volunteer firefighter relief association coverage individuals who perform only ambulance/emergency medical services or who perform fire department tasks that are neither fire suppression or fire prevention and those individuals are more than minimally compensated by a governmental entity, the definition actually may increase the number of PERA-General members. The definition does not appear to increase the potential for duplicate concurrent pension coverage.
- c. Need for Complementary Revision in the Volunteer Firefighter Definition in PERA-General/PERA P&F. The policy issue is the need for a revision in the definition of volunteer firefighter in Minnesota Statutes, Section 353.01, Subdivision 36, in order to complement the proposed definition of volunteer firefighter in Minnesota Statutes, Chapter 424A. Minnesota Statutes, Section 353.01, Subdivision 36, and Section 353.87, relating to retirement coverage by the General Employee Retirement Plan of the Public Employees Retirement Association (PERA-General) and the Public Employees Police and Fire Retirement Plan (PERA-P&F), defines “volunteer firefighter” as a status for service for which the person receives volunteer firefighter relief association coverage under Minnesota Statutes, Chapter 424A, and grandfathers pre-June 30, 1989, volunteer firefighter members of PERA-General or PERA-P&F in that coverage, but gives the person an option to discontinue future PERA-General or PERA-P&F coverage and receive a refund for that past service. Since the PERA definition excludes service as a volunteer firefighter credited by a volunteer firefighter relief association from coverage by PERA-General or by PERA-P&F, unless the pre-1989 grandparenting provisions applies, the addition of a definition of volunteer firefighter to Minnesota Statutes, Chapter 424A, does not appear to complicate the current situation.
- d. Appropriateness of Allowing Fire Prevention Training as an Alternative to Fire Suppression Training in Definition. The policy issue is the appropriateness of the proposed volunteer firefighter definitions in permitting training in fire prevention as an alternative to fire suppression training. The addition of fire prevention services as firefighting services eligible for volunteer firefighter relief association coverage is relatively new. The Commission staff does not have information about the number of fire prevention personnel who are volunteer firefighter relief association members and whether or not fire prevention personnel are routinely cross-trained as fire suppression personnel also. If cross-training is the norm, the definition could be modified to omit fire prevention training entirely. If fire prevention personnel are not routinely cross-trained as fire suppression personnel, there may be a need for additional testimony or discussion to add to the comfort level of policy makers in making prevention training appropriate as an alternative training requirement.

- e. Applicability of the Proposed Definition to Volunteer Departments Providing Ambulance Services Also. The policy issue is whether or not the proposed definition appropriately applies to volunteer firefighter relief associations associated with fire departments that also provide ambulance services. If the general practice among volunteer fire departments which also provide ambulance services is to cross-train its first responder/emergency medical technician/paramedic personnel as fire suppression personnel, the definition will not cause complications. If the goal is to promote that cross-training, the definition would likely cause that change. If volunteer fire departments with ambulance services have strong feelings about the appropriateness of cross-training, further discussion with those departments may be necessary before settling on the current proposed legislation.
- f. Applicability of the Proposed Definition to Volunteer Fire Departments with “Other” Service Providers. The policy issue is the appropriateness of the proposed definition if there is a widespread practice of according to fire department personnel who perform miscellaneous “other” duties the status of volunteer firefighter. Some of those duties could be volunteer firefighter relief association record-keeping duties, fire department administrative or maintenance duties, or fire equipment maintenance. If volunteer firefighter relief association coverage is the sole or primary tool for encouraging individuals to perform necessary fire suppression or emergency response services, that same coverage could be the same factor to encourage the performance of volunteer firefighter relief association administrative/record-keeping/clerical duties, fire department plumbing/heating/building maintenance duties, or fire equipment repair and maintenance duties. Curtailing the volunteer firefighter relief association coverage for individuals who cannot be or prefer not to be trained in fire suppression functions in volunteer fire departments or volunteer firefighter relief associations which lack sufficient personnel to perform these other functions may cause a serious deterioration in the operation of that fire department or relief association.

4. Addition of Individual Retirement Account Survivor Benefit Transfers Authority

- a. Appropriate Extent of Federal Income Tax Planning Opportunities Provided to Volunteer Firefighters. The policy issue is the appropriateness of state law attempts to maximize federal income tax planning opportunities for volunteer firefighters. Providing volunteer firefighter benefits in Minnesota represents a minority practice among the 50 states and those benefits in Minnesota are typically paid at an age (age 50 most commonly) and paid in a form (lump sum benefits) that are not favored by the federal Internal Revenue Code. As a consequence, the federal tax code does not provide many or any specific accommodations to public pension plan benefits for volunteer firefighters. Minnesota does accommodate the tax planning desires of some retiring firefighters, either by virtue of the allowance of installment payments, by allowing the purchase by a relief association of an insurance company annuity with a lump sum service pension amount, or by allowing institution-to-institution transfers of lump sum service pensions to an individual retirement account. Additional tax planning opportunities may exist in the federal tax code, or may be added over time in the future, but it is unlikely to benefit the public at large to pursue accommodations to these opportunities. Volunteer fire pension coverage exists to induce individuals to perform these public safety services. Unless the pool of potential firefighters becomes so limited that only the pursuit of additional tax planning accommodations would sizably increase the pool, undertaking any comprehensive or spirited pursuit of these federal tax accommodations does not appear to be a valuable utilization of legislative time and effort.
- b. Appropriateness of Authorizing Surviving Spouse Benefit Transfers to Individual Retirement Accounts. The policy issue is the appropriateness of extending to survivor benefits the current authority for institution-to-institution transfers to individual retirement accounts for service pensions upon eligibility for the payment of the pension. The current transfer provision affects the form of a service pension payment, largely limited to the cutting of a check to a firefighter’s individual retirement account rather than to the firefighter personally, but does not change the eligible individual or the time of eligibility. The inclusion of a survivor who is already eligible for a volunteer firefighter relief association survivor benefit in the transfer authority similarly is a question of form and is not a change in who is eligible or as to when the person is eligible, so the change does not appear to raise significant policy concerns.
- c. Appropriateness of the Retroactive Effective Date for the Spousal Benefit Inclusion. The policy issue is the appropriateness of making the extension of individual retirement account transfer authority to survivor benefits retroactive to January 1, 2006. The retroactive effective date relates to a recent death of a firefighter with the West Metro Volunteer Firefighter Relief Association and the desire of that surviving spouse to make use of the individual retirement account transfer

authority. The retroactivity, if the proposed legislation is enacted in a relatively timely fashion, will assist this surviving spouse. The retroactivity would not, however, assist survivors of firefighters who may have died prior to January 1, 2006, but have not yet drawn a survivor benefit. To implement the authority, the West Metro Volunteer Firefighter Relief Association would need to amend its bylaws retroactively also.

5. Addition of Death Benefit Payment Authority to Estates

- a. Unclear Need for Estate Payment Authority Beyond Existing Designated Beneficiary Payment Authority. The policy issue is the appropriateness of the potential change if deceased active firefighters who do not have a surviving spouse and who do not have one or more surviving minor children can have a survivor benefit paid to a designated beneficiary. The 2000 addition of the designated beneficiary authority, sponsored by MARAC, presumably was intended to provide a viable means for a survivor benefit to be paid on behalf of a deceased active firefighter without a spouse or minor children. The only clear advantage provided by the draft proposed legislation would be to avoid a benefit loss on behalf of an active firefighter who died without a surviving spouse or minor surviving child and who neglected to designate a beneficiary. It would not repair the situation where the firefighter failed to update the beneficiary designation appropriately prior to death and an unintended person eventually receives the survivor benefit.
- b. Appropriateness of Making Benefit Payments to an Estate. The policy issue is the appropriateness of allowing volunteer firefighter relief associations to pay benefits to an estate of a deceased active firefighter without a surviving spouse, a surviving minor child, or a designated beneficiary. Among Minnesota public pension plans, retirement benefits are generally not payable to estates, including post-retirement adjustments for plan members who substantially qualified for the adjustment, but died prior to the actual payment date. Payments to an individual, such as a spouse, child, or beneficiary, avoid the procedural entanglements of state probate laws and the loss of benefits from the payment of estate administrative expenses.
- c. Appropriateness of Encouraging Casualty Benefits from Relief Association Rather Than Insurance. The policy issue is the appropriateness of encouraging the provision of casualty (non-age and service) retirement benefits from a volunteer firefighter relief association rather than utilizing insurance. Retirement plans, including volunteer firefighter relief associations, are really highly specialized insurance arrangements. Volunteer firefighter relief associations, in particular, are operated with a minimum of regular and systematic regulation and oversight as insurance companies would have from the Department of Commerce, but can take on very uncertain casualty risks like death benefits. It would be better practice to permit volunteer firefighter relief associations to provide this type of casualty coverage through the purchase of insurance policies rather than the direct undertaking of this liability. Under Minnesota Statutes, Section 69.772, the primary statute governing volunteer firefighter relief association funding requirements, a volunteer firefighter relief association that provides no casualty coverage will have the same financial requirements as a volunteer firefighter relief association that does provide casualty coverage. Even if the casualty coverage is no greater than the service pension accrued, the payment date for the benefit changes with the addition of casualty coverage and so does the potential liability. To insure that no volunteer firefighter relief association suffers a financial disaster from providing casualty coverage, some surcharge or liability loading figure may be needed to be added to insure that additional casualty reserves are amassed. That additional surcharge or loading will, however, complicate the financial requirement determination procedures of volunteer firefighter relief associations and will add an increased workload to volunteer firefighter relief association secretaries and to the Pension Oversight Division of the State Auditor's Office.

Attachment A

Background Information on the State Auditor's Report on Volunteer Firefighter Relief Associations

Prior to 1981, there was no regular compilation of financial and related information on volunteer firefighter relief associations. For 1969, for 1974, and for 1977, the staff of the Legislative Commission on Pensions and Retirement attempted to compile information on the overall financial condition of the State's volunteer firefighter relief associations, but no other regular sources of general information on volunteer firefighter relief associations was available at the time.

The view of volunteer firefighter relief associations by the Legislature before 1981 was erratic and incomplete, provided solely by the information reviewed by the Legislative Commission on Pensions and Retirement for the dozen or two dozen volunteer firefighter relief association special legislation proposals processed each legislative session. Before the creation of the flexible service pension maximums in 1979 (Laws 1979, Chapter 201), when lump sum volunteer firefighter relief association service pensions were limited to \$300 per year of service credit and monthly benefit volunteer firefighter relief association service pensions were limited to \$2 per month per year of service credit, volunteer firefighter relief associations with more resources frequently sought special legislation in excess of the general limits (see Minnesota Statutes 1978, Section 69.06) and were reviewed by the Commission.

Laws 1979, Chapter 201, Section 20, coded as Minnesota Statutes, Section 6.72, replaced the chaotic and incomplete view of the Legislature provided by processing special legislation for about three percent of the total number of volunteer firefighter relief associations with periodic reports by the State Auditor based on that agency's review of volunteer firefighter relief association financial reporting and determination of eligibility for fire state aid. In addition to providing the Legislature with a better view of the financial health of volunteer firefighter relief associations after reducing legislative involvement in approving service pension amounts, the periodic reporting was also intended to ensure that the State Auditor's office engaged in some minimum level of scrutiny of volunteer firefighter relief association financial reporting. The 1974 and 1977 Commission staff compilations indicated several "prima facie" financial reporting problems and statutory compliance problems which presumably would be reduced or eliminated upon engaging in the mechanical operation of preparing formal reporting.

Attachment B

Background Information on Historical Information on the Fire State Aid Program

1. 1885 Creation of Fire State Aid. In 1885 (Laws 1885, Chapter 187), the fire state aid program was established. The 1885 fire state aid program dedicated one-half of the premium taxes (essentially one percent of premiums) collected by the State from fire insurance companies as fire state aid. The allocation of the fire state aid was on the basis of the amount of premiums received by the fire insurance companies for each city, town, village, or other municipal corporation that had previously filed a certificate of the existence of an organized fire department that had been in existence for at least one year and that had at least one fire engine, hook and ladder truck, or hose cart. The municipal certification, prepared by the municipal recorder or clerk, was required annually, no later than October 31, and was to include information on the number of fire engines possessed by the fire department, the number of hook and ladder trucks and hose carts actually used by the fire department, the system of water supply used by the fire department, and any additional information the insurance commissioner required. Fire insurance companies were required, by the subsequent July 1, to complete an insurance commissioner form that listed the various towns entitled to receive fire state aid by reporting the amount of the prior year's annual fire insurance premiums received in each of the named towns, cities, villages or other municipal corporations. The 1885 fire state aid was payable to the city, town, village, or municipal corporation treasurer and was required to be placed in a special municipal fund and expended, first, for the support and relief of firefighters who were injured or disabled in the line of duty and, second, for equipping and maintaining the fire department.

The Minnesota Insurance Department was created in 1872 and Minnesota was one of the first states to regulate insurance business. The total insurance premium taxes paid to the State of Minnesota in 1880 were \$28.4 million. In 1902, fire insurance premium taxes totaled \$120,000, of which \$60,000 was allocated as fire state aid. A. R. McGill, of St. Peter, was the Insurance Commissioner in 1885, when the fire state aid program was created, and became Governor of Minnesota for one term in 1887.

2. 1903 Revision of the Fire State Aid Program. In 1903 (Laws 1903, Chapter 20), the fire state aid program was revised. The principal revisions were an increase in the amount of the fire insurance premium tax that was dedicated to the program from one-half of the premium taxes collected to the total amount, the inclusion of the widow and orphans of firefighters as a permissible fire state aid expenditure, the expansion of fire state aid expenditure requirements to include firefighters who became sick or who were injured or disabled other than while on duty, the addition of a requirement that a municipality's fire state aid be paid directly to the relief association treasurer if there is an incorporated fire department relief association in the municipality that was organized with municipal consent, and the addition of a requirement that the public examiner examines the books of the relief association periodically. The fire state aid program was also clarified by the 1903 legislation as applicable to partially paid and partially volunteer fire departments as well as to organized fire departments.
3. 1943-1945 Increased Connection Between Fire State Aid and Firefighter Service Pensions. In 1943 (Laws 1943, Chapter 323), the prior authority to use the aid to purchase fire equipment and to cover other costs of operating the fire service was deleted. In 1945, (Laws 1945, Chapter 225) legislation was enacted that provided for the use of fire state aid for firefighting equipment purposes only if no firefighter relief association is associated with the department. That restriction on the use of fire state aid in the event that a firefighter relief association exists remains the applicable law to this date.
4. 1969 Revision of the Fire State Aid Program. In 1969 (Laws 1969, Chapter 1001), the Legislature substantially revised the fire state aid program. The 1969 Legislature extended the premium tax dedicated to the fire state aid program beyond fire insurance premium taxes paid by domestic mutual insurance companies to include township and farmers' insurance companies and to include lightening and sprinkler leakage insurance coverage, but excluded automobile and ocean marine fire business. Nonprofit firefighting corporations that have a relief association or a retirement plan were also included in the fire state aid allocation. The qualification requirements for fire state aid were augmented, with the addition of fire department minimums, including at least ten firefighters, regular meetings and drills, at least one motorized fire truck of a minimum size, housing for fire apparatus, and a mechanism for sounding a fire alarm, with the fire department to be inspected by the state fire marshal. The fire state aid apportionment method also changed from a system based on the geographical location of the insured property to a system with the geographical location of the insured property to a system with one-half based on the relative population size, based on the last federal census, and one-half based on the relative property value. The initial allocation was on a county basis

and, within a county, on a firetown basis. Provision was also made for allocating the population and property value of firetowns served by more than one fire department.

The 1969 fire state aid program changes were prompted by a growing dislike in the firefighting community with the prior system based on insurance company reporting of premiums, because fire insurance agents were not correctly identifying the firetown associated with each municipality and nonprofit firefighting corporation or with each property, and the resulting fire state aid allocations for some municipalities were consequently greatly overstated and for some municipalities were greatly understated. The 1969 changes were proposed by a special working group operating under the auspices of the Legislative Research Committee. The special working group took extensive testimony from representatives of the firefighting community.

5. 1988 Fire and Related Insurance Premium Tax Changes. In 1988 (Laws 1988, Chapter 719, Article 2, Sections 1 to 5), the Legislature began altering the fire insurance premium tax base, the fire insurance premium tax rates, and the relationship between tax revenues and fire state aid. As of 1987, the Minnesota tax system gave preferential treatment to a segment of Minnesota companies. Minnesota mutual insurance companies, including township and farmers' insurance companies, paid a premium tax of two percent of the premiums for Minnesota properties on fire, lightning, and sprinkler damage leakage premiums. Other Minnesota-based insurance companies and all non-Minnesota-based insurance companies paid a two percent tax on a broader base of all premiums for any type of insurance written for Minnesota clients, except for certain marine insurance, including policies written on workers' compensation, automobile, aircraft, and the liability portion of homeowners insurance, commercial multiple peril insurance, farm owners multiple peril insurance, and the extended coverage fire policies.

In 1988, the Legislature created a uniform premium tax base for all insurance companies but created differential tax rates. The changes were in response to court cases from other jurisdictions. A few years earlier, several insurance companies successfully challenged the states of Alabama and North Dakota for giving domestic (located in that state) companies preferential premium tax treatment. The United States Supreme Court ruled the preference given to domestic companies in those states was discriminatory and unconstitutional, based on an equal protection argument. To avoid a similar successful challenge in Minnesota, the 1988 Legislature changed the insurance premium tax system, although it in effect substituted one form of discrimination for another. The Legislature created a uniform insurance premium tax base for all companies, but varied the tax rate according to the nature of the insurance products sold and the company's asset size. The premium tax base is the net premiums on all direct business received by the insurer in this state. To the premium tax base are applied the insurance premium tax rates. Life insurance companies, and other insurance companies having assets on December 31, 1989 of more than \$1.6 billion, were required to pay a two percent tax on the base. Other insurers were required to pay a lower tax rate. For those insurers subject to the lower base, the rate changes were phased in. On premiums paid on January 1, 1989, and before January 1, 1992, the tax was one percent. As of January 1, 1992, and thereafter, the rate was one-half of one percent.

The 1988 Legislature decided to insulate the fire state aid recipients from the changes in tax collections by severing the relationship between the tax collection amount and the aid distribution amount. Despite the tax rate and tax base change, the aid base and the rate used to compute the fire state aid was to remain the same. The Department of Revenue, using the information contained in the Minnesota Firetown Premium Reports, was to compute an amount of revenue equal to two percent of the reported premiums for fire, lightning, sprinkler leakage, and extended coverage policy premiums. The balance of the computed aid amount above the actual premium tax collections was appropriated from the State General Fund through an open appropriation and distributed as fire state aid.

6. 1991 Fire and Related Insurance Premium Tax Changes. In 1991 (Laws 1991, Chapter 291, Article 13), the Legislature reversed the policy of insulating fire state aid recipients from changes in tax collections and the tax amounts dedicated to the program were limited to the amount generated by the actual fire insurance premium tax rates in effect, which for mutual insurance companies under \$1.6 billion in assets as of December 1, 1989, is less than two percent on insurance premiums reported for fire, lightning, sprinkler damage, and extended coverage.

Also in 1991, the initial step in allocating fire state aid by apportioning the fire insurance premium tax proceeds between counties was eliminated. For the municipalities in some counties, the new procedure produced considerably lower fire state aid due to two effects, the within-county distributional effect and the effect of the treatment of "unprotected lands." The within-county distributional effect occurs in a county that has a relatively low population and where that population is not uniformly distributed within the county. Under the pre-1991 distributions, a relatively

populated municipality in a sparsely populated county could receive a larger share of aid than it would in 1991 and later allocations. Also in 1991, the property value portion of the fire state aid distribution changed from being based on net tax capacity, exclusive of mineral values, to full market value, exclusive of mineral values and including tax exempt property values.

A few counties also had lower fire state aid under the post-1990 distributions because of the effect of a change in recognizing unprotected lands within the counties. Unprotected lands are areas that are not served by a qualifying fire department. Under the pre-1991 fire state aid allocations, property wealth and population in unprotected lands were reflected in the aid allocated to the county. This total county-level aid was then distributed only among the municipalities and fire protection districts. When the county-level allocation was eliminated in 1991, population and property wealth lying outside a municipality or fire protection district was no longer reflected. The municipalities and fire protection districts in counties with significant unprotected lands would lose fire state aid relative to earlier distributions. Most counties have little or no unprotected land and thus were not impacted by the different treatment of unprotected lands under the post-1991 allocation system. However, several counties have considerable unprotected lands, including Cook, Lake of the Woods, Koochiching, and Clearwater, causing this different treatment to have a major impact on the fire state aid received.

7. 1995 Fire Insurance Premium Tax Increase. In 1995 (Laws 1995, Chapter 264, Article 9), the various insurance premium taxes were increased and the revenue available for the fire state aid program was also increased. The 1995 Legislature increased the insurance premium tax rates for town and farmers' mutual insurance companies and for mutual property casualty companies with assets no greater than \$1.6 billion. The pre-1995 insurance premium tax rate for these mutual insurance companies was one-half of one percent of the amount of all premiums. The rate was increased by the 1995 Legislature 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). The 1995 Legislature increased the insurance premium tax revenue dedicated to the fire state aid program and the police state aid program. For the fire state aid program, the dedicated revenue was increased from the amount of insurance premium taxes collected on fire, lightning, sprinkler leakage, and extended coverage insurance, to the greater amount 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.
8. 1996 Minimum Fire State Aid/Volunteer Firefighter Additional Fire State Aid. In 1996 (Laws 1996, Chapter 438, Article 4, Sections 2 and 9), the Legislature decided to implement a minimum fire state aid floor for volunteer firefighter relief associations that currently receive a disproportionately small amount of fire state aid on a per active member (1993 count) basis. The fire state aid floor is funded from sources other than the insurance premium tax structure. Thirty percent of any unallocated amortization or supplemental amortization state aid (caused by payment of a thirteenth check by the Minneapolis Police or Minneapolis Fire Relief Associations, or by a police or paid fire relief association or consolidation account reaching full funding) is to be used to establish a minimum fire state aid amount for volunteer fire relief associations. The aid is to be allocated to the relief associations so that all municipalities or fire departments with volunteer firefighter relief associations receive in total at least a minimum fire state aid amount per 1993 active volunteer firefighter, based on a maximum of 30 firefighters. The amount of the minimum fire state aid is a function of the amount of the funding available. The 1996 minimum fire state aid program was intended to resolve shortcomings in the pre-1996 fire state aid program. The principal shortcoming is in the fire state aid allocation procedure, since that procedure does not consider the ability of the local area to finance fire-related services. Areas with high property wealth are generally areas with a high average income, suggesting that considerable fire state aid is going to areas with the highest ability to finance fire services locally. Areas with relative low property wealth and low population receive little fire state aid under the base formula, but the need for fire protection services could be relatively high due to the age or nature of the insurable property. The minimum fire state aid was an effort to address a longstanding concern that the post-1969 fire state aid provides unreasonably low aid amounts per firefighter in many communities in the state. Many jurisdictions were receiving well under \$100 per firefighter before 1986. After the new aid system was introduced, the floor aid per eligible firefighter was increased to slightly over \$260 per firefighter.

To address the inadequate funding to the many jurisdictions receiving minimal amounts of state fire tax aid, the Legislature tapped another money source and directed the additional aid to those recipients receiving the least amount of aid per firefighter. The money source was the unallocated aid in the police and paid fire amortization and supplemental amortization aid programs. The amortization aid programs were established around 1980 to provide additional funding to police and paid fire relief associations that were closed to new members. Amortization aid is not paid to the Minneapolis police or fire relief associations if those associations pay a thirteenth check, and the amortization aids also are terminated for any relief association or consolidation accounts that become fully funded. Due to these events, some of the appropriation set aside for amortization and supplemental amortization aids is not allocated. Under the 1996 law, 70 percent of this unallocated amortization aid is reallocated to the Minneapolis Teachers Retirement Fund Association (MTRFA) and the St. Paul Teacher Retirement Fund Association (SPTRFA), and 30 percent is used to fund the minimum floor fire state aid program. The revenue allocated to the minimum floor fire state aid program is targeted to those volunteer fire relief associations that receive low aid per firefighter under the state fire tax aid program. The firefighter count used in the allocation procedure is the number of firefighters, not to exceed 30 firefighters, in each relief association in existence in 1993. The minimum floor fire state aid program brings the funding for those associations receiving the least aid per firefighter up to a higher, uniform level.

9. 1999 Minimum Fire State Aid Amendments. In 1999 (Laws 1999, Chapter 222, Article 5), the Legislature modified the minimum fire state aid/additional volunteer firefighter state aid program by making municipalities with volunteer firefighter relief associations established after 1993 eligible for inclusion in the minimum floor fire aid distribution, using the 1998 member count for those post-1993 relief associations, but not to exceed 30 firefighters.

Attachment C

Background Information on Current and Previously Attempted Definitions of “Volunteer Firefighter”

1. Existing Definition of “Volunteer Firefighter”

The term “volunteer firefighter” is not a term with an explicit definition in Minnesota Statutes, but the term has some implicit definitional elements.

Outside of Minnesota Statutes, Chapter 424A, the term is included in other definitions. Minnesota Statutes, Section 299A.41, Subdivision 4, includes “legally enrolled member of a volunteer fire department” and “member of an independent nonprofit firefighting corporation” in the definition of the term “public safety officer” for purposes of the public safety officer’s survivor benefits if the person is engaged in the hazards of firefighting. For purposes of the continued health insurance coverage for disabled peace officers and firefighters in Minnesota Statutes, Section 299A.465, “volunteer firefighters” are excluded from the definition of “firefighter” cross-referenced in Minnesota Statutes, Section 299A.465, Subdivision 5. Minnesota Statutes, Sections 353.01, Subdivision 36, and 353.87, relating to retirement coverage by the General Employees Retirement Plan of the Public Employees Retirement Association (PERA-General) and the Public Employees Police and Fire Plan (PERA-P&F) defines “volunteer firefighter” as a status for service for which the person receives volunteer firefighter relief association coverage under Minnesota Statutes, Chapter 424A, and grandfathers pre-June 30, 1989, volunteer firefighter members of PERA-General or PERA-P&F in that coverage, but gives the person an option to discontinue future PERA-General or PERA-P&F coverage and receive a refund for past service.

Minnesota Statutes, Chapter 424A, has component parts of an implicit definition of the term “volunteer firefighter” and places limitations on volunteer firefighter relief association membership and coverage. Minnesota Statutes, Section 424A.011, Subdivision 8, and Minnesota Statutes, Section 424A.01, Subdivision 5, allow the term “firefighting service” to include service rendered by fire prevention personnel if the applicable municipality or independent nonprofit firefighting corporation approves the inclusion. Minnesota Statutes, Section 424A.011, Subdivision 9, defines the term “separation from active service” to mean the permanent cessation of the performance of fire suppression duties, fire prevention duties, or the supervision of fire suppression or prevention duties. Minnesota Statutes, Section 424A.01, Subdivision 1, prohibits the employment of a minor as a firefighter or the allowance of a minor to perform firefighting duties with a volunteer fire department. Minnesota Statutes, Section 424A.01, Subdivision 2, also specifies that a substitute volunteer firefighter is not a firefighter for retirement coverage purposes. Minnesota Statutes, Section 424A.01, Subdivisions 3 and 4, provide that a person who is a volunteer firefighter but is not a member of the relief association or has been excluded by the relief association board from relief association membership as constituting an unwarranted health risk is not eligible for volunteer firefighter relief association benefit coverage.

Thus, assembling the applicable portions of the relevant provisions of Minnesota Statutes, Chapter 424A, a volunteer firefighter for volunteer firefighter relief association retirement coverage purposes is a person who:

- a. serves with a municipal fire department or an independent nonprofit firefighting corporation;
- b. is not a minor;
- c. is not a substitute;
- d. has not been excluded from relief association membership as an unwarranted health risk by relief association board action or has not declined relief association membership; and
- e. provides fire suppression activities, supervises fire suppression activities, or, if the municipality or nonprofit firefighting corporation approves, performs fire prevention duties or supervises the performance of fire prevention services.

The definitional elements included in Minnesota Statutes, Chapter 424A, are not particularly instructive in attempting to differentiate between “paid” firefighters and “volunteer” firefighters, especially when both types of firefighters are present in the same fire department, such as full-time fire chiefs, full-time fire marshals/fire inspectors, and full-time fire truck drivers/fire equipment engineers or operators.

2. Past Attempts to Add Statutory Definition of “Volunteer Firefighter”

While the issue of attempting to regulate the perceived or actual problem of duplicative retirement coverage for the same service by paid fire personnel who also are volunteer firefighters in the same community has undoubtedly arisen on numerous occasions, there have been at least three instances where the Legislative Commission on Pensions and Retirement addressed the issue in detail and where the recommended legislation was considered further, in 1978-1979, 1987, and 1989.

In 1978-1979, the Commission began to address the volunteer firefighter double pension coverage issue as an outgrowth of Commission concerns during the 1978 legislative session over proposed legislation authorizing a service credit purchase for the Brainerd fire chief, who had concurrent coverage by the Public Employees Police and Fire Plan (PERA-P&F) and the Brainerd Volunteer Firefighter Relief Association. In 1979, the Commission approved 1979 S.F. 810 (Stokowski), which included a definition of “volunteer firefighter.” The 1979 definition had three parts, which were:

- a. On Call Emergency Duty. The person serves on call for emergency duty as a regular active member of a municipal fire department or an independent nonprofit firefighting corporation
- b. Limited Compensation. The person’s compensation for the emergency on call fire service must not be based on or be a multiple of any compensation rate paid to the person by the fire department or firefighting corporation.
- c. No Other Retirement Coverage for Fire Service. The person’s compensation must not be used as the basis for member or employer contributions to the General Employees Retirement Plan of the Public Employees Retirement Association (PERA-General) or to the PERA-P&F.

The 1978-1979 proposed legislation also defined the term “salaried fire chief” and restricted salaried fire chiefs and persons not rendering volunteer firefighter service from coverage by a volunteer firefighter relief association.

In 1987, the Senate members of the Legislative Commission on Pensions and Retirement pursued proposed legislation to exclude volunteer firefighters from PERA-General or PERA-P&F coverage. The exclusion provisions used the same definition of the term “volunteer firefighter” as the 1979 proposed legislation and excluded volunteer firefighters from PERA-General coverage or from PERA-P&F coverage.

In 1989, the issue of double pension coverage for volunteer firefighters arose again. Initially, the Commission reviewed proposed legislation that excluded “volunteer firefighters” from PERA-General or PERA-P&F retirement coverage, implicitly defining the term “volunteer firefighter” as a person who engages in activities undertaken as part of volunteer firefighter duties for which the person receives volunteer firefighter relief association credit, but grandparented in any volunteer firefighters with PERA-General or PERA-P&F coverage. A different approach also was presented, probably from PERA, which excluded volunteer firefighters performing volunteer firefighter duties for PERA-General or PERA-P&F coverage, defining a volunteer firefighter as a person whose hours of service as a volunteer firefighter were provided without promise, expectation, or actual receipt of compensation for the service rendered beyond expense reimbursement, reasonable benefits, normal fees, or a combination. Ultimately, the Legislature enacted Laws 1989, Chapter 319, Article 3, Sections 2, 6, and 24, which continue as current law. The provisions exclude volunteer firefighters from PERA-General and PERA-P&F coverage, although pre-1989 volunteer firefighters are grandparented into coverage, and the term “volunteer firefighter” is defined as a person rendering service credited by a volunteer firefighter relief association.

Attachment D

Background Information on the Regulation of Volunteer Firefighter Relief Association Ancillary Benefits

Minnesota Statutes, Section 424A.02, Subdivision 9, places limits on ancillary retirement benefit coverage. Ancillary benefits are those benefits provided by a volunteer firefighter relief association other than the service pension, such as disability benefits, death benefits, or survivor benefits. In 1873, with the creation of fire state aid, municipalities were permitted to pay relief to disabled firefighters and to survivors of deceased firefighters from fire state aid if no relief association is located in the municipality. In 1909, firefighter relief associations were specifically permitted to make payments for the relief of sick, injured, and disabled firefighters and to make payments to widows and orphans of deceased firefighters. The term “widow” was not defined until 1937, requiring three years of marriage before the occurrence of death and dependency for eligibility. The provision became Minnesota Statutes 1978, Section 424.31. The limitations are needed to protect the financial solvency regulation of volunteer firefighter relief associations, which is built around determining the accrued liability and financial requirements for the level of the service pension coverage provided by the volunteer firefighter relief association. The limitations are:

1. No Post-Retirement Benefit Beyond the Lump Sum Service Pension. Volunteer firefighter relief associations that provide lump sum service pensions are prohibited from paying any additional benefit to a retired firefighter or on behalf of a retired firefighter once payment of the service pension commences; and
2. Maximum Ancillary Benefit Available. All volunteer firefighter relief associations are limited in the payment of pre-retirement and post-retirement ancillary benefits to the amount of the accrued service pension of the volunteer firefighter, except that the survivor benefit payable on behalf of a deceased short service firefighter may be based on a five years of service accrued benefit if that produces a larger accrued service pension amount.

This ancillary benefit provision, Section 424A.02, Subdivision 9, when enacted in 1979, was an effort to ensure that the liabilities for all benefits offered by a given plan, both the service pensions and ancillary benefits, were captured in the process used to determine the funding requirements of the plans. The method for computing the plan liabilities captures the liabilities for a member’s service pension, as that accrues over time as the member provides firefighting services covered by the relief association. If the member survives to collect a service pension, the funding that has been received by the association relating to this individual should be sufficient to cover the cost (total liability) of the service pension. If death occurs prior to drawing a service annuity, the service annuity is not payable. Depending upon the bylaws of the association, a surviving spouse annuity may be payable as an ancillary benefit, but not to exceed the value of the earned service pension. This would assure that the cost of the ancillary benefit has been funded through the funding received to support the service pension that had been accruing to the now-deceased firefighter.

Attachment E

Background Information on Authorized Special Fund Disbursements

Minnesota Statutes, Section 424A.05, governs the special funds of volunteer firefighter relief associations, including the disbursements authorized from volunteer firefighter relief association special funds.

Minnesota Statutes, Section 424A.05, enacted in 1979, replaced Minnesota Statutes 1978, Section 424.31, in part. Minnesota Statutes 1978, Section 424.31, with respect to authorized volunteer firefighter relief association special fund disbursements, limited expenditures from the volunteer firefighter relief association special fund to the following:

- (1) For the relief of sick, injured, and disabled members of they fire department in the city;
- (2) For the payment of pensions to disabled firefighters and the surviving spouses and orphans of firefighters;
- (3) For the payment of pensions to retired firefighters under the laws of the state;
- (4) For the payment of the fees, dues, and assessments in the Minnesota State Fire Department Association, and in the Volunteer Firemen's Benefit Association of Minnesota so as to entitle the members of any qualified fire department to membership in and benefits of such state association;
- (5) For the payment of such death or funeral benefits as may be from time to time stipulated in the bylaws of the relief association; and
- (6) For the payment of necessary expenses of administering the relief association, including the salaries of the president, secretary, and treasurer.

Laws 1979, Chapter 201, Section 15, Subdivision 3, coded as Minnesota Statutes 1979 Supplement, Section 424A.05, Subdivision 3, limited the expenditures payable from a volunteer firefighter relief association special fund to the following:

- (1) For the payment of service pensions to retired members of the relief association if authorized and paid pursuant to law and the bylaws governing the relief association;
- (2) For the payment of temporary or permanent disability retirement benefits to disabled members of the relief association if authorized and paid pursuant to law and specified in amount in the bylaws governing the relief association;
- (3) For the payment of survivor retirement benefits to surviving spouses and surviving children of deceased members of the relief association if authorized by and paid pursuant to law and specified in amount in the bylaws governing the relief association;
- (4) For the payment of any funeral benefits to the surviving spouse, or if no surviving spouse, the estate, of the deceased member of the relief association if authorized by law and specified in amount in the bylaws governing the relief association;
- (5) For the payment of the fees, dues and assessments to the Minnesota State Fire Department Association and to the State Volunteer Firefighters Benefit Association in order to entitled relief association members to membership in and the benefits of these state associations; and
- (6) For the payment of administrative expenses of the relief association as authorized pursuant to Section 69.80.

The only substantive amendment to Minnesota Statutes, Section 424A.05, Subdivision 3, occurred in 2000 (Laws 2000, Chapter 461, Article 15, Section 11), based primarily on volunteer firefighter relief association changes suggested by the Minnesota Area Relief Association Coalition (MARAC) and recommended by the Fire Subcommittee of the Legislative Commission on Pensions and Retirement. Laws 2000, Chapter 461, Article 15, Section 11, made two substantive changes, allowing the payment of a survivor benefit to a designated beneficiary if the designated beneficiary is a natural person and if there is no surviving spouse or surviving child, and allowing the payment of MARAC dues.

- 1.1 moves to amend Document LCPR06-015, as follows:
- 1.2 Page 3, delete section 2
- 1.3 Renumber the sections in sequence and correct the internal references
- 1.4 Amend the title accordingly

- 1.1 moves to amend Document LCPR06-015, as follows:
- 1.2 Page 3, line 14, delete the underscored language
- 1.3 Page 3, line32, reinstate the stricken "commissioner" and delete "state fire marshal"

A bill for an act
relating to retirement; volunteer firefighter relief associations; modifying various
provisions as recommended by the state auditor's volunteer fire working
group; amending Minnesota Statutes 2004, sections 6.72; 69.011, subdivision
4; 424A.001, by adding a subdivision; 424A.02, subdivision 8b; 424A.05,
subdivision 3.

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

Section 1. Minnesota Statutes 2004, section 6.72, is amended to read:

**6.72 STATE AUDITOR; REPORT TO LEGISLATURE ON VOLUNTEER
FIREFIGHTERS' RELIEF ASSOCIATIONS.**

Subdivision 1. **Reporting requirements.** ~~Commencing November 15, 1981, and every two years thereafter~~ (a) Annually, the state auditor shall report to the legislature on the general financial condition of the various volunteer firefighters' relief associations in the state as of December 31 of the year preceding the filing of the report.

(b) Two copies of the report shall be filed with the executive director of the Legislative Commission on Pensions and Retirement and ten copies of the report shall be filed with the director of the Legislative Reference Library.

Subd. 2. **Contents of report.** The report ~~shall~~ must include ~~the aggregate totals for all volunteer firefighters' relief associations directly associated with the municipal fire departments and all volunteer firefighters' relief associations subsidiary to independent nonprofit firefighting corporations, the aggregate totals by the various benefit types and the individual results for each volunteer firefighters' relief association listed by various benefit types specified in subdivision 3.~~ The following items shall be reported in each instance:

(1) amount of accrued liability,

(2) amount of the assets of the special fund,

- 2.1 (3) amount of surplus or unfunded accrued liability,
- 2.2 (4) funding ratio,
- 2.3 (5) amount of annual accruing liability or normal cost,
- 2.4 (6) amount of annual required contribution to amortize the unfunded accrued
- 2.5 liability,
- 2.6 (7) amount of total required contribution,
- 2.7 (8) amount of fire state aid and supplemental fire state aid,
- 2.8 (9) amount of any municipal contributions,
- 2.9 (10) amount of administrative expenses,
- 2.10 (11) amount of service pension disbursements,
- 2.11 (12) amount of other retirement benefit disbursements,
- 2.12 (13) number of active members,
- 2.13 (14) number of retired members,
- 2.14 (15) number of deferred members,
- 2.15 (16) amount of fidelity bond of secretary and treasurer,
- 2.16 (17) amount of lump sum or monthly service pension accrued per year of service
- 2.17 credit,
- 2.18 (18) minimum retirement age required for commencement of a service pension,
- 2.19 (19) minimum years of active service credit required for commencement of service
- 2.20 pension,
- 2.21 (20) minimum years of active membership credit required for commencement of
- 2.22 service pension,
- 2.23 (21) type and amount of other retirement benefits.

2.24 Subd. 3. **Benefit categories Report format.** ~~For purposes of compiling~~ The report
 2.25 required by this section, ~~the various benefit types shall be as follows:~~

- 2.26 ~~(1) volunteer firefighters' relief associations paying a lump sum service pension of:~~
- 2.27 ~~(i) less than \$50 per year of service;~~
- 2.28 ~~(ii) \$50 or more, but less than \$100 per year of service;~~
- 2.29 ~~(iii) \$100 or more, but less than \$200 per year of service;~~
- 2.30 ~~(iv) \$200 or more, but less than \$300 per year of service;~~
- 2.31 ~~(v) \$300 or more per year of service;~~
- 2.32 ~~(2) volunteer firefighters' relief associations paying a monthly benefit service~~
- 2.33 ~~pension of:~~
- 2.34 ~~(i) less than \$2 per month per year of service;~~
- 2.35 ~~(ii) \$2 or more per month per year of service;~~

~~(3) volunteer firefighters' relief associations paying a defined contribution service pension;~~

~~(4) volunteer firefighters' relief associations paying no service pension~~ must be organized in a manner that the state auditor determines to provide fair representation of the condition of the various volunteer firefighters' relief associations.

Sec. 2. Minnesota Statutes 2004, section 69.011, subdivision 4, is amended to read:

Subd. 4. **Qualification for state aid.** Any municipality in this state having for more than one year an organized fire department and officially established by the governing body of the municipality or an independent nonprofit fire fighting corporation created under the nonprofit corporation act of this state and operating exclusively for fire fighting purposes and providing retirement and relief benefits to its members or having a separate subsidiary incorporated firefighter's relief and pension association providing retirement and relief benefits may qualify to receive state aid if it meets the following minimum requirements or equivalent indication of a capable and functioning fire department as determined by the state fire marshal ~~by July 1, 1972:~~

~~(a)~~ (1) ten paid or volunteer firefighters including a fire chief and assistant fire chief, and

~~(b)~~ (2) regular scheduled meetings and frequent drills including instructions in fire fighting tactics and in the use, care, and operation of all fire apparatus and equipment, and

~~(c)~~ (3) 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, ladders, extension ladders, pike poles, crow bars, axes, lanterns, fire coats, helmets, boots, and

~~(d)~~ (4) apparatus suitably housed in a building of good construction with facilities for care of hose and equipment, and

~~(e)~~ (5) a reliable and adequate method of receiving fire alarms by telephone or with electric siren and suitable means of sounding an alarm, and

~~(f)~~ (6) if response is to be provided outside the corporate limits of the municipality wherein the fire department is located, the municipality has another piece of motorized apparatus to make the response, and

~~(g)~~ (7) other requirements the ~~commissioner~~ state fire marshal establishes by rule.

Sec. 3. Minnesota Statutes 2004, section 424A.001, is amended by adding a subdivision to read:

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

4.2 (1) was a member of the applicable fire department or the firefighting corporation
4.3 and a member of the relief association on July 1, 2006; or

4.4 (2) became a member of the applicable fire department or the firefighting corporation
4.5 and is eligible for membership in the applicable relief association after June 30, 2006, and

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

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

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

4.14 Sec. 4. Minnesota Statutes 2004, section 424A.02, subdivision 8b, is amended to read:

4.15 Subd. 8b. **Transfer to individual retirement account.** A relief association that is
4.16 a qualified pension plan under section 401(a) of the federal Internal Revenue Code, as
4.17 amended, and that provides a lump sum service pension, at the written request of ~~a~~ the
4.18 applicable retiring member or, following the death of the active member, at the written
4.19 request of the deceased member's surviving spouse, may directly transfer the eligible
4.20 member's lump sum pension or the death, funeral, or survivor benefit attributable to the
4.21 member, whichever applies, to the member's requesting person's individual retirement
4.22 account under section 408(a) of the federal Internal Revenue Code, as amended.

4.23 Sec. 5. Minnesota Statutes 2004, section 424A.05, subdivision 3, is amended to read:

4.24 Subd. 3. **Authorized disbursements from the special fund.** (a) Disbursements
4.25 from the special fund are not permitted to be made for any purpose other than one of
4.26 the following:

4.27 (1) for the payment of service pensions to retired members of the relief association if
4.28 authorized and paid pursuant to law and the bylaws governing the relief association;

4.29 (2) for the payment of temporary or permanent disability benefits to disabled
4.30 members of the relief association if authorized and paid pursuant to law and specified in
4.31 amount in the bylaws governing the relief association;

4.32 (3) for the payment of survivor benefits to surviving spouses and surviving children,
4.33 or if none, to designated beneficiaries, of deceased members of the relief association,
4.34 and if survivors and if no designated beneficiary, for the payment of a death benefit to

5.1 the estate of the deceased active firefighter, if authorized by and paid pursuant to law and
5.2 specified in amount in the bylaws governing the relief association;

5.3 (4) for the payment of any funeral benefits to the surviving spouse, or if no surviving
5.4 spouse, the estate, of the deceased member of the relief association if authorized by law
5.5 and specified in amount in the bylaws governing the relief association;

5.6 (5) for the payment of the fees, dues and assessments to the Minnesota State Fire
5.7 Department Association, to the Minnesota Area Relief Association Coalition, and to
5.8 the state Volunteer Firefighters Benefit Association in order to entitle relief association
5.9 members to membership in and the benefits of these associations or organizations; and

5.10 (6) for the payment of administrative expenses of the relief association as authorized
5.11 pursuant to section 69.80.

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

5.13 Sec. 6. **EFFECTIVE DATE.**

5.14 (a) Sections 1, 2, and 5 are effective on July 1, 2006.

5.15 (b) Section 3 is effective on January 1, 2008.

5.16 (c) Section 4 is effective upon the day following final enactment and applies
5.17 retroactively to January 1, 2006.