



S.F. 889 (Document S0889-E1)
(Betzold)

H.F. xxxx

Executive Summary of Commission Staff Materials

Affected Pension Plan(s): MSRS-Unclassified and MSRS-General
Relevant Provisions of Law: Minnesota Statutes, Chapters 352 and 352D
General Nature of Proposal: MSRS-Unclassified default coverage and transfer rights modifications
Date of Summary: November 6, 2009

Specific Proposed Change(s)

- For employees first hired after June 30, 2009, who under existing law would be covered by MSRS-Unclassified unless they elect MSRS-General, the default coverage will be MSRS-General with an option to transfer to MSRS-Unclassified within the first three years.
- For employees first hired after June 30, 2009, the right to transfer from MSRS-Unclassified to MSRS-General after ten years of covered MSRS service is removed.
- Any right to retain MSRS-Unclassified Program coverage upon moving to an unclassified position not included in the plan is restricted to those hired before July 1, 2009.
- Transfers from MSRS-General to MSRS-Unclassified will be credited with 8.5 percent.
- The cap on MSRS-Unclassified administrative fees is removed.

Policy Issues Raised by the Proposed Legislation

1. Appropriateness of limiting the retirement coverage option election; implications of removing the ten-year transfer right.
2. Negligible impact of current plan coverage transfer right system.
3. Inconsistent treatment of MSRS-Unclassified; lack of transfer rights in other defined contribution plans.
4. Lack of clarity in MSRS-Unclassified coverage for post-July 1, 2010, legislators.

Potential Amendments

S0889-10A (*technical/clarifying*) adds additional statutory cross-references to other transfer provisions in Minnesota Statutes, Chapter 352D, to the main transfer procedure provision, attempts to simplify and restructure the references to MSRS-Unclassified transfer eligible employees, and clarifies the commencement date for MSRS-Unclassified coverage for judges reaching their service credit maximum under the Uniform Judicial Retirement Plan.

S0889-11A (*substantive*) retains MSRS-Unclassified Program coverage as the default retirement coverage for post-June 30, 2010, MSRS-Unclassified-eligible employees, sets a potentially shorter (than ten years) service eligibility period for transferring from MSRS-Unclassified to MSRS-General, and permits legislators covered by MSRS-Unclassified to elect MSRS-General coverage transfer, with current MSRS-Unclassified-covered legislators required to do so before a specified date and without gaining eligibility to use the transferred service credit under the Combined Service Annuity provision and with new legislators governed by the same rules as new non-legislator MSRS-Unclassified participants.

S0889-12A (*substantive*) returns the interest credited on MSRS-General to MSRS-Unclassified transfers to six percent rather than 8.5 percent.



TO: Members of the Legislative Commission on Pensions and Retirement

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

RE: Unofficial Engrossment S0889-E1 of the July 8, 2009, Commission Amendments to S.F. 889 (Betzold); H.F. xxxx: MSRS-General, MSRS-Unclassified: Changes in Default Plan Coverage for New Employees; Elimination of Ten-Year Plan Transfer Right for New Plan Members; Reduction of Interest Rate on Transfers; Elimination of Maximum Plan Administration Fees

DATE: November 6, 2009

Summary of S.F. 889 (Betzold); H.F. xxxx

The Unofficial Engrossment of the July 8, 2009, Commission amendments to S.F. 889 (Betzold); H.F. xxxx (Document S0889-E1) makes certain administrative changes and includes the following substantive changes:

1. MSRS-General Rather than MSRS-Unclassified Default Coverage for New Employees. For employees first hired after June 30, 2009, who under existing law would be covered by the Unclassified Employees Retirement Program of the Minnesota State Retirement System (MSRS-Unclassified) unless they elect the MSRS General State Employees Retirement Plan (MSRS-General), the default coverage will be MSRS-General with an option to transfer to MSRS-Unclassified within the first three years. (*Sections 1-4 and 10*)
2. Elimination of Transfer to MSRS-Unclassified for Post-2009-Hires. For employees first hired after June 30, 2009, the right to transfer from MSRS-Unclassified to MSRS-General after ten years of covered MSRS service is removed and any right to retain MSRS-Unclassified Program coverage upon moving to an unclassified position not included in the plan is restricted to those hired before July 1, 2009. (*Sections 6-8*)
3. Interest on MSRS-General to MSRS-Unclassified Transfers Set at 8.5 Percent. For transfers from MSRS-General to MSRS-Unclassified, prior employer and employee contributions will transfer with 8.5 percent interest. (*Sections 6 and 9*)
4. Removal of MSRS-Unclassified Administrative Fee Maximum. The cap on MSRS-Unclassified administrative fees (one-tenth of one percent of account assets) is removed. (*Section 12*)

Section-by-Section Summary of S.F. 889 (Betzold); H.F. xxxx

A section-by-section summary of the unofficial engrossment of the July 8, 2009, Commission amendments to S.F. 889 (Betzold); H.F. xxxx (Document S0889-E1) is attached.

Relevant Background Information

Background information on the Unclassified Employees Retirement Program of the Minnesota State Retirement System (MSRS-Unclassified) is contained in **Attachment A**.

Discussion and Analysis

The unofficial engrossment of the July 8, 2009, Commission amendments to S.F. 889 (Betzold); H.F. xxxx (Document S0889-E1) revises the default coverage for employees first hired after June 30, 2009, who under existing law would be covered by the Unclassified Employees Retirement Program of the Minnesota State Retirement System (MSRS-Unclassified) unless they elect coverage by the MSRS General State Employees Retirement Plan (MSRS-General) to default to MSRS-General coverage with an option to transfer to MSRS-Unclassified within the first three years; removes the right to transfer from MSRS-Unclassified to MSRS-General after ten years of covered MSRS service for employees first hired after June 30, 2009; restricts any right to retain MSRS-Unclassified Program coverage upon moving to an unclassified position not included in the plan to those hired before July 1, 2009; revises the interest rate

for prior employer and employee contribution transfers from MSRS-General to MSRS-Unclassified to six percent interest rather than 8.5 percent; and removes the cap on MSRS-Unclassified administrative fees.

The proposed legislation has a number of pension or related public policy issues for identification and potential discussion by the Commission, as follows:

1. Appropriateness of Limiting the Retirement Coverage Option Election; Implications of Removing the Ten-Year Transfer Right. A significant policy change presented by this bill is the removal of authority in Section 8 to transfer from MSRS-Unclassified to MSRS-General after ten or more years of covered MSRS service for any MSRS-Unclassified covered employee first hired after June 30, 2010.

The right provided to existing employees under current law has considerable economic value to them. It permits individuals to select, late in their careers as retirement is approaching, between the MSRS-General defined benefit plan coverage and MSRS-Unclassified coverage, a defined contribution plan, for total career service credit. With MSRS-Unclassified, the value is determined by the sum of the employee and employer contributions made to the plan plus the investment earnings. With MSRS-General, the benefit will be determined solely by the individual's high-five average salary, the accrual rate or rates used by the plan, and the years of covered service. It is reasonable that an employee would initially select MSRS-Unclassified coverage when hired. If the markets have provided normal or above average investment returns and the individual has invested reasonably and with discipline, the Unclassified Program account value may be worth more than the value of the MSRS-General benefit. If not, then it is economically rational for the individual to transfer to MSRS-General late in the person's career.

MSRS Executive Director David Bergstrom has, on several past occasions, indicated that this provision in MSRS-Unclassified law creates an adverse selection against MSRS-General, and that, at some point, MSRS would request legislation to remove the ten-year transfer authority, either for all employees (including existing employees) or for new hires. The current proposed legislation removes authority for new hires. Mr. Bergstrom's concern is that individuals will always use this transfer right only when the value of their MSRS-Unclassified account is worth less than the value of the MSRS-General benefit, which creates an actuarial loss for MSRS-General and increases the MSRS-General plan total actuarial cost above what it would otherwise be. One can argue that it is unfair that MSRS-General Plan members and the employing units should have to cover this liability being imposed by those who transfer from MSRS-Unclassified. However, a counter argument is that there is no net impact on state government employers as a whole and possibly not on employees either. The additional amounts paid by employing units through additional employer contributions to MSRS-General to cover the value of this transfer right is equal to the added salaries or other benefits that would otherwise have to be offered to new employees covered by MSRS-Unclassified to compensation for this lost right. Similarly, there may be no real negative impact on all or most employees who are paying employee contributions to MSRS-General. Employees care about the amount of their take-home pay. Salary and benefits are collectively bargained or are tied, formally or informally, to collectively bargained salary and benefits. To the extent that the MSRS-Unclassified transfer right adds incrementally to the MSRS-General employee contribution requirement, that same amount is added to the wages which the employing units must offer to settle the contracts. Thus, there may be no real harm to MSRS-General employing units and employees, only the perception of harm.

2. Negligible Impact of Current Plan Coverage Transfer Right System. Even if one were to accept an argument that the current system creates harm to MSRS-General, the harm may be too minimal to warrant any legislative action. Information from the most recent MSRS-General actuarial valuation suggests that the contingent liabilities created by the MSRS-Unclassified ten-year transfer right is an amount equal to about one-tenth of one percent of MSRS-General total liabilities. In recent years, MSRS has included a special exhibit in the MSRS-General actuarial report noting the Unclassified Program contingent liabilities imposed on MSRS-General. **Attachment B** contains the applicable pages from the 2006, 2007, and 2008 MSRS-General actuarial valuations. For these three years there is some contingent liability which could be imposed on MSRS-General, but the estimated amounts vary considerably from year to year, and it is impossible to predict future contingent liability amounts with any certainty. There is a contingent liability if the aggregate value of all MSRS-Unclassified accounts is less than the actuarial present value of the MSRS-General benefits individuals could receive. If the aggregate value of all MSRS-Unclassified accounts is equal to the value of the MSRS-General benefits, there is no contingent liability. The contingent liability estimates vary annually depending upon investment results. Strong investment years will considerably increase the value of MSRS-Unclassified accounts, which will lessen or could even eliminate any contingent liabilities. The attached information for 2006 through 2008 indicates a computed contingent liability in 2006 of

\$18.6 million, in 2007 of \$64.8 million, in 2008 of \$10.3 million. Going forward, all that is clear is that the contingent liability results will be variable and could be negligible or non-existent if there is a strong economic recovery. In any event, these contingent liabilities are negligible compared to MSRS-General total actuarial accrued liabilities. According to the 2008 actuarial valuation, the MSRS-General total liability was \$9.994 billion. The 2008 contingent liability of \$10.3 million is one-tenth of one percent of the total liability amount.

3. Inconsistent Treatment of MSRS-Unclassified; Lack of Transfer Rights in Other Defined Contribution Plans. An argument for eliminating the ten-year transfer right is that this transfer right is unique to the MSRS-Unclassified Program. In enacting other defined contribution plans since 1971, notably the Higher Education Individual Retirement Account Plan (IRAP), the IRAP for the Historical Society, Arts Board, and Humanities Commission, and the Public Employees Defined Contribution Retirement Plan, the Legislature elected not to include a ten-year transfer right. The existence of a transfer right in MSRS-Unclassified may not represent the best public pension policy, and its continued existence may at some point encourage representatives of the IRAP and PERA plans to try to establish a transfer right into a defined benefit plan. This already has been an issue for the Higher Education IRAP. Whenever investment markets fall, various IRAP-covered individuals express a desire to revise the general law, or to have special law legislation, allowing them to becoming a Teachers Retirement Association (TRA) defined benefit plan member.
4. Lack of Clarity in MSRS-Unclassified Coverage for Post-July 1, 2010, Legislators. The policy issue is the ambiguity created by the amendment to the portion of the MSRS-Unclassified coverage provision pertaining to members of the Legislature after July 1, 2010 (see S0889-E1, lines 6.22-6.23). As drafted, the pre-July 1, 2010, reference is a limitation on the application of the paragraph currently specifying retirement coverage for post-1997 legislators. The amended language appears to exclude members of the legislature newly elected to legislative office from MSRS-Unclassified coverage without specifying replacement coverage. Legislators newly elected in or after 2010 are excluded from the Legislators Retirement Plan, so retirement coverage would not be from that plan. Legislators do not cleanly fall into the definition of "state employee" under Minnesota Statutes, Section 352.01, Subdivision 2, and is not specifically included, unlike legislative employees, in the included employees provision of the MSRS-General plan, Minnesota Statutes, Section 352.01, Subdivision 2a. Thus, legislators first elected after July 1, 2010, may end up with no public retirement coverage. MSRS should be requested to address its intent in suggesting this restriction on MSRS-Unclassified coverage for post-July 1, 2010, newly elected legislators. If exclusion from retirement coverage for new legislators is not MSRS's intent or is not the Commission's policy judgment, some corrective amendment may be necessary.

Commission Staff-Suggested Clarifying Amendment

Amendment S0889-10A contains several clarifications to the unofficial engrossment of the July 9, 2009, Commission amendments to S.F. 889 (Betzold); H.F. xxxx, as follows:

1. Addition of References to All MSRS-Unclassified Account Transfer Provisions in the MSRS-General Exclusion Provision Amendments. The unofficial engrossment, in Sections 1 and 2, specifically covers individuals with account balances in the Unclassified Employees Retirement Program of the Minnesota State Retirement System (MSRS-Unclassified), but only covers coverage transfers under Minnesota Statutes, Section 352D.02, Subdivision 3, but not coverage transfers under a combination of Minnesota Statutes, Section 352D.02, Subdivision 1, Paragraph (a), and Subdivision 4, applicable to individuals who default to MSRS-Unclassified Program coverage upon initial employment and then elect MSRS-General coverage during the initial year of employment. These individual transfer accumulated contributions and investment proceeds from the MSRS-Unclassified Program, the measure of coverage in that plan, and the transfer becomes allowable service credit in the MSRS-General Plan. Those omitted transfer references are added and that transfer distinction is also corrected in the amendment. (1.7-1.8)
2. Simplification of the MSRS-Unclassified Program Coverage Default Change. The unofficial engrossment, in Section 4, repeats language referring to most MSRS-Unclassified Program eligible employees in order to implement a June 30, 2010-July 1, 2010, change in default retirement plan coverage. The change in default coverage can be restructured to avoid that repetition of a reference to the applicable employee group and the amendment attempts that restructuring. (1.11-1.25)
3. Clarification of the Commencement Date for MSRS-Unclassified Program Coverage for Judges Covered by a Service Credit Maximum. Minnesota Statutes, Section 490.121, Subdivision 22, sets a

limit on service credit in the Judges Retirement Plan, generally 24 years, but sometimes a slightly different period of time for judges with pre-July 1, 1980, allowable service. Once the limit is hit by a judge, the judge's member contributions thereafter are credited to the MSRS-Unclassified Program. Section 4 lacks specificity, however, about the date of that coverage shift and the amendment clarifies that timing. (1.32-1.33)

Amendments Requested or Suggested by the MSRS Executive Director

David Bergstrom, the Executive Director of the Minnesota State Retirement System (MSRS), has requested and suggested two amendments for this proposed legislation, as follows:

1. **Requested Amendment S0889-11A; Default Coverage Shift for Post-6/30/2010 MSRS-Unclassified-Eligible State Employees and Clarification of the Transfer Authority from MSRS-Unclassified to the MSRS-General for Legislators.** S0889-E1 changes the default for state employees eligible for MSRS-Unclassified coverage from MSRS-Unclassified to MSRS-General. Amendment S0889-1A reverses the default coverage back to MSRS-Unclassified, permitting MSRS-Unclassified Program participants with a yet-to-be-specified period of state service. When the coverage for newly elected legislators was shifted from the Legislators Retirement Plan to the Unclassified Employees Retirement Program of the Minnesota State Retirement System (MSRS-Unclassified), the application of the MSRS-Unclassified provision allowing most MSRS-Unclassified members to elect a transfer of coverage for past service to the MSRS General State Employees Retirement Plan (MSRS-General) was not specifically addressed. MSRS has interpreted the MSRS-Unclassified law to not permit legislators to make this transfer, although changes in the MSRS-Unclassified Program law in this respect have been added and subsequently removed from recent omnibus retirement bills. Amendment S0889-11A also permits legislators first elected after June 30, 2010, to make the MSRS-Unclassified to MSRS-General transfer on the same basis as other post-2010 MSRS-Unclassified members and permits pre-July 1, 2010, legislators to elect a MSRS-Unclassified to MSRS-General transfer if they do so before a near-term date to be specified and that they could not use the transferred MSRS-General service credit in any annuity calculated under the Combined Service Annuity law.
2. **Suggested Amendment S0889-12A; Six Percent Rather than 8.5 Percent Interest on MSRS-Unclassified Transfer Amounts.** The unofficial engrossment retains the current law on the interest payable on MSRS-General to MSRS-Unclassified account transfers, currently set by reference to the MSRS-General pre-retirement interest rate assumption (currently 8.5 percent), and made specific as 8.5 percent. Mr. Bergstrom believes that this transfer interest rate is too great an actuarial cost for MSRS-General with respect to those transfers, sets a potential precedent for demands for greater interest rate on MSRS-General refunds, and a generalized 8.5 percent transfer and refund interest rate is very costly actuarially. The amendment reduces the interest rate to six percent on MSRS-General to MSRS-Unclassified transfers.

Section-by-Section Summary of the Unofficial Engrossment of S.F. 889 (Betzold); H.F. xxxx (S0889-E1)

Summary of S.F. 889, Unofficial Engrossment S0889-E1

Sec.	Pg.Ln - Pg.Ln	Retirement Plan	Stat. Provision	Summary
1	1.8-3.3	MSRS-General	352.01, Subd. 2a	The General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General) included employee provision is amended to include members who transfer from the MSRS Unclassified Employees Retirement Program (MSRS-Unclassified) to MSRS-General, and individuals covered by MSRS-General who have not exercised any existing right to transfer to MSRS-Unclassified.
2	3.4-5.34	MSRS-General	352.01, Subd. 2b	The MSRS-General excluded employee provision is amended to exclude employees who transfer to MSRS-Unclassified.
3	5.35-6.5	MSRS-Unclassified	352D.015, Subd. 4	The "general fund" definition in MSRS-Unclassified is revised to reference the general state employees retirement plan definition of MSRS-General, meaning the MSRS-General plan under Minnesota Statutes, Chapter 352.
4	6.6-8.10	MSRS-Unclassified	352D.02, Subd. 1	The MSRS-Unclassified coverage provision is revised by changing the default coverage to MSRS-General rather than MSRS-Unclassified for unclassified state employees first hired after June 30, 2009.
5	8.11-8.17	MSRS-Unclassified	352D.02, Subd. 1c	An MSRS-Unclassified transfer of contribution provision is revised by correcting the name of the MSRS-General Plan.
6	8.18-9.10	MSRS-Unclassified	352D.02, Subd. 1d	An MSRS-Unclassified election of participation provision is revised by removing authority for those first hired after June 30, 2010, to continue MSRS-Unclassified coverage if the person moves to an unclassified position not normally covered by the program; and by specifying that for post-June 30, 2010, hires the default coverage is MSRS-General, with a right to elect MSRS-Unclassified within the first three years of service. If MSRS-Unclassified is elected, the employee and employer contributions will transfer to MSRS-Unclassified with six percent interest.
7	9.11-9.22	MSRS-Unclassified	352D.02, Subd. 2	An MSRS-Unclassified coverage-upon-employment-change provision which permits certain individuals in MSRS-Unclassified to remain in the program if the position held is deleted from coverage is revised to apply only to those in the program before July 1, 2009.
8	9.23-10.12	MSRS-Unclassified	352D.02, Subd. 3	The MSRS-Unclassified provision permitting transfer from MSRS-Unclassified to MSRS-General after ten years of covered service is amended by restricting this treatment to those hired before July 1, 2010.
9	10.13-10.24	MSRS-Unclassified	352D.03	The MSRS-Unclassified provision covering the treatment of assets transferred to MSRS-Unclassified at 8.5 percent interest. Is clarified as to eligibility.
10	10.25-11.19	MSRS-Unclassified	352D.04, Subd. 1	An MSRS-Unclassified investment option provision is amended by permitting individuals to specify the desired investment vehicles in a manner provided by the executive director, rather than in writing on a provided form, and by eliminating references to guaranteed investment contracts.
11	11.20-11.32	MSRS-Unclassified	352D.05, Subd. 4	The MSRS-Unclassified repayment of refund provision is amended by correcting the reference to MSRS-General.
12	11.33-12.7	MSRS-Unclassified	352D.09, Subd. 7	The MSRS-Unclassified administrative fees provision is revised by removing the cap on the fees.

Background Information on the Unclassified Employees Retirement Program of the Minnesota State Retirement System (MSRS-Unclassified)

The Unclassified State Employees Retirement Program of the Minnesota State Retirement System (MSRS-Unclassified) was established in 1971 (Laws 1971, Chapter 604), and is governed by Minnesota Statutes, Chapter 352D.

- a. Establishment and Membership. MSRS-Unclassified is a defined contribution plan established by Minnesota Statutes, Chapter 352D. It covers a number of state employees or officers in the unclassified service of the state on a mandatory or optional basis.

The following positions are members of the program on a mandatory basis:

1. The governor, the lieutenant governor, the secretary of state, the state auditor, and the attorney general;
2. Legislators first elected after June 30, 1997; and
3. Judges, for service in excess of 24 years (Minnesota Statutes, Section 490.121, Subdivision 22).

The following group was permitted to choose between the Legislators Plan and the MSRS-Unclassified Plan:

- Legislators first elected before July 1, 1997.

The remaining positions have the option to elect to be members of the program rather than being a member of the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General):

1. An employee of the State Board of Investment;
2. The head of a department, division, or agency created by statute in the unclassified service;
3. A permanent, full-time unclassified employee of the legislature or a commission or an agency of the legislature;
4. The regional administrator or executive director of the Metropolitan Council, general counsel, division directors, operations managers, and other positions as designated by the council;
5. The executive director, associate executive director of the Higher Education Services Office in the unclassified service;
6. The clerk of the Appellate Court;
7. The chief executive officers of correctional facilities, hospitals, and nursing homes;
8. An employee of the state ceremonial house;
9. An employee of the Minnesota Educational Computing Corporation;
10. An employee of the World Trade Center board;
11. An employee of the State Lottery board;
12. An employee of Minnesota Technology Incorporated;
13. Minnesota State Colleges and Universities System (MnSCU) employees employed by the former state university system or community college system before May 1, 1995, or other MnSCU unclassified administrators in service before July 1, 1995, who elected MSRS-Unclassified coverage.

- b. Plan Governance and Administration. An 11-member board, the Minnesota State Retirement System (MSRS) Board of Directors is chaired by a board member and performs the policymaking function of the MSRS-Unclassified Plan. The MSRS administrative staff and the Minnesota State Board of Investment carry out the general administration of the MSRS-Unclassified Plan. The MSRS staff executes the recordkeeping and the communication functions of the plan. The State Board of Investment and its staff perform the investment function of the plan.
- c. Contribution Rates and Collection. The contribution rate to the MSRS-Unclassified Program for an employee is four percent of gross salary, except for the long-service judges covered by the program, where the member contribution is eight percent of salary. In addition, the employer must contribute six percent of the employee gross salary, except for the long-service judges covered by the program, where there is no employer contribution to the MSRS-Unclassified Plan. Both contributions, which are not taxable, are collected at payday every two weeks and credited to the employee's account

each month. The contributions generally are collected electronically by MSRS. An 8.5 percent fee applies for late collection or payment.

- d. Administrative Expenses. All administrative and investment expenses are borne by participants, who are charged 0.08 percent of total program assets a year for the plan administrative expenses, compared to the 0.22 percent of covered pay for MSRS-General.
- e. Plan Investments. The plan investments are directed individually by each participant, who makes the actual choice in the composition of investment securities in the person's own account. Under Minnesota Statutes, Section 11A.17, the investments are shares in one or a combination of the income share account, the growth share account, the international share account, the money market account, the bond market account, the fixed interest account and the common stock index account. The contributions are invested within the month they are received. Actual investments are done through outside vendors who enter into competitively bid contracts with the State Board of Investment for five years. The contracts are reviewed periodically by the State Board of Investment.
- f. Plan Communication, New Member Processing, and Benefit Counseling. MSRS provides information to plan members through newsletters, a quarterly benefit statement, a plan handbook, and financial reports each year. MSRS also presents to every new member a welcome letter, forms for membership, and the plan handbook. Finally, for an employee approaching retirement, MSRS provides an estimate of the person's benefit, and the tax impact on the benefit if the participant either opts for a lump sum payment or an annuity. An annuity may be purchased at age 55 or older.
- g. Option to Switch to Defined Benefit Plan Coverage. Under Minnesota Statutes, Section 352D.02, Subdivision 3, a participant in the MSRS-Unclassified Program with at least ten years of state service is permitted up to one month following termination of employment to elect to transfer coverage to MSRS-General, a defined benefit plan governed by Minnesota Statutes, Chapter 352. The MSRS-General retirement annuity is 1.7 percent of a member's highest five successive years average salary per year of covered service, payable in full at age 65 and reduced actuarially if the annuity commenced before age 65, with the earliest reduced benefit retirement age of 55.
- h. Actuarial Impact. The option to transfer coverage from MSRS-Unclassified to defined benefit plan coverage by MSRS-General has an actuarial cost for MSRS-General. The July 1, 2004, MSRS-General actuarial valuation was the first which calculated the actuarial liability for the active members of MSRS-Unclassified under the MSRS-Unclassified Program asset value or the present value of the MSRS-General benefit, whichever is greater. As of July 1, 2008, the MSRS-General transfer provision creates a \$10.3 million unfunded actuarial accrued liability in MSRS-General. The normal cost under the MSRS-General defined benefit plan for the MSRS-Unclassified active participants was 10.15 percent of covered pay, compared to the normal cost for MSRS-General active members of 7.8 percent of covered pay.

**MSRS-General
Actuarial Valuation Excerpts and Data**

Actuarial Valuation and Review as of July 1, 2006 (Segal):

SECTION 3: Supplemental Information for the State Employees Retirement Fund

EXHIBIT L (continued)

Special Groups – Unclassified Plan Contingent Liability Calculation

Section 352D.02 of Chapter 352D of Minnesota Statutes provides that employees credited with employee shares in the unclassified program may elect to terminate participation in the unclassified plan and be covered by the regular plan prior to termination of covered employment.

To recognize the effect of the option to elect coverage under the regular plan, we have assumed that all eligible Unclassified Plan members will elect coverage under the regular plan if such election provides the member with a greater economic present value than the accumulated contribution balance under the Unclassified Plan. The liabilities were measured using the actuarial assumptions that are applied to the State Employees Retirement Fund.

	For Year Ended June 30, 2006
1. Number of active participants	1,616
2. Account balances for active participants	\$170,356,487
3. Accrued liability for active participants	192,154,293
4. Number of inactive participants	1,635
5. Account balances for inactive participants	\$109,391,679
6. Net assets held in trust for Unclassified Plan participants	282,911,449
7. Contingent liability: (3) + (5) – (6)	18,634,523
8. Projected annual earnings for active participants	105,000,110
9. Normal cost	
(a) Dollar amount	\$9,662,462
(b) Percent of payroll	9.20%

Actuarial Valuation and Review as of July 1, 2007 (Segal):

SECTION 3: Supplemental Information for the State Employees Retirement Fund

EXHIBIT L (continued)

Special Groups – Unclassified Plan Contingent Liability Calculation

Section 352D.02 of Chapter 352D of Minnesota Statutes provides that employees credited with employee shares in the unclassified program may elect to terminate participation in the unclassified plan and be covered by the regular plan prior to termination of covered employment.

To recognize the effect of the option to elect coverage under the regular plan, we have assumed that all eligible Unclassified Plan members will elect coverage under the regular plan if such election provides the member with a greater economic present value than the accumulated contribution balance under the Unclassified Plan. The liabilities were measured using the actuarial assumptions that are applied to the State Employees Retirement Fund.

	For Year Ended June 30, 2007
1. Number of active participants	1,726
2. Account balances for active participants	\$235,034,961
3. Accrued liability for active participants	241,860,747
4. Number of inactive participants	1,606
5. Account balances for inactive participants	\$140,383,965
6. Net assets held in trust for Unclassified Plan participants	317,400,267
7. Contingent liability: (3) + (5) – (6)	64,844,445
8. Projected annual earnings for active participants	108,761,644
9. Normal cost	
(a) Dollar amount	\$9,688,232
(b) Percent of payroll	8.91%

Actuarial Valuation Report as of July 1, 2008 (Mercer):**Development of Costs****Special Groups - Unclassified Plan Contingent Liability Calculation** (Dollars in Thousands)

Section 352D.02 of Chapter 352D of Minnesota Statutes provides that employees credited with employee shares in the unclassified program may elect to terminate participation in the unclassified plan and be covered by the regular plan prior to termination of covered employment.

To recognize the effect of the option to elect coverage under the regular plan, we have assumed that all eligible Unclassified Plan members will elect coverage under the regular plan if such election provides the member with a greater economic present value than the accumulated contribution balance under the Unclassified Plan. The liabilities were measured using the actuarial assumptions that are applied to the State Employees Retirement Fund.

	Year Ending June 30, 2008
A. Number of active participants	1,567
B. Account balances for active participants	\$ 170,880
C. Accrued liability for active participants	188,452
D. Number of inactive participants	1,766
E. Account balances for inactive participants	\$ 111,074
F. Net assets held in trust for Unclassified Plan participants	289,205
G. Contingent liability (C. + E. - F.)	10,321
H. Projected annual earnings for active participants	111,387
I. Normal cost	
1. Dollar amount	\$ 11,305
2. Percent of payroll	10.15%

MSRS-General Actuarial Valuation Results

	2008*		2007*		2007**		2006	
Membership								
Active Members		48,823		48,379		48,379		48,000
Service Retirees		21,736		20,880		20,880		19,903
Disabilitants		1,620		1,547		1,547		1,508
Survivors		3,090		2,919		2,919		2,793
Deferred Retirees		14,951		14,751		14,751		14,217
Nonvested Former Memb.		<u>6,865</u>		<u>7,007</u>		<u>7,007</u>		<u>6,828</u>
Total Membership		97,085		95,483		95,483		93,249
Funded Status								
Accrued Liability		\$9,994,602,000		\$9,627,304,704		\$9,627,304,704		\$8,819,160,917
Current Assets		<u>\$9,013,456,000</u>		<u>\$8,904,516,772</u>		<u>\$9,171,066,094</u>		<u>\$8,486,756,016</u>
Unfunded Accrued Liability		\$981,146,000		\$722,787,932		\$456,238,610		\$332,404,901
Funding Ratio	90.18%		92.49%		95.26%		96.23%	
Financing Requirements								
Covered Payroll		\$2,378,816,000		\$2,241,738,286		\$2,241,738,286		\$2,157,579,057
Benefits Payable		\$418,757,000		\$392,058,387		\$392,058,387		\$366,797,030
Normal Cost	7.78%	\$185,140,000	8.40%	\$188,716,922	8.40%	\$188,716,922	8.52%	\$183,605,603
Administrative Expenses	0.23%	\$5,471,000	0.23%	\$5,155,998	0.23%	\$5,155,998	0.21%	\$4,530,916
Amortization	<u>4.38%</u>	<u>\$104,192,000</u>	<u>3.13%</u>	<u>\$70,166,408</u>	<u>1.98%</u>	<u>\$44,386,418</u>	<u>1.38%</u>	<u>\$29,774,591</u>
Total Requirements	12.39%	\$294,803,000	11.76%	\$264,039,328	10.61%	\$238,259,338	10.11%	\$217,911,110
Employee Contributions	4.50%	\$107,047,000	4.25%	\$95,273,877	4.25%	\$95,273,877	4.00%	\$86,303,162
Employer Contributions	4.50%	\$107,047,000	4.25%	\$95,273,877	4.25%	\$95,273,877	4.00%	\$86,303,162
Employer Add'l Cont.	0.00%	\$0	0.00%	\$0	0.00%	\$0	0.00%	\$0
Direct State Funding	0.00%	\$0	0.00%	\$0	0.00%	\$0	0.00%	\$0
Other Govt. Funding	0.00%	\$0	0.00%	\$0	0.00%	\$0	0.00%	\$0
Administrative Assessment	<u>0.00%</u>	<u>\$0</u>	<u>0.00%</u>	<u>\$0</u>	<u>0.00%</u>	<u>\$0</u>	<u>0.00%</u>	<u>\$0</u>
Total Contributions	9.00%	\$214,094,000	8.50%	\$190,547,754	8.50%	\$190,547,754	8.00%	\$172,606,324
Total Requirements	12.39%	\$294,803,000	11.76%	\$264,039,328	10.61%	\$238,259,338	10.11%	\$217,911,110
Total Contributions	<u>9.00%</u>	<u>\$214,094,000</u>	<u>8.50%</u>	<u>\$190,547,754</u>	<u>8.50%</u>	<u>\$190,547,754</u>	<u>8.00%</u>	<u>\$172,606,324</u>
Deficiency (Surplus)	3.39%	\$80,709,000	3.26%	\$73,491,574	2.11%	\$47,711,584	2.11%	\$45,304,786
Amortization Target Date		2020		2020		2020		2020
Actuary		Mercer		Segal		Segal		Segal

* Reflects 2007 Asset Valuation Method change

** Current Assets and Amortization results do not reflect the 2007 Asset Valuation Method change

1.1 moves to amend S.F. No. 889; H.F. No., the unofficial engrossment
1.2 (S0889-E1), as follows:

1.3 Page 2, line 29, after the first "employees" insert "referred to in section 352D.02,
1.4 subdivision 1, paragraph (c), clauses (2) to (4), (6) to (14) and (16) to (18)," and delete "
1.5 past service" and insert "the employees' past employee shares in the unclassified state
1.6 employees retirement program"

1.7 Page 2, line 31, after "subdivision" insert "1, paragraph (a), and 4, or"

1.8 Page 5, line 33, after "subdivision" insert "1, paragraph (a), and 4, or"

1.9 Page 6, delete section 4 and insert:

1.10 "Sec. 4. Minnesota Statutes 2008, section 352D.02, subdivision 1, is amended to read:

1.11 Subdivision 1. **Coverage.** (a) ~~Employees~~ An employee enumerated in paragraph
1.12 (c), clauses (2), ~~(3),~~ to (4), (6) to (14), and (16) to (18), if ~~they are~~ the employee is in
1.13 the unclassified service of the state or Metropolitan Council and ~~are~~ if the employee is
1.14 eligible for coverage under the general state employees retirement plan under chapter 352,
1.15 ~~are participants~~ is a participant in:

1.16 (1) the unclassified program under this chapter if the person was hired as a state
1.17 employee before July 1, 2010, unless the employee gives notice to the executive director
1.18 of the Minnesota State Retirement System within one year following the commencement
1.19 of employment in the unclassified service that the employee desires coverage under the
1.20 general state employees retirement plan. For the purposes of this chapter, An employee
1.21 who does not file notice with the executive director in a timely fashion is deemed to have
1.22 exercised the option to participate in the unclassified program; or

1.23 (2) the general employees retirement plan under chapter 352 if the person was
1.24 hired as a state employee after June 30, 2010, unless the employee elects coverage in the
1.25 unclassified program as provided in section 352D.02, subdivision 1d, paragraph (b).

1.26 (b) Persons referenced in paragraph (c), clause (5), are participants in the unclassified
1.27 program under this chapter unless the person was eligible to elect different coverage under
1.28 section 3A.07 and elected retirement coverage by the applicable alternative retirement
1.29 plan. Persons referenced in paragraph (c), clause (15), are participants in the unclassified
1.30 program under this chapter for judicial employment ~~in excess of~~ rendered after the date on
1.31 which the judge reaches the service credit limit in section 490.121, subdivision 22.

1.32 (c) Enumerated employees and referenced persons are:

1.33 (1) the governor, the lieutenant governor, the secretary of state, the state auditor,
1.34 and the attorney general;

1.35 (2) an employee in the Office of the Governor, Lieutenant Governor, Secretary
1.36 of State, State Auditor, Attorney General;

- 2.1 (3) an employee of the State Board of Investment;
- 2.2 (4) the head of a department, division, or agency created by statute in the unclassified
2.3 service, an acting department head subsequently appointed to the position, or an employee
2.4 enumerated in section 15A.0815 or 15A.083, subdivision 4;
- 2.5 (5) a member of the legislature;
- 2.6 (6) a full-time unclassified employee of the legislature or a commission or agency of
2.7 the legislature who is appointed without a limit on the duration of the employment or a
2.8 temporary legislative employee having shares in the supplemental retirement fund as a
2.9 result of former employment covered by this chapter, whether or not eligible for coverage
2.10 under the Minnesota State Retirement System;
- 2.11 (7) a person who is employed in a position established under section 43A.08,
2.12 subdivision 1, clause (3), or in a position authorized under a statute creating or establishing
2.13 a department or agency of the state, which is at the deputy or assistant head of department
2.14 or agency or director level;
- 2.15 (8) the regional administrator, or executive director of the Metropolitan Council,
2.16 general counsel, division directors, operations managers, and other positions as designated
2.17 by the council, all of which may not exceed 27 positions at the council and the chair;
- 2.18 (9) the executive director, associate executive director, and not to exceed nine
2.19 positions of the Minnesota Office of Higher Education in the unclassified service, as
2.20 designated by the Minnesota Office of Higher Education before January 1, 1992, or
2.21 subsequently redesignated with the approval of the board of directors of the Minnesota
2.22 State Retirement System, unless the person has elected coverage by the individual
2.23 retirement account plan under chapter 354B;
- 2.24 (10) the clerk of the appellate courts appointed under article VI, section 2, of the
2.25 Constitution of the state of Minnesota, the state court administrator and judicial district
2.26 administrators;
- 2.27 (11) the chief executive officers of correctional facilities operated by the Department
2.28 of Corrections and of hospitals and nursing homes operated by the Department of Human
2.29 Services;
- 2.30 (12) an employee whose principal employment is at the state ceremonial house;
- 2.31 (13) an employee of the Agricultural Utilization Research Institute;
- 2.32 (14) an employee of the State Lottery who is covered by the managerial plan
2.33 established under section 43A.18, subdivision 3;
- 2.34 (15) a judge who has exceeded the service credit limit in section 490.121,
2.35 subdivision 22;
- 2.36 (16) an employee of Enterprise Minnesota, Inc.;

3.1 (17) a person employed by the Minnesota State Colleges and Universities as faculty
3.2 or in an eligible unclassified administrative position as defined in section 354B.20,
3.3 subdivision 6, who was employed by the former state university or the former community
3.4 college system before May 1, 1995, and elected unclassified program coverage prior to
3.5 May 1, 1995; and

3.6 (18) a person employed by the Minnesota State Colleges and Universities who
3.7 was employed in state service before July 1, 1995, who subsequently is employed in an
3.8 eligible unclassified administrative position as defined in section 354B.20, subdivision
3.9 6, and who elects coverage by the unclassified program.

3.10 **EFFECTIVE DATE.** This section is effective June 30, 2010."

1.1 moves to amend S.F. No. 889; H.F. No., the unofficial engrossment
1.2 (S0889-E1), as follows:

1.3 Page 6, line 7, delete the new language

1.4 Page 6, line 16, delete the new language

1.5 Page 6, delete lines 17 to 21

1.6 Page 8, line 16, strike the comma

1.7 Page 8, line 28, after "annually," insert "that were made"

1.8 Page 8, line 29, after "plan" insert "by or "

1.9 Page 8, line 30, before "receipt" insert "date of the "

1.10 Page 9, delete section 8 and insert:

1.11 "Sec. 8. Minnesota Statutes 2008, section 352D.02, subdivision 3, is amended to read:

1.12 Subd. 3. **Transfer to general employees retirement plan.** (a) An employee
1.13 referred to in subdivision 1, paragraph (c), clauses (2) to (4), (6) to (14), and (16) to
1.14 (18), who is credited with employee shares in the unclassified program, ~~after acquiring~~
1.15 and who has credit for ~~ten years~~ of allowable service ~~and,~~ not later than one month
1.16 following the termination of covered employment, may elect to terminate participation
1.17 in the unclassified program and be covered by the general employees retirement plan by
1.18 filing a written election with the executive director: if the employee was employed before
1.19 July 1, 2010, and has at least ten years of allowable service as of the date of the election
1.20 or if the employee was employed after June 30, 2010, and has no more than ... years of
1.21 allowable service as of the date of the election.

1.22 (b) A person referred to in subdivision 1, paragraph (c), clause (5), who is credited
1.23 with employee shares in the unclassified program, and who has credit for allowable
1.24 service, prior to the termination of service, may elect to terminate participation in the
1.25 unclassified program and be covered by the general employees retirement plan by filing
1.26 a written election with the executive director if the person first became covered by the
1.27 unclassified program after June 30, 2010, and has no more than ... years of allowable
1.28 service or if the person first became covered by the unclassified program before July 1,
1.29 2010, and makes the election to transfer on or before

1.30 (c) If the transfer election is made, the executive director shall then redeem the
1.31 employee's total shares and shall credit to the employee's account in the general employees
1.32 retirement plan the amount of contributions that would have been so credited had the
1.33 employee been covered by the general employees retirement plan during the employee's
1.34 entire covered employment. The balance of money so redeemed and not credited to the
1.35 employee's account ~~shall~~ must be transferred to the general employees retirement plan
1.36 retirement fund, except that (1) the employee contribution paid to the unclassified program

2.1 must be compared to (2) the employee contributions that would have been paid to the
2.2 general employees retirement plan for the comparable period, if the individual had been
2.3 covered by that plan. If clause (1) is greater than clause (2), the difference must be
2.4 refunded to the employee as provided in section 352.22. If clause (2) is greater than
2.5 clause (1), the difference must be paid by the employee within six months of electing
2.6 general employees retirement plan coverage or before the effective date of the annuity,
2.7 whichever is sooner.

2.8 ~~(b)~~ (d) An election under paragraph (a) or (b) to transfer coverage to the general
2.9 employees retirement plan is irrevocable during any period of covered employment.

2.10 (e) A person referenced to in subdivision 1, paragraph (c), clause (1) or (15), who is
2.11 credited with employee shares in the unclassified program is not permitted to terminate
2.12 participation in the unclassified program and be covered by the general employees
2.13 retirement plan.

2.14 **EFFECTIVE DATE.** This section is effective June 30, 2010."

2.15 Page 12, after line 7, insert:

2.16 "Sec. 13. Minnesota Statutes 2008, section 356.30, subdivision 1, is amended to read:

2.17 Subdivision 1. **Eligibility; computation of annuity.** (a) Notwithstanding any
2.18 provisions of the laws governing the retirement plans enumerated in subdivision 3, except
2.19 as provided in paragraph (i), a person who has met the qualifications of paragraph (b) may
2.20 elect to receive a retirement annuity from each enumerated retirement plan in which the
2.21 person has at least one-half year of allowable service, based on the allowable service in
2.22 each plan, subject to the provisions of paragraph (c).

2.23 (b) A person may receive, upon retirement, a retirement annuity from each
2.24 enumerated retirement plan in which the person has at least one-half year of allowable
2.25 service, and augmentation of a deferred annuity calculated at the appropriate rate under
2.26 the laws governing each public pension plan or fund named in subdivision 3, based on
2.27 the date of the person's initial entry into public employment from the date the person
2.28 terminated all public service if:

2.29 (1) the person has allowable service totaling an amount that allows the person to
2.30 receive an annuity in any two or more of the enumerated plans; and

2.31 (2) the person has not begun to receive an annuity from any enumerated plan or the
2.32 person has made application for benefits from each applicable plan and the effective
2.33 dates of the retirement annuity with each plan under which the person chooses to receive
2.34 an annuity are within a one-year period.

3.1 (c) The retirement annuity from each plan must be based upon the allowable service,
3.2 accrual rates, and average salary in the applicable plan except as further specified or
3.3 modified in the following clauses:

3.4 (1) the laws governing annuities must be the law in effect on the date of termination
3.5 from the last period of public service under a covered retirement plan with which the
3.6 person earned a minimum of one-half year of allowable service credit during that
3.7 employment;

3.8 (2) the "average salary" on which the annuity from each covered plan in which
3.9 the employee has credit in a formula plan must be based on the employee's highest five
3.10 successive years of covered salary during the entire service in covered plans;

3.11 (3) the accrual rates to be used by each plan must be those percentages prescribed by
3.12 each plan's formula as continued for the respective years of allowable service from one
3.13 plan to the next, recognizing all previous allowable service with the other covered plans;

3.14 (4) the allowable service in all the plans must be combined in determining eligibility
3.15 for and the application of each plan's provisions in respect to reduction in the annuity
3.16 amount for retirement prior to normal retirement age; and

3.17 (5) the annuity amount payable for any allowable service under a nonformula plan
3.18 of a covered plan must not be affected, but such service and covered salary must be used
3.19 in the above calculation.

3.20 (d) This section does not apply to any person whose final termination from the last
3.21 public service under a covered plan was before May 1, 1975.

3.22 (e) For the purpose of computing annuities under this section, the accrual rates
3.23 used by any covered plan, except the public employees police and fire plan, the judges
3.24 retirement fund, and the State Patrol retirement plan, must not exceed the percent specified
3.25 in section 356.315, subdivision 4, per year of service for any year of service or fraction
3.26 thereof. The formula percentage used by the judges retirement fund must not exceed the
3.27 percentage rate specified in section 356.315, subdivision 8, per year of service for any
3.28 year of service or fraction thereof. The accrual rate used by the public employees police
3.29 and fire plan and the State Patrol retirement plan must not exceed the percentage rate
3.30 specified in section 356.315, subdivision 6, per year of service for any year of service or
3.31 fraction thereof. The accrual rate or rates used by the legislators retirement plan must not
3.32 exceed 2.5 percent, but this limit does not apply to the adjustment provided under section
3.33 3A.02, subdivision 1, paragraph (c).

3.34 (f) Any period of time for which a person has credit in more than one of the covered
3.35 plans must be used only once for the purpose of determining total allowable service.

4.1 (g) If the period of duplicated service credit is more than one-half year, or the person
4.2 has credit for more than one-half year, with each of the plans, each plan must apply its
4.3 formula to a prorated service credit for the period of duplicated service based on a fraction
4.4 of the salary on which deductions were paid to that fund for the period divided by the total
4.5 salary on which deductions were paid to all plans for the period.

4.6 (h) If the period of duplicated service credit is less than one-half year, or when
4.7 added to other service credit with that plan is less than one-half year, the service credit
4.8 must be ignored and a refund of contributions made to the person in accord with that
4.9 plan's refund provisions.

4.10 (i) A person referred to in section 352.02, subdivision 1, paragraph (c), clause (5),
4.11 who first became covered by the unclassified program before July 1, 2010, and who made
4.12 a timely election to transfer retirement coverage under section 352D.02, subdivision 3,
4.13 paragraph (b), may not utilize the service credit in the general employees retirement plan
4.14 of the Minnesota State Retirement System covered by the retirement coverage transfer
4.15 under section 352D.02, subdivision 3, paragraph (b), in a computation of an annuity
4.16 under this section.

4.17 **EFFECTIVE DATE.** This section is effective June 30, 2010."

4.18 Amend the title accordingly

1.1 moves to amend S.F. No. 889; H.F. No., the unofficial engrossment
1.2 (S0889-E1), as follows:

1.3 Page 8, line 28, reinstate "~~six~~" and delete "8.5"

1.4 Page 9, line 8, delete "8.5" and insert "six"

1.5 Page 10, line 21, delete "8.5" and insert "six"

A bill for an act

relating to retirement; amending the Minnesota State Retirement System unclassified program; amending Minnesota Statutes 2008, sections 352.01, subdivisions 2a, 2b; 352D.015, subdivision 4; 352D.02, subdivisions 1, 1c, 1d, 2, 3; 352D.03; 352D.04, subdivision 1; 352D.05, subdivision 4; 352D.09, subdivision 7.

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

Section 1. Minnesota Statutes 2008, section 352.01, subdivision 2a, is amended to read:

Subd. 2a. **Included employees.** (a) "State employee" includes:

(1) employees of the Minnesota Historical Society;

(2) employees of the State Horticultural Society;

(3) employees of the Minnesota Crop Improvement Association;

(4) employees of the adjutant general who are paid from federal funds and who are not covered by any federal civilian employees retirement system;

(5) employees of the Minnesota State Colleges and Universities employed under the university or college activities program;

(6) currently contributing employees covered by the system who are temporarily employed by the legislature during a legislative session or any currently contributing employee employed for any special service as defined in subdivision 2b, clause (8);

(7) employees of the legislature appointed without a limit on the duration of their employment and persons employed or designated by the legislature or by a legislative committee or commission or other competent authority to conduct a special inquiry, investigation, examination, or installation;

- 2.1 (8) trainees who are employed on a full-time established training program
2.2 performing the duties of the classified position for which they will be eligible to receive
2.3 immediate appointment at the completion of the training period;
- 2.4 (9) employees of the Minnesota Safety Council;
- 2.5 (10) any employees on authorized leave of absence from the Transit Operating
2.6 Division of the former Metropolitan Transit Commission who are employed by the
2.7 labor organization which is the exclusive bargaining agent representing employees of
2.8 the Transit Operating Division;
- 2.9 (11) employees of the Metropolitan Council, Metropolitan Parks and Open Space
2.10 Commission, Metropolitan Sports Facilities Commission, Metropolitan Mosquito Control
2.11 Commission, or Metropolitan Radio Board unless excluded or covered by another public
2.12 pension fund or plan under section 473.415, subdivision 3;
- 2.13 (12) judges of the Tax Court;
- 2.14 (13) personnel employed on June 30, 1992, by the University of Minnesota in the
2.15 management, operation, or maintenance of its heating plant facilities, whose employment
2.16 transfers to an employer assuming operation of the heating plant facilities, so long as the
2.17 person is employed at the University of Minnesota heating plant by that employer or by its
2.18 successor organization;
- 2.19 (14) seasonal help in the classified service employed by the Department of Revenue;
- 2.20 (15) persons employed by the Department of Commerce as a peace officer in
2.21 the Insurance Fraud Prevention Division under section 45.0135 who have attained the
2.22 mandatory retirement age specified in section 43A.34, subdivision 4;
- 2.23 (16) employees of the University of Minnesota unless excluded under subdivision
2.24 2b, clause (3);
- 2.25 (17) employees of the Middle Management Association whose employment began
2.26 after July 1, 2007, and to whom section 352.029 does not apply; ~~and~~
- 2.27 (18) employees of the Minnesota Government Engineers Council to whom section
2.28 352.029 does not apply; and
- 2.29 (19) employees who have elected to transfer past service to the general employees
2.30 retirement plan under section 352D.02, subdivision 1d, paragraph (a), or who have not
2.31 elected to transfer to the unclassified program under section 352D.02, subdivision 1d,
2.32 paragraph (b).
- 2.33 (b) Employees specified in paragraph (a), clause (13), are included employees under
2.34 paragraph (a) if employer and employee contributions are made in a timely manner in the
2.35 amounts required by section 352.04. Employee contributions must be deducted from
2.36 salary. Employer contributions are the sole obligation of the employer assuming operation

3.1 of the University of Minnesota heating plant facilities or any successor organizations to
3.2 that employer.

3.3 **EFFECTIVE DATE.** This section is effective June 30, 2010.

3.4 Sec. 2. Minnesota Statutes 2008, section 352.01, subdivision 2b, is amended to read:

3.5 Subd. 2b. **Excluded employees.** "State employee" does not include:

3.6 (1) students employed by the University of Minnesota, or the state colleges and
3.7 universities, unless approved for coverage by the Board of Regents of the University of
3.8 Minnesota or the Board of Trustees of the Minnesota State Colleges and Universities,
3.9 whichever is applicable;

3.10 (2) employees who are eligible for membership in the state Teachers Retirement
3.11 Association, except employees of the Department of Education who have chosen or may
3.12 choose to be covered by the general state employees retirement plan of the Minnesota
3.13 State Retirement System instead of the Teachers Retirement Association;

3.14 (3) employees of the University of Minnesota who are excluded from coverage by
3.15 action of the Board of Regents;

3.16 (4) officers and enlisted personnel in the National Guard and the naval militia who
3.17 are assigned to permanent peacetime duty and who under federal law are or are required to
3.18 be members of a federal retirement system;

3.19 (5) election officers;

3.20 (6) persons who are engaged in public work for the state but who are employed
3.21 by contractors when the performance of the contract is authorized by the legislature or
3.22 other competent authority;

3.23 (7) officers and employees of the senate, or of the house of representatives, or of a
3.24 legislative committee or commission who are temporarily employed;

3.25 (8) receivers, jurors, notaries public, and court employees who are not in the judicial
3.26 branch as defined in section 43A.02, subdivision 25, except referees and adjusters
3.27 employed by the Department of Labor and Industry;

3.28 (9) patient and inmate help in state charitable, penal, and correctional institutions
3.29 including the Minnesota Veterans Home;

3.30 (10) persons who are employed for professional services where the service is
3.31 incidental to their regular professional duties and whose compensation is paid on a per
3.32 diem basis;

3.33 (11) employees of the Sibley House Association;

3.34 (12) the members of any state board or commission who serve the state intermittently
3.35 and are paid on a per diem basis; the secretary, secretary-treasurer, and treasurer of those

4.1 boards if their compensation is \$5,000 or less per year, or, if they are legally prohibited
4.2 from serving more than three years; and the board of managers of the State Agricultural
4.3 Society and its treasurer unless the treasurer is also its full-time secretary;

4.4 (13) state troopers and persons who are described in section 352B.01, subdivision 2,
4.5 clauses (2) to (6);

4.6 (14) temporary employees of the Minnesota State Fair who are employed on or
4.7 after July 1 for a period not to extend beyond October 15 of that year; and persons who
4.8 are employed at any time by the state fair administration for special events held on the
4.9 fairgrounds;

4.10 (15) emergency employees who are in the classified service; except that if an
4.11 emergency employee, within the same pay period, becomes a provisional or probationary
4.12 employee on other than a temporary basis, the employee shall be considered a "state
4.13 employee" retroactively to the beginning of the pay period;

4.14 (16) temporary employees in the classified service, and temporary employees in the
4.15 unclassified service who are appointed for a definite period of not more than six months
4.16 and who are employed less than six months in any one-year period;

4.17 (17) interns hired for six months or less and trainee employees, except those listed in
4.18 subdivision 2a, clause (8);

4.19 (18) persons whose compensation is paid on a fee basis or as an independent
4.20 contractor;

4.21 (19) state employees who are employed by the Board of Trustees of the Minnesota
4.22 State Colleges and Universities in unclassified positions enumerated in section 43A.08,
4.23 subdivision 1, clause (9);

4.24 (20) state employees who in any year have credit for 12 months service as teachers
4.25 in the public schools of the state and as teachers are members of the Teachers Retirement
4.26 Association or a retirement system in St. Paul, Minneapolis, or Duluth, except for
4.27 incidental employment as a state employee that is not covered by one of the teacher
4.28 retirement associations or systems;

4.29 (21) employees of the adjutant general who are employed on an unlimited
4.30 intermittent or temporary basis in the classified or unclassified service for the support of
4.31 Army and Air National Guard training facilities;

4.32 (22) chaplains and nuns who are excluded from coverage under the federal Old
4.33 Age, Survivors, Disability, and Health Insurance Program for the performance of service
4.34 as specified in United States Code, title 42, section 410(a)(8)(A), as amended, if no
4.35 irrevocable election of coverage has been made under section 3121(r) of the Internal
4.36 Revenue Code of 1986, as amended through December 31, 1992;

- 5.1 (23) examination monitors who are employed by departments, agencies,
5.2 commissions, and boards to conduct examinations required by law;
- 5.3 (24) persons who are appointed to serve as members of fact-finding commissions or
5.4 adjustment panels, arbitrators, or labor referees under chapter 179;
- 5.5 (25) temporary employees who are employed for limited periods under any state or
5.6 federal program for training or rehabilitation, including persons who are employed for
5.7 limited periods from areas of economic distress, but not including skilled and supervisory
5.8 personnel and persons having civil service status covered by the system;
- 5.9 (26) full-time students who are employed by the Minnesota Historical Society
5.10 intermittently during part of the year and full-time during the summer months;
- 5.11 (27) temporary employees who are appointed for not more than six months, of
5.12 the Metropolitan Council and of any of its statutory boards, if the board members are
5.13 appointed by the Metropolitan Council;
- 5.14 (28) persons who are employed in positions designated by the Department of
5.15 Finance as student workers;
- 5.16 (29) members of trades who are employed by the successor to the Metropolitan
5.17 Waste Control Commission, who have trade union pension plan coverage under a
5.18 collective bargaining agreement, and who are first employed after June 1, 1977;
- 5.19 (30) off-duty peace officers while employed by the Metropolitan Council;
- 5.20 (31) persons who are employed as full-time police officers by the Metropolitan
5.21 Council and as police officers are members of the public employees police and fire fund;
- 5.22 (32) persons who are employed as full-time firefighters by the Department of Military
5.23 Affairs and as firefighters are members of the public employees police and fire fund;
- 5.24 (33) foreign citizens with a work permit of less than three years, or an H-1b/JV visa
5.25 valid for less than three years of employment, unless notice of extension is supplied which
5.26 allows them to work for three or more years as of the date the extension is granted, in
5.27 which case they are eligible for coverage from the date extended; ~~and~~
- 5.28 (34) persons who are employed by the Board of Trustees of the Minnesota State
5.29 Colleges and Universities and who elected to remain members of the Public Employees
5.30 Retirement Association or the Minneapolis Employees Retirement Fund, whichever
5.31 applies, under Minnesota Statutes 1994, section 136C.75; and
- 5.32 (35) employees who have elected to transfer service to the unclassified program
5.33 under section 352D.02, subdivision 1d, paragraph (b).

5.34 **EFFECTIVE DATE.** This section is effective June 30, 2010.

5.35 Sec. 3. Minnesota Statutes 2008, section 352D.015, subdivision 4, is amended to read:

6.1 Subd. 4. **General fund.** "General fund" means the general state employees
6.2 retirement fund under chapter 352 ~~except the moneys for the unclassified program.~~

6.3 Subd. 4a. **General employees retirement plan.** "General employees retirement
6.4 plan" means the general state employees retirement plan under chapter 352.

6.5 **EFFECTIVE DATE.** This section is effective June 30, 2010.

6.6 Sec. 4. Minnesota Statutes 2008, section 352D.02, subdivision 1, is amended to read:

6.7 Subdivision 1. **Coverage.** (a) Employees hired before July 1, 2010, enumerated
6.8 in paragraph (c), clauses (2), ~~(3)~~, to (4), (6) to (14), and (16) to (18), if they are in the
6.9 unclassified service of the state or Metropolitan Council and are eligible for coverage
6.10 under the general state employees retirement plan under chapter 352, are participants
6.11 in the unclassified program under this chapter unless the employee gives notice to the
6.12 executive director of the Minnesota State Retirement System within one year following
6.13 the commencement of employment in the unclassified service that the employee desires
6.14 coverage under the general state employees retirement plan. For the purposes of this
6.15 chapter, an employee who does not file notice with the executive director is deemed to
6.16 have exercised the option to participate in the unclassified program. Employees hired after
6.17 June 30, 2010, enumerated in paragraph (c), clauses (2) to (4), (6) to (14), and (16) to (18),
6.18 if they are in the unclassified service of the state or Metropolitan Council and are eligible
6.19 for coverage under the general state employees retirement plan under chapter 352 are
6.20 members of the general state employees retirement plan unless the elect coverage in the
6.21 unclassified program under section 352D.02, subdivision 1d, paragraph (b).

6.22 (b) Persons referenced in paragraph (c), clause (5), and first elected before July 1,
6.23 2010, are participants in the unclassified program under this chapter unless the person was
6.24 eligible to elect different coverage under section 3A.07 and elected retirement coverage by
6.25 the applicable alternative retirement plan. Persons referenced in paragraph (c), clause (15),
6.26 are participants in the unclassified program under this chapter for judicial employment in
6.27 excess of the service credit limit in section 490.121, subdivision 22.

6.28 (c) Enumerated employees and referenced persons are:

6.29 (1) the governor, the lieutenant governor, the secretary of state, the state auditor,
6.30 and the attorney general;

6.31 (2) an employee in the Office of the Governor, Lieutenant Governor, Secretary
6.32 of State, State Auditor, Attorney General;

6.33 (3) an employee of the State Board of Investment;

7.1 (4) the head of a department, division, or agency created by statute in the unclassified
7.2 service, an acting department head subsequently appointed to the position, or an employee
7.3 enumerated in section 15A.0815 or 15A.083, subdivision 4;

7.4 (5) a member of the legislature;

7.5 (6) a full-time unclassified employee of the legislature or a commission or agency of
7.6 the legislature who is appointed without a limit on the duration of the employment or a
7.7 temporary legislative employee having shares in the supplemental retirement fund as a
7.8 result of former employment covered by this chapter, whether or not eligible for coverage
7.9 under the Minnesota State Retirement System;

7.10 (7) a person who is employed in a position established under section 43A.08,
7.11 subdivision 1, clause (3), or in a position authorized under a statute creating or establishing
7.12 a department or agency of the state, which is at the deputy or assistant head of department
7.13 or agency or director level;

7.14 (8) the regional administrator, or executive director of the Metropolitan Council,
7.15 general counsel, division directors, operations managers, and other positions as designated
7.16 by the council, all of which may not exceed 27 positions at the council and the chair;

7.17 (9) the executive director, associate executive director, and not to exceed nine
7.18 positions of the Minnesota Office of Higher Education in the unclassified service, as
7.19 designated by the Minnesota Office of Higher Education before January 1, 1992, or
7.20 subsequently redesignated with the approval of the board of directors of the Minnesota
7.21 State Retirement System, unless the person has elected coverage by the individual
7.22 retirement account plan under chapter 354B;

7.23 (10) the clerk of the appellate courts appointed under article VI, section 2, of the
7.24 Constitution of the state of Minnesota, the state court administrator and judicial district
7.25 administrators;

7.26 (11) the chief executive officers of correctional facilities operated by the Department
7.27 of Corrections and of hospitals and nursing homes operated by the Department of Human
7.28 Services;

7.29 (12) an employee whose principal employment is at the state ceremonial house;

7.30 (13) an employee of the Agricultural Utilization Research Institute;

7.31 (14) an employee of the State Lottery who is covered by the managerial plan
7.32 established under section 43A.18, subdivision 3;

7.33 (15) a judge who has exceeded the service credit limit in section 490.121,
7.34 subdivision 22;

7.35 (16) an employee of Enterprise Minnesota, Inc.;

8.1 (17) a person employed by the Minnesota State Colleges and Universities as faculty
8.2 or in an eligible unclassified administrative position as defined in section 354B.20,
8.3 subdivision 6, who was employed by the former state university or the former community
8.4 college system before May 1, 1995, and elected unclassified program coverage prior to
8.5 May 1, 1995; and

8.6 (18) a person employed by the Minnesota State Colleges and Universities who
8.7 was employed in state service before July 1, 1995, who subsequently is employed in an
8.8 eligible unclassified administrative position as defined in section 354B.20, subdivision
8.9 6, and who elects coverage by the unclassified program.

8.10 **EFFECTIVE DATE.** This section is effective June 30, 2010.

8.11 Sec. 5. Minnesota Statutes 2008, section 352D.02, subdivision 1c, is amended to read:

8.12 Subd. 1c. **Transfer of contributions.** An employee covered by the ~~regular~~ general
8.13 employees retirement plan who is subsequently employed as a full-time unclassified
8.14 employee of the legislature or any commission or agency of the legislature without a
8.15 limit on the duration of the employment may elect to transfer accumulated employee and
8.16 matching employer contributions, as provided in section 352D.03.

8.17 **EFFECTIVE DATE.** This section is effective June 30, 2010.

8.18 Sec. 6. Minnesota Statutes 2008, section 352D.02, subdivision 1d, is amended to read:

8.19 Subd. 1d. **Election of program participation.** (a) An employee hired before July
8.20 1, 2010, who is a participant in the unclassified program by virtue of employment in a
8.21 position listed in subdivision 1 may elect to remain in the unclassified program upon
8.22 subsequent employment in an unlimited, full-time unclassified position that is not listed
8.23 in subdivision 1. To elect participation in the unclassified program, the employee must
8.24 give notice to the executive director of the Minnesota State Retirement System within one
8.25 year of the commencement of employment in an unclassified position that is not listed
8.26 in subdivision 1. Upon receipt of the notice, the executive director shall transfer to the
8.27 employee's account in the unclassified program an amount equal to the employer and
8.28 employee contributions with ~~six~~ 8.5 percent interest, compounded annually, to the ~~regular~~
8.29 general employees retirement plan on the employee's behalf from the commencement of
8.30 employment in the position not listed in subdivision 1 to the receipt of the notice by the
8.31 executive director.

8.32 (b) An employee hired after June 30, 2010, who is able to elect coverage in the
8.33 unclassified program by virtue of employment in a position listed in subdivision 1 is

9.1 a member of the general employees retirement plan unless they make an irrevocable
9.2 election to switch to the unclassified program. An employee may make an election to
9.3 switch from the general employees retirement plan to the unclassified program any time
9.4 within the first three years of service. To elect participation in the unclassified program,
9.5 the employee must give written notice to the executive director of the Minnesota State
9.6 Retirement System. Upon receipt of the notice, the executive director shall transfer to the
9.7 employee's unclassified program account an amount equal to the employer and employee
9.8 contributions with 8.5 percent interest compounded annually from the general employees
9.9 retirement plan.

9.10 **EFFECTIVE DATE.** This section is effective June 30, 2010.

9.11 Sec. 7. Minnesota Statutes 2008, section 352D.02, subdivision 2, is amended to read:

9.12 Subd. 2. **Coverage upon employment change.** A person becoming a participant
9.13 in the unclassified program prior to July 1, 2010, by virtue of employment in a position
9.14 specified in subdivision 1, clause (4), and remaining in the unclassified service shall
9.15 remain a participant in the program even though the position the person occupies is
9.16 deleted from any of the sections referenced in subdivision 1, clause (4), by subsequent
9.17 amendment, except that a person shall not be eligible to elect the unclassified program
9.18 after separation from unclassified service if on the return of the person to service, that
9.19 position is not specified in subdivision 1, clause (4). Any person employed in a position
9.20 specified in subdivision 1 shall cease to participate in the unclassified program in the event
9.21 the position is placed in the classified service.

9.22 **EFFECTIVE DATE.** This section is effective June 30, 2010.

9.23 Sec. 8. Minnesota Statutes 2008, section 352D.02, subdivision 3, is amended to read:

9.24 Subd. 3. **Transfer to general employees retirement plan.** (a) An employee
9.25 hired before July 1, 2010, credited with employee shares in the unclassified program,
9.26 after acquiring credit for ten years of allowable service and not later than one month
9.27 following the termination of covered employment, may elect to terminate participation
9.28 in the unclassified program and be covered by the general employees retirement plan by
9.29 filing a written election with the executive director. The executive director shall then
9.30 redeem the employee's total shares and shall credit to the employee's account in the
9.31 general employees retirement plan the amount of contributions that would have been so
9.32 credited had the employee been covered by the general employees retirement plan during
9.33 the employee's entire covered employment. The balance of money so redeemed and not

10.1 credited to the employee's account shall be transferred to the general employees retirement
 10.2 plan retirement fund, except that (1) the employee contribution paid to the unclassified
 10.3 program must be compared to (2) the employee contributions that would have been paid to
 10.4 the general employees retirement plan for the comparable period, if the individual had
 10.5 been covered by that plan. If clause (1) is greater than clause (2), the difference must be
 10.6 refunded to the employee as provided in section 352.22. If clause (2) is greater than
 10.7 clause (1), the difference must be paid by the employee within six months of electing
 10.8 general employees retirement plan coverage or before the effective date of the annuity,
 10.9 whichever is sooner.

10.10 (b) An election under paragraph (a) to transfer coverage to the general employees
 10.11 retirement plan is irrevocable during any period of covered employment.

10.12 **EFFECTIVE DATE.** This section is effective June 30, 2010.

10.13 Sec. 9. Minnesota Statutes 2008, section 352D.03, is amended to read:

10.14 **352D.03 TRANSFER OF ASSETS.**

10.15 Unless an eligible employee enumerated in section 352D.02, subdivision 1, has
 10.16 elected coverage under the individual retirement account plan under chapter 354B, ~~a~~
 10.17 ~~sum of money representing the assets credited to each employee exercising the option~~
 10.18 ~~contained in section 352D.02, plus an equal employer contribution together with interest~~
 10.19 for an employee exercising an option under section 352D.02, an amount equal to the
 10.20 employee and employer contributions for the employment period at the applicable
 10.21 preretirement interest actuarial assumption rate during this period plus 8.5 percent interest,
 10.22 compounded annually, must be used for the purchase of shares on behalf of each employee
 10.23 in the accounts of the supplemental retirement fund established by section 11A.17.

10.24 **EFFECTIVE DATE.** This section is effective June 30, 2010.

10.25 Sec. 10. Minnesota Statutes 2008, section 352D.04, subdivision 1, is amended to read:

10.26 Subdivision 1. **Investment options.** (a) A person exercising an option to participate
 10.27 in the retirement program provided by this chapter may elect to purchase shares in one or a
 10.28 combination of the income share account, the growth share account, the international share
 10.29 account, the money market account, the bond market account, the fixed interest account, or
 10.30 the common stock index account established in section 11A.17. The person may elect to
 10.31 participate in one or more of the investment accounts in the fund by specifying, ~~on a form~~
 10.32 in a manner provided by the executive director, the percentage of the person's contributions
 10.33 provided in subdivision 2 to be used to purchase shares in each of the accounts.

11.1 (b) A participant may indicate in ~~writing on forms~~ a manner provided by the
11.2 Minnesota State Retirement System a choice of options for subsequent purchases of
11.3 shares. Until a different written indication is made by the participant, the executive
11.4 director shall purchase shares in the supplemental fund as selected by the participant. If no
11.5 initial option is chosen, 100 percent income shares must be purchased for a participant.
11.6 A change in choice of investment option is effective no later than the first pay date first
11.7 occurring after 30 days following the receipt of the request for a change.

11.8 ~~(c) Shares in the fixed interest account attributable to any guaranteed investment~~
11.9 ~~contract as of July 1, 1994, may not be withdrawn from the fund or transferred to another~~
11.10 ~~account until the guaranteed investment contract has expired, unless the participant~~
11.11 ~~qualifies for withdrawal under section 352D.05 or for benefit payments under sections~~
11.12 ~~352D.06 to 352D.075.~~

11.13 ~~(d) (c)~~ A participant or former participant may also change the investment options
11.14 selected for all or a portion of the participant's shares previously purchased in accounts,
11.15 subject to the ~~provisions of paragraph (c) concerning the fixed interest account. Changes~~
11.16 ~~in investment options for the participant's shares must be effected as soon as cash flow to~~
11.17 ~~an account practically permits, but not later than six months after the requested change~~
11.18 trading restrictions imposed on the investment option.

11.19 **EFFECTIVE DATE.** This section is effective June 30, 2010.

11.20 Sec. 11. Minnesota Statutes 2008, section 352D.05, subdivision 4, is amended to read:

11.21 Subd. 4. **Repayment of refund.** (a) A participant in the unclassified program may
11.22 repay regular refunds taken under section 352.22, as provided in section 352.23.

11.23 (b) A participant in the unclassified program or an employee covered by the general
11.24 employees retirement plan who has withdrawn the value of the total shares may repay
11.25 the refund taken and thereupon restore the service credit, rights and benefits forfeited by
11.26 paying into the fund the amount refunded plus interest at an annual rate of 8.5 percent
11.27 compounded annually from the date that the refund was taken until the date that the refund
11.28 is repaid. If the participant had withdrawn only the employee shares as permitted under
11.29 prior laws, repayment must be pro rata.

11.30 (c) Except as provided in section 356.441, the repayment of a refund under this
11.31 section must be made in a lump sum.

11.32 **EFFECTIVE DATE.** This section is effective June 30, 2010.

11.33 Sec. 12. Minnesota Statutes 2008, section 352D.09, subdivision 7, is amended to read:

12.1 Subd. 7. **Administrative fees.** The board of directors shall establish a budget
12.2 and charge participants a fee to pay the administrative expenses of the unclassified
12.3 program. ~~Fees cannot be charged on contributions and investment returns attributable to~~
12.4 ~~contributions made before July 1, 1992. Annual total fees charged for plan administration~~
12.5 ~~cannot exceed 10/100 of one percent of the contributions and investment returns~~
12.6 ~~attributable to contributions made on or after July 1, 1992.~~

12.7 **EFFECTIVE DATE.** This section is effective June 30, 2010.