S.F. 1267
(Olson, M.)

H.F. 1528
(Kahn)

Executive Summary of Commission Staff Materials

Affected Pension Plan(s):	TRA and MnSCU-IRAP
Relevant Provisions of Law:	Minnesota Statutes, Section 354B.21, Subdivision 2
General Nature of Proposal:	Second chance election of defined benefit plan coverage by defined contribution plan members
Date of Summary:	March 17, 2009

Specific Proposed Changes

- The proposed legislation permits MnSCU-IRAP members who reach tenure or its equivalent one year in which they can elect to shift past MnSCU service and prospective retirement coverage to TRA.

Policy Issues Raised by the Proposed Legislation

1. Appropriateness of permitting second chance retirement coverage election by MnSCU faculty members.
2. Potential for adverse selection impact on TRA.
3. Appropriateness in light of uncertainties about tenure and related concerns.
4. High potential cost of full actuarial value service credit purchases.
5. Likelihood of future transfer/prior service credit purchase demands from omitted MnSCU faculty.
6. Appropriateness of changing retirement benefit plan default.

Potential Amendment

S1267-1A (substantive) would change the default retirement coverage for newly hired MnSCU faculty from MnSCU-IRAP to TRA.

TO: Members of the Legislative Commission on Pensions and Retirement

FROM: Lawrence A. Martin, Executive Director LAM

RE: S.F. 1267 (Olson, M.); H.F. 1528 (Kahn): TRA; Permitting Tenured MnSCU Faculty Defined Benefit Plan Retirement Coverage Election Authorization.

DATE: March 17, 2009

Summary of S.F. 1267 (Olson, M.); H.F. 1528 (Kahn)

S.F. 1267 (Olson, M.); H.F. 1528 (Kahn) amends Minnesota Statutes, Section 354B.21, Subdivision 2, a provision of the Individual Retirement Account Plan of the Minnesota State Colleges and Universities System (MnSCU-IRAP) permitting MnSCU faculty members to elect prospective retirement coverage by the Teachers Retirement Association (TRA) within one year of starting employment, by permitting MnSCU faculty members a second opportunity to elect TRA coverage within one year of achieving tenure and by requiring those faculty members to purchase service credit for the pre-tenure service at the full actuarial value purchase price.

Background Information

A. Background information on the differences between defined benefit retirement plans and defined contribution retirement plans is set forth in **Attachment A**.

B. Background information on the Higher Education Individual Retirement Account Plan is set forth in **Attachment B**.

Discussion and Analysis

S.F. 1267 (Olson, M.); H.F. 1528 (Kahn) adds a second opportunity for a faculty member employed by the Minnesota State Colleges and Universities System (MnSCU) to change from retirement coverage by the Individual Retirement Account Plan (IRAP) to retirement coverage by the Teachers Retirement Association (TRA) within one year of the date on which the faculty member achieves tenure. The selection of TRA coverage also must include the purchase of prior MnSCU faculty employment at the full actuarial value purchase payment amount.

The proposed legislation raises several pension and related public policy issues that may merit Commission consideration and discussion, as follows:

1. Appropriateness of Permitting Second Chance Retirement Coverage Election by MnSCU Faculty Members. The policy issue is the appropriateness of permitting faculty members and other administrative personnel of MnSCU an additional opportunity to elect retirement coverage for their MnSCU employment. In Minnesota public employment, public retirement plan coverage is generally mandatory and public employees generally do not have any options in their retirement coverage. Most Minnesota public employees are covered by defined benefit plan retirement programs, which are particularly well suited for career employees. Minnesota public employees with a choice between defined benefit plan coverage and defined contribution plan coverage, which is well suited for shorter duration employees, are largely limited to MnSCU faculty members and some administrative personnel and to state employees employed by the Legislature, constitutional officers, and agency, department, division, and bureau heads and their deputies. For MnSCU faculty members and affected administrative personnel, the choice of retirement coverage is between the Higher Education IRAP, a defined contribution plan, or the TRA defined benefit plan, with the choice to be made within one year of initial employment. For affected state employees, the choice of retirement coverage is between the Unclassified State Employees Retirement Program of the Minnesota State Retirement System (MSRS-Unclassified), a defined contribution plan, or the MSRS General State Employees Retirement Plan (MSRS-General), a defined benefit plan, with the election to be made within one year of initial eligibility for MSRS-Unclassified coverage and with an option to transfer to MSRS-General upon the person attaining ten years of state employment before the termination of state employment. The argument made in summary fashion by the Inter Faculty Organization (IFO), the collective bargaining representatives of state university faculty, on its website, is that a second chance election upon acquiring tenure allows faculty members the best opportunity to determine the retirement coverage with the best fit in their circumstance. While the faculty member's career is

potentially more certain at the point of attaining tenure, it is unclear that the faculty member is actually in a better position to predict the future and to make a second irrevocable election about retirement coverage at this time. Even if the faculty member is in a better position to make a final choice, that situation means that the applicable defined benefit retirement plan could bear a significant "selection against the fund" risk by gaining risk pool members who deviate significantly from the average plan membership. The adverse selection risk study recently performed by the consulting actuary retained by TRA is summarized in Issue No. 2 below.

2. Potential for Adverse Selection Impact on TRA. The policy issue is the likelihood that allowing a delayed second chance option for MnSCU faculty members to elect defined benefit retirement plan coverage by the TRA rather than defined contribution retirement plan coverage by the Higher Education IRAP will have an adverse financial effect on TRA. The notion of adverse selection can be analogized to the situation of purchasing fire insurance on a building before the building catches fire and the situation of purchasing fire insurance on a building once it catches fire. Before the fire, liability is some degree of possibility and, after the fire, liability is a certainty. The later into one's career a person is permitted to select between defined contribution retirement plan coverage or defined benefit retirement plan coverage, the more the situation is akin to a post-fire purchase of fire insurance. Under a mandate in Laws 2008, Chapter 349, Article 9, Section 7, TRA had an analysis prepared of the actuarial condition of the retirement fund as of July 1, 2008, if all 5,317 current IRAP-covered faculty members were permitted to elect TRA coverage and did elect TRA coverage, with a full actuarial value payment for the purchase of prior IRAP-covered service. The analysis found that 55 percent of faculty would produce a gain for TRA in electing to transfer coverage, that 44 percent of faculty would produce a loss for TRA in electing to transfer coverage, and that one percent would be neutral because of their short MnSCU service. The net impact of a prior service credit purchase by all current MnSCU faculty members was an $8 million gain (contributions of $369.3 million and actuarial accrued liability of $361.3 million). The analysis also indicated that the current full actuarial value purchase payment methodology does produce losses for purchases of prior service after age 50, with losses in proportion to advanced age, meaning that there is a considerable adverse selection risk. The adverse selection risk is moderated in the proposed legislation by not permitting existing (pre-July 1, 2009) MnSCU faculty who have already (before July 1, 2009) attained tenure to make the coverage transfer and prior service credit purchase, by requiring the service credit purchase to be made for all prior MnSCU faculty employment, and by sunsetting the transfer and service credit purchase provisions for MnSCU faculty initially hired after June 30, 2014. The Commission may wish to question TRA about the extent to which those potential mitigating provisions reduce the adverse selection risk in the proposed legislation.

3. Appropriateness in Light of Uncertainties about Tenure and Related Concerns. The policy issue is the appropriateness of triggering a second chance benefit plan coverage election on acquiring tenure when tenure acquisition is variable as to the length of prior employment and when there are other potential timing difficulties. Attached are excerpts from a recent IFO- MnSCU contract relating to tenure, which appears to indicate that the probationary period before gaining tenure in state universities can range from one year to five years. The tenure periods and tenure requirements for other faculty and related employee bargaining units is reported to be after two years for community and technical college faculty members and after three or four years for administrative faculty. Although achievement of tenure might indicate that the MnSCU faculty member or comparable employee has a clearer picture of the person's long-term career track, it is not necessarily a significantly better time to make the selection and the variability of pre-tenure probationary periods will raise concerns about the capability of MnSCU or TRA to provide appropriate counseling about the individual consequences of a retirement coverage transfer. Additional testimony from MnSCU and from MnSCU employee representatives may be necessary to determine whether a grant of tenure is as opportune a time for making this second chance irrevocable benefit coverage election as the IFO suggests.

4. High Potential Cost of Full Actuarial Value Service Credit Purchases. The policy issue is the appropriateness of implementing a system of benefit plan elections that will produce regular periodic prior service credit purchases with a sizable full actuarial value purchase payment price. Because service credit purchases alter the risk pool after the fact and permit individuals to select from options to their benefit and with a potential liability increase to the retirement plan, the normal contribution structure of the retirement plan is not an adequate way to fund these purchases and the Commission has resolved over the past 30 years that service credit purchases are to be funded with a full actuarial value payment based on the benefit to be obtained by the purchase. The full actuarial value prior service credit purchase payment amount is frequently a very large dollar amount and is likely to be greater than the IRAP account balance amassed during the pre-tenure grant period. The large service credit purchase payment required will likely limit the actual utilization of the second chance election

by MnSCU faculty and will likely disappoint a number of potential purchasers, who may then complain to their local legislators and seek personal special legislation, likely unsuccessfully. The 2008 special actuarial study of allowing current IRAP-covered MnSCU faculty members to transfer to TRA and purchase prior service credit provides some sense of the current population of MnSCU faculty who would become eligible under the proposed legislation to transfer retirement coverage and purchase prior service credit, as follows:

Age	Under Five Years Service	% of Total	Five or More Years Service	% of Total	Total
20-24	9	0.17%	0	0.00%	9
25-29	159	3.03%	18	0.34%	177
30-34	313	5.96%	151	2.87%	464
35-39	362	6.89%	346	6.59%	708
40-44	264	5.03%	500	9.52%	764
45-49	223	4.25%	573	10.91%	796
50-54	191	3.64%	675	12.85%	866
55-59	164	3.12%	636	12.11%	800
60-64	86	1.64%	372	7.08%	458
65-69	28	0.53%	123	2.34%	151
70-74	7	0.13%	45	0.86%	52
75+	0	0.00%	8	0.15%	8
	1,806	34.38%	3,447	65.62%	5,253

The older a service credit purchaser is, the larger typically is the required purchase payment under Minnesota Statutes, Section 356.551, and the greater is the adverse selection risk.

5. Likelihood of Future Transfer/Prior Service Credit Purchase Demands from Omitted MnSCU Faculty. The policy issue is the likelihood that current IRAP-covered MnSCU faculty members with more than five years of service currently (before July 1, 2009) who have already achieved tenure or its equivalent will demand similar treatment as the less-senior faculty permitted to transfer retirement coverage to TRA and purchase prior service credit under the proposed legislation. It is likely that the interest that generated this proposed legislation and an earlier attempt during the 2007-2008 Legislative Session (2007 H.F. 1953; S.F. 2154) represent the desires of the current MnSCU faculty members who are closely approaching tenure or who recently attained tenure, but who are likely to be excluded from the limitation in this proposed legislation, added at the request of TRA, that the transfer/prior service credit purchase authority include only that portion of the MnSCU faculty who have not yet (before July 1, 2009) attained tenure. If the proposed legislation is recommended by the Commission and enacted, it likely would be cited by the post-tenure grant portion of the MnSCU faculty as precedent for similar treatment in their circumstance, despite the limitation, on the basis of fairness and equal treatment. If the Commission does not want the proposed legislation to be used as precedent for an extension, it should ensure that the policy basis for its limitation to the one-third least senior portion of the current MnSCU faculty is clearly set forth on the record with testimony on the point by the IFO, MnSCU, and TRA, so that record can be cited by this Commission in 2010 or by future Commissions.

6. Appropriateness of Changing Retirement Benefit Plan Default. The policy issue is whether the actual or perceived problem that gave rise to the proposed legislation would be better resolved by changing the default retirement coverage for newly employed MnSCU faculty and comparable staff from the Higher Education IRAP to the TRA. If new MnSCU faculty believe that they would be better off with defined benefit plan retirement coverage rather than defined contribution plan retirement coverage and if most MnSCU faculty members achieve tenure, reducing the advantage they may find in IRAP coverage, then TRA would be the better default coverage option. It is less financially problematic to transfer past contributions out of a defined benefit plan for deposit into a defined contribution plan than it is to utilize full actuarial value prior service credit purchases to convert past defined contribution retirement coverage into defined benefit retirement coverage.

   If this change of the default option appears to the Commission to be an appropriate way to address the perceived or actual problem giving rise to this proposed second chance election legislation, **Amendment S1267-1A** would change the default from IRAP to TRA.

Attachment A

Background Information on Minnesota Defined Contribution and Defined Benefit Retirement Plans

Pension plans can be one of two types; either defined benefit plans or defined contribution plans. The difference is whether the benefits to be paid by the pension plan are pre-determined or whether the funding to be provided to the pension plan is pre-determined. Defined benefit plans make the benefit coverage pre-determined by either specifying the ultimate benefit or, more commonly, specifying a formula by which the eventual retirement annuity will be calculated. Having thus fixed the benefit, defined benefit plans leave the pension plan funding obligation variable, to be based on financial and demographic experience. Defined contribution plans make the pension funding pre-determined by specifying the contribution rate (or rates) either as a dollar amount, or more commonly, as a percentage of payroll, and leave the eventual retirement annuities variable in the amount payable based on individual choice and demographic and financial experience.

Each type of pension plans has distinct winners and losers. In the main, defined benefit plans tend to reward long term employees, the type who reflect the values underlying the traditional purpose for pension plans, while defined contribution plans tend, in comparison, to reward mobile employees, the type of employees that experts in labor economics and workforce trends indicate are the future trend.

In the private sector as a whole, currently, defined contribution plans are prevalent, while in the public sector as a whole, defined benefit plans predominate. However, many of those private sector defined contribution plans have been established and are maintained by sole proprietor businesses or similar small employers. Among industrial employers in the private sector and other large employers, defined benefit plans are more prevalent. Public sector pension plans, which are typically very large single employer or multiple employer pension plans, tend to follow the private sector industrial model in establishing defined benefit pension plans. In the private sector, defined contribution plans, in the form of Internal Revenue Code Section 401(k) plans are relatively common and generally function as supplemental thrift or savings plans. In the public sector, supplemental defined contribution pension plans also occur frequently.

Looking at the history of public pension plans, a checkered picture emerges. Among public pension plans that were established in the 19th century, generally public safety employee pension plans, a defined benefit plan along the lines of the federal military pension plan predominated. In the early portion of the 20th century, with the growth principally of teacher pension plans, defined contribution plans predominated, following the private insurance company annuity model. With the growth of general or non-uniformed public employees in the early middle portion of the 20th century, combinations of defined contribution and defined benefit plans were instituted, frequently with an annuity derived from accumulated member contributions and investment income and an additional benefit funded by employer contributions. In the immediate period after World War II, following the private sector large industrial corporation model, most new public pension plans were defined benefit plans. In recent years, there has been a mixed trend, with the creation of new pension plans of both types and some conversions from defined benefit plans to defined contribution plans or vice versa.

In Minnesota, public pension plans by both number and membership are predominantly defined benefit pension plans. The following sets forth a listing of defined benefit Minnesota public pension plans and of defined contribution Minnesota public pension plans:

Defined Benefit Plans

1. General State Employee Retirement Plan of the Minnesota State Retirement System
2. MSRS State Correctional Employees Retirement Plan
3. MSRS Military Affairs Retirement Plan
4. MSRS Transportation Department Pilots Retirement Plan
5. State Patrol Retirement Plan
6. Elective State Officers Retirement Plan
7. Legislators Retirement Plan
8. Judges Retirement Plan
9. General Employees Retirement Plan of the Public Employees Retirement Association
10. Public Employees Police and Fire Plan
11. Teachers Retirement Association
12. Duluth Teachers Retirement Fund Association
13. Minneapolis Teachers Retirement Fund Association
14. St. Paul Teachers Retirement Fund Association
15. Minneapolis Employees Retirement Fund
16. Local Police Relief Associations (total of 2)
17. Local Paid Fire Relief Associations (total of 2)
18. Volunteer Firefighter Relief Associations (approx. total of 625)
19. University of Minnesota Faculty Supplemental Plan
20. MSRS State Fire Marshal Arson Division Retirement Plan
21. PERA Local Government Correctional Employees Retirement Plan

Defined Contribution Plans

1. MSRS Unclassified State Employees Retirement Plan
2. PERA Defined Contribution Retirement Plan
3. Higher Education Individual Retirement Account Plan
4. Higher Education Supplemental Retirement Plan
5. Volunteer Firefighters Relief Associations (approximate total of 74)
6. Ambulance Personnel Longevity Plan
7. Hennepin County Supplemental Retirement Plan
8. University of Minnesota Faculty Retirement Plan
9. Public Employee Supplemental Thrift Plan through State Deferred Compensation Plan or selected Tax Sheltered Annuity programs
10. Various Housing and Redevelopment Agency Retirement Plans
11. Pre-1971 School District Supplemental Retirement Plans (total of 8)
12. DTRFA Internal Revenue Code Section 403(b) Supplemental Retirement Plan
13. Historical Society, Arts Board, and Humanities Commission Individual Retirement Plan

Attachment B

Background Information on the Higher Education Individual Retirement Account Plan (IRAP)

1. Difference Between Defined Contribution Retirement Plans and Defined Benefit Retirement Plans.

There are two major factors in designing retirement plans and attempting to fix or make pre-determinable one or the other factors constitutes the difference between defined contribution retirement plans and defined benefit retirement plans. When one factor is fixed or made pre-determinable, the other factor is automatically made variable. The factors are the level of the benefits and the level of contributions.

In a defined contribution retirement plan, the level of contributions or the amount of member and/or employer funding are specified or fixed in some manner, making the level of eventual benefits and/or their duration the variable factor. Most commonly, in a defined contribution plan, the funding of the plan is specified as a percentage of the covered payroll of plan members. Those contributions, allocated to individual accounts and frequently invested based on individual selection, along with any investment return obtained, constitute the benefit available to the plan member upon termination of employment or retirement. Most commonly, the individual account balance is payable in a lump sum upon the termination of plan coverage or is available to be transferred to an insurance company for the purchase of a retirement annuity. Some retirement plans that generally are classified as defined contribution plans permit the individual account balance amount to be converted into a retirement annuity within the retirement plan at a specified rate, although the assumption of that retirement annuity mortality risk actually defines the post-retirement benefit amount and subjects the retirement plan to potential future mortality and investment return experience losses and a chance for an unfunded actuarial accrued liability, akin to a defined benefit plan.

In a defined benefit retirement plan, the level of benefits at the time of retirement or after retirement are specified or fixed in some manner, making the level of contributions or the amount of funding from period to period the variable factor. Most commonly, in a defined benefit plan, the retirement benefit is specified as a percentage of the final salary or of the final average salary per year of credited service rendered. Thus, the plan tracks and awards allowable service credit and salary credit and amasses a liability for the service and salary credit rendered to date that requires the periodic calculation and assessment by an actuary. The resulting actuarial valuation report both assesses the amount of actuarial accrued liability that the retirement plan has amassed to date and the amount of total contributions needed for the future plan year or plan years. Most commonly, in defined benefit plans, any lump sum amount is limited to a pre-retirement employment termination member contribution refund, with the regular retirement benefit only payable as a retirement annuity. Generally, a regular retirement annuity has optional equivalent value forms that open for election by the plan member. Retirement plans that are defined benefit plans can take on defined contribution retirement plan aspects, such as determining post-retirement adjustment amounts from the amount of investment gain in whole or in part generated by the plan.

2. Contrasting Development of Defined Contribution Plans Between the Private Sector and the Public Sector.

In the private sector as a whole, defined contribution plans are very prevalent, while in the public sector as a whole, defined benefit plans predominate. However, many of those private sector defined contribution plans have been established and are maintained by sole proprietor businesses or similar small employers. Among industrial employers in the private sector and other large employers, defined benefit plans are more prevalent. Public sector pension plans, which are typically very large membership single employer or multiple employer pension plans, tend to follow the private sector industrial model in utilizing defined benefit pension plans. In the private sector, defined contribution plans, in the form of Internal Revenue Code Section 401(k) plans are relatively common and generally function as supplemental thrift or savings plans. In the public sector, supplemental defined contribution pension plans also occur frequently. Primary coverage private sector pension plans, either defined benefit plans or defined contribution plans, are most commonly funded by the employing unit, while primary coverage public sector pension plans are most commonly funded by a combination of member and employer contributions. Supplementary pension plans, both private sector and public sector, are almost always funded by member contributions and frequently include some employer funding.

3. Higher Education Individual Retirement Account Plan (IRAP).

Public pension coverage for public university and public college faculty and upper level administrators frequently follow the private and nonprofit sector practice of utilizing defined contribution plan coverage, frequently through the use of the Teachers Insurance and Annuity Association-College Retirement Equity Fund (TIAA-CREF). The coverage generally either is exclusive defined contribution plan coverage or is the inclusion of defined contribution plan coverage as an elective alternative to the defined benefit plan coverage otherwise applicable to governmental employees at that level.

The Minnesota State Colleges and Universities System (MnSCU) Individual Retirement Account Plan (IRAP) stems from the late 1980s, when state university and state college teachers and related employees sought coverage by a defined contribution plan rather than by TRA, which is a defined benefit program. That IRAP plan, currently coded as Minnesota Statutes, Chapter 354B, was established by the 1988 Legislature (Laws 1988, Chapter 709, Article 11), but was not implemented until mid-1989 due to problems in ensuring proper Social Security coverage. The plan was expanded to include technical college managerial employees in 1993 and technical college faculty in 1994. The Higher Education IRAP plan covers faculty members and upper-level administrators at MnSCU, but does not cover faculty or administrators at the University of Minnesota.

The argument made by the initial proponents of a defined contribution plan for higher education faculty and administrators is that higher education faculty, as a group, are highly mobile. If an individual changes employment to another college in another state, the individual retains the full value of the IRAP account, and the account continues to grow in value over time due to the continuing investment earnings on the account. A defined benefit plan may be a better choice for higher education faculty members who are less mobile, by reason of personal choice or lack of opportunity, particularly as these individuals become long-term employees. A defined benefit plan may also be best for higher education faculty members who have considerable prior TRA or first class city teacher plan covered service. The MnSCU higher education faculty is also covered by the Higher Education Supplemental Retirement Plan (SRP), which is also a defined contribution plan. Higher education faculty and administrators are covered by the SRP whether the individual is a TRA member or an IRAP member. The SRP was created in 1968. At that time, TRA provided the primary coverage for higher education faculty and the SRP was created to address deficiency in the benefits provided by TRA. Those deficiencies in TRA benefits were addressed decades ago when TRA moved to use of the high five average salary to compute benefits, and benefits were further enhanced in more recent years. The problem that the SRP was intended to address has been eliminated. Given that elimination, the purpose for continuing the SRP currently is unclear.

The Minnesota State University System and the Minnesota State Community College System shifted to defined contribution plan coverage as an option in the form of the Individual Retirement Account Plan (IRAP) in the late 1980s. Technical College faculty members were added to IRAP in the mid-1990s, when IRAP was also shifted from being the exclusive type of pension benefit coverage for new hires to an option as an alternative to defined benefit plan coverage by the statewide Teachers Retirement Association (TRA) or by one of the first class city teacher retirement fund associations. The creation of IRAP was as a result of active lobbying by the union representatives of State University and State Community College faculty members. Coverage by IRAP is the primary retirement vehicle for teaching personnel employed by the Minnesota State Colleges and Universities (MnSCU), which is the successor to the three prior higher education systems.

Excerpts of the

IFO
Inter Faculty Organization

2005-2007 Master Contract

between the

Minnesota State College and University Board of Trustees and the Inter Faculty Organization

October, 2005

Minnesota State Colleges and Universities
Office of the Chancellor
Labor Relations Division
30 7th Street East, Suite 350
St. Paul, Minnesota 55101

ARTICLE 21
Appointment of Faculty

Section A. Notice of any vacancies

Section B. Appointment Date.

Section C. Information.

Section D. Initial Assignment to Rank. Qualifications for initial assignment to faculty rank are to be as follows:

Professor: Earned doctorate or other appropriate degree, plus ten (10) years of collegiate-level teaching or related experience.

Associate Professor: Earned doctorate or other appropriate degree, plus seven (7) years of collegiate-level teaching or related experience.

Assistant Professor: Earned doctorate or other appropriate degree.

Instructor: Appropriate preparation.

Normally, no faculty member may be assigned to a rank more than one (1) level below that for which he/she is qualified. In each instance, the President shall establish what constitutes appropriate experience and appropriate degrees for the purpose of assignment to rank.

Section E. Appointment. Appointments shall be one of the following seven (7) types:

Subd. 1. Fixed-Term Appointments.

Subd. 2. Non-Tenure Track Appointments.

Subd. 3. Adjunct Appointments.

Subd. 4. Community Faculty Appointments. See Article 10, Section J.

Subd. 5. Athletic Appointments. See Article 10, Section G.

Subd. 6. Probationary Appointments.

a. Definition. A probationary appointment is for a stated term and is designed to lead to tenure. During such term the appointee is being evaluated in accordance with Article 22 for purposes of determining whether an appointment with tenure shall be offered in accordance with Article 25 not later than the end of the stated term. Probationary appointments may be for one (1) year or other stated periods and may be terminated prior to the end of the stated term subject to the conditions in Articles 24 and 25.

b. Length. The total period of probationary service prior to the acquisition of tenure shall not be less than one (1) year in the university and shall not exceed five (5) years of full-time equivalent service. For those persons who, because of prior part-time service, reach four (4) FTE years of service during the academic year, the probationary period shall end at completion of that academic year.

c. Computation. The probationary period shall include all tenured, probationary, non-tenure track, except as provided in Subd. 6.b., and fixed-term employment served within the previous twelve (12) years in the faculty member's university together with such previous higher education service in other institutions up to a maximum of four (4) years if approved in writing by the President at the time of initial employment. If the service which will be counted is from a higher education institution outside the Minnesota state universities, the prospective faculty member will be advised of his/her right to have a probationary period of five (5) years in length, and that accepting a shortened probationary period at the time of hire is a waiver of that right. Faculty members accepting shortened probationary periods shall sign a waiver of the right to the full five (5) years. Where a shortened probationary period is accepted, notice of such acceptance shall be conveyed to the department and to the Association. The computed probationary period shall include a probationary appointment immediately prior to the granting of tenure. For individuals who were previously tenured in any university in the System and whose rehiring rights have expired after layoff, appointment to a position after retraining shall include a probationary period not to exceed two (2) years. Notice of termination of appointments will be given in accordance with the relevant provisions of Articles 23 and 25. However, fixed-term employment financed by monies received from an outside jurisdiction or agency which may terminate such funding in a manner beyond the control of the Employer shall not be counted in computation of the probationary period, except as otherwise approved in writing by the President.

Subd. 7. Tenured Appointments.

a. Definition. An appointment with tenure is an appointment granted by the Employer upon successful completion of the probationary period specified in Subd. 6.c. of this Section. Appointment beyond the completion of the specified probationary period because of an arbitrator's award or because of clerical error shall not carry with it the award of tenure. Faculty members who hold tenure at the time of execution of this Agreement shall be deemed to have tenure under this Agreement. Tenured appointments are for an indefinite period of time and individuals holding such appointments are automatically reappointed annually unless terminated under the provisions of either Article 24 or Article 23.

Tenured faculty on less than full-time appointments shall automatically be reappointed to a position of at least one-half (.50) FTE but less than full-time each year unless terminated under the provisions of either Article 24 or Article 23. Changes in workload for a tenured part-time faculty member shall not constitute a retrenchment so long as that workload remains at one-half (.50) FTE or above.

Tenured full-time faculty who are appointed to a part-time position by mutual agreement of the faculty member and the President/designee shall be considered to hold tenure in that position and shall retain tenure as full-time employees upon return to full-time employment.

b. Except for faculty members who, by virtue of prior service credited in accordance with Subd. 6.c. above, are eligible for consideration earlier, and further except for faculty members who are eligible for consideration under the terms of Subd. 6.b., a faculty member shall normally be considered for tenure during the fifth year of continuous FTE service in a tenure-earning position. The Dean or immediate supervisor shall notify all probationary faculty who are beginning their fifth year of FTE service that they shall be considered for tenure in accordance with Article 25. Other probationary faculty members who believe they are eligible for consideration for tenure shall inform the Dean or immediate supervisor in writing in accordance with timelines to be established under Article 22 and Article 25 and shall send a copy of the letter to the department chairperson, so that appropriate action will be taken. If such consideration is during the fifth year of FTE service or during the final year of a shortened probationary period, the procedures for consideration for tenure outlined in Article 25 below shall be in lieu of any other established procedures for consideration of non-renewal of probationary employment.

c. The decision to deny tenure shall be made by the President and shall not be made for arbitrary or capricious reasons.

Section F. Appointment of Administrators.

ARTICLE 22
Professional Development and Evaluation

Section A. Purpose.

Section B. Criteria. The criteria shall include:

1. Demonstrated ability to teach effectively and/or perform effectively in other current assignments.
2. Scholarly or creative achievement or research.
3. Evidence of continuing preparation and study.
4. Contribution to student growth and development.
5. Service to the university and community

For elaboration see Appendix G.

Section C. Schedule. Faculty shall be evaluated and shall submit progress reports according to the following schedule:

Appointment Type	Evaluation	Progress Reports
Fixed Term Faculty appointed to less than .75 FTE	None	None
Fixed Term Faculty appointed to .75 FTE or more	Annually	Annually
Community Faculty	None	None
Adjunct Faculty	None	None
Head Coaches	Annually	Annually
Assistant Coaches, appointments totaling .75 FTE or more	Annually	Annually
Assistant Coaches appointments totaling less than .75 FTE	None	None
Probationary Faculty appointed to .50 FTE or more	Annually	Annually
Tenured and Non Tenure Track Faculty (below rank of Full Professor)	Every four (4)years	Annually
Tenured and Non Tenure Track Full Professors	Every four (4) years	Summary report in year two (2) Full report in year four (4)

Faculty members who, according to this Section, are scheduled for evaluation less frequently than every year may request more frequent evaluation.

Section D. Procedure.

Section E. Post-Tenure Review.

ARTICLE 25
Tenure, Promotions, and Non-Renewal

Section A. Criteria.

Subd. 1. Tenure. The decision to award tenure shall be based on the principle of a demonstrated cumulative record of positive performance and professionally competent achievement consistent with the goals of the institution over the duration of the probationary period on the criteria outlined in Article 22. Annual evaluations that are minimally satisfactory and are used, in part, in the tenure decision, may result in the denial of tenure.

Subd. 2. Promotion. The decision to promote shall be based on a demonstrated cumulative requisite record of professional performance and high achievement appropriate to the relevant rank.

Section B. Tenure. The following procedures shall constitute the process of consideration for tenure.

Subd. 1. Progress reports completed in accordance with Article 22, Section D. along with all required forms and documents, and all information provided by the faculty member being considered for tenure shall be sent to the immediate supervisor by January 31. If a faculty member does not comply by that date, h/she shall lose protection provided in Subd. 11. below. Failure of any faculty member to provide any required materials shall not prevent the process from continuing if the review is during the final year of the probationary period.

Subd. 2. The faculty member's department (appropriate college at Metro State) and chair shall forward recommendations regarding tenure to the immediate supervisor.[See Art. 20, Sec. A, Subd. 4.] The faculty member is entitled to attach comments to the recommendations. Copies of the recommendations shall be sent to the faculty member by the chair (dean of the college at Metro State). Failure of the department (college at Metro State) and/or chair to make a recommendation to the immediate supervisor shall not prevent the process of review from continuing.

Subd. 3. The immediate supervisor shall provide a written assessment in accordance with Article 22, Section D, and subsequently shall provide a written recommendation regarding tenure to the supervising Vice President. The recommendation of the immediate supervisor shall be sent to the faculty member in accordance with Article 5, Section A. The faculty member is entitled to attach comments to the recommendation.

Subd. 4. After receiving the materials specified in Section B. Subd. 2. and 3. above, the supervising Vice President shall prepare a written recommendation regarding tenure. Notice of a negative recommendation shall be sent to the faculty member in accordance with Article 5, Section A. Upon request, the faculty member shall be given the opportunity to meet with the supervising Vice President to discuss the recommendation. The faculty member is entitled to attach comments to the recommendation. Such comments must be provided to the supervising Vice President by May 1.

Subd. 5. The supervising Vice President shall forward a written recommendation, along with any comments from the faculty member, to the President.

Subd. 6. Should a recommendation for denial of tenure be made by the department (college at Metro State), the chair, the immediate supervisor or the Vice President, the President shall invite the faculty member to meet to discuss the recommendations before a decision is made. The faculty member may choose to be accompanied by an Association Representative.

Subd. 7. The President, after considering the recommendations and the faculty member's comments, shall decide whether or not to grant tenure and shall notify the faculty member of the decision by June 15 in accordance with Article 5, Section A.

Subd. 8. The President's written notice of denial of tenure shall include reasons for denial.

Subd. 9. In cases of denial of tenure in the fifth (5^{th}) year or during the final year of a shortened probationary period, the faculty member's appointment expires at the end of the subsequent academic year.

Subd. 10. A probationary faculty member who has been given notice of denial of tenure shall, upon request, be granted an interview with the President by January 15 of the terminal year in order to discuss his/her employment status. Any change in the decision shall be communicated to the faculty member in writing within fifteen (15) days.

Subd. 11. During the fifth (5^{th}) year of a probationary period or during the last year of a shortened probationary period, faculty members who are denied tenure without evaluation in compliance with Article 22 during the academic year in which notice of denial is given shall have the decision rescinded and shall obtain an additional year of employment during which they shall re-apply for tenure. If tenure is subsequently awarded, it will be retroactive to the year following the year in which the tenure was denied due to the lack of evaluation in accordance with Article 22. The Administration may not intentionally avoid conducting an evaluation in order to extend the probationary period. In the event that a faculty member undergoes two successive tenure reviews wherein the Arbitrator reverses the decision on alleged violations of Subd. 3. through Subd. 9. above, the arbitrator is free to fashion the appropriate remedy, which may in certain cases be an award of tenure.

Subd. 12. If a faculty member voluntarily withdraws from the established tenure review process, the review shall conclude at that point. If this is in the last year of the probationary period, the faculty member's appointment will terminate at the end of the subsequent year.

Section C. Promotion. The criteria to be used in the promotion process shall include those described in Article 22, Section B. The following shall constitute the process for consideration for promotion.

Subd. 1. A faculty member seeking promotion shall give notice of intent to the immediate supervisor by November 15. The faculty member completes an application for promotion and sends a copy, along with supporting documentation, to the department/unit through the chair. The recommendation of the department/unit and of the chair [See Article 20, Section A., Subd. 4.], with all documentation, shall be sent to the immediate supervisor by January 31, with copies sent to the faculty member by the chair.

Subd. 2. A copy of the immediate supervisor's proposed recommendation shall be given to the faculty member. After receipt of this recommendation, the faculty member shall be given the opportunity to meet with the immediate supervisor. The faculty member may submit written comments to the Vice President regarding the immediate supervisor's recommendations.

Subd. 3. The supervising Vice President's recommendation shall be sent to the President by May 1. A copy of the Vice President's recommendations shall be sent to the faculty member. Upon receipt of the Vice President's recommendation, the faculty member may request an interview with the President before the President decides on the request for promotion. The President's decision shall be conveyed to the faculty member in writing by June 15.

Subd. 4. The President's decision to grant or to deny promotion shall not be arbitrary or capricious. Processing of any subsequent applications for promotion shall take into account the areas of deficiency upon which promotion was denied.

Subd. 5. A faculty member who is not promoted may, upon request, meet with the President or designee to discuss the President's decision. The faculty member may request, and shall be furnished, written indication of deficiencies and guidance concerning appropriate action to overcome such deficiencies.

Subd. 6. Failure of the department/unit or chair to make a recommendation to the immediate supervisor by January 31 shall not preclude the president from making a promotion decision.

Subd. 7. Length of service in rank and at the university may be a factor in consideration for promotion. Normally, three (3) years in rank, with two (2) evaluations conducted in accordance with Article 22, will be a minimum prerequisite for consideration for promotion. (See Article 22). All full-time faculty whose appointments are effective after the beginning of the academic year shall be considered as having begun service at the beginning of that academic year. Faculty members who do not receive a full evaluation under Article 22 shall not be denied consideration for promotion.

Subd. 8. All promotions shall take effect on the first duty day of the subsequent year as indicated in the appointment form.

Subd. 9. An instructor shall be promoted to Assistant Professor upon being granted tenure.

Section D. Non-Renewal of Probationary Faculty.

Section E. Non-Renewal of Non-Tenure Track Faculty.

Section F. Dismissal of Tenured Faculty.

Section G. Arbitration.

2007 IFO Legislative Goals

Retirement Issues

14. **Support legislation that would allow faculty a window of opportunity to switch from IRAP to TRA once they reach tenured status.**

Currently new faculty are placed in the Individual Retirement Account Plan (IRAP) and have up to one year to switch to the Teachers Retirement Plan (TRA) if they want to. The vast majority of faculty stay in the IRAP plan because it is more portable in case they change jobs, however, many of these faculty members may prefer the predictability of the TRA defined benefit plan in the long run. Allowing faculty to wait until they reach tenured status before making a choice would give them a better idea which plan is likely to best fit their needs.

16. **Oppose proposals to make TRA the default pension plan for new faculty instead of IRAP.**

TRA benefits are not very portable—if a TRA participant loses their job or changes jobs prior to vesting, they loose the employer contributions—they can only take their own money with them. IRAP is very portable—if a member loses their job or changes jobs they can take both their own contributions and the employer contributions on their behalf with them. Therefore, IFO believes that IRAP is the appropriate default for faculty members. Currently all members who want TRA can switch to TRA within one year of employment.

January 21, 2009

Minnesota Teachers Retirement Association

Actuarial Analysis of
Minnesota State Colleges and Universities (MnSCU)
Retirement Coverage by the
Teachers Retirement Association

MERCER

MARSH MERCER KROLL
GUY CARPENTER OLIVER WYMAN

Consulting. Outsourcing. Investments.

Contents

1

Executive Summary

New faculty members of the Minnesota State Colleges and Universities System (MnSCU) currently have a one-year opportunity to choose between participation in the Individual Retirement Account Plan (IRAP) or the Teachers Retirement Association Fund (TRA).

Legislation passed in 2008 requires TRA to conduct an actuarial impact study addressing the following issues:

- The likely actuarial impact on TRA of permitting MnSCU employees in IRAP to elect retroactive and prospective TRA coverage upon attainment of tenure, with retroactive service credit effected by a service credit purchase
- An assessment of the likelihood that tenure track MnSCU faculty members would elect TRA coverage
- An assessment of the actuarial accrued liability that could be incurred by TRA from potential service credit purchases
- An assessment of the likely service purchase amounts
- An assessment of the impact on TRA's normal cost rate if IRAP members join TRA

For purposes of this study, we assumed faculty is everyone in the Minnesota State College Faculty (MSCF) and Inter Faculty Organization (IFO) bargaining units. We were unable to definitively determine which faculty members are on a tenure track, so for purposes of this study we assumed all faculty are on a tenure track.

MnSCU provided current employee census data to Mercer in September 2008. The analysis in this report is based on that information, as summarized in Section 6.

MnSCU also provided historical salary, termination, retirement, and retirement plan election information for the last 10 years. In our analysis of this historical data, we observed that MnSCU faculty have very low turnover rates. Salary experience was slightly lower than the salary increase rates assumed for TRA. MnSCU faculty retirement rate patterns were difficult to ascertain, as the number of career faculty retiring was not statistically credible, and the experience of second career, short term hires who are unlikely to be on a tenure track is not useful. We did evaluate the overall retirement patterns of all MnSCU employees, and finding that consistent with our experience at other higher education institutes, adopted it. The results of this experience analysis are shown in Section 3.

In Section 3, we also provide a summary of actual MnSCU employee elections into TRA or IRAP, and address the factors that would affect decisions regarding TRA coverage.

Section 5 includes an analysis of the current service purchase methodology. We compared service purchase prices for MnSCU IRAP faculty to the actuarial accrued liability that would be incurred by TRA through the purchase of service. For 55% of the group studied, the purchase price is at least as great as the liability. For the remaining 45%, the purchase price is less than the liability. In total, as of July 1, 2008, the total purchase amount for MnSCU IRAP faculty was $8.0 million more than (2.2% more than) the total actuarial accrued liability of $361.3 million (assuming no adverse selection by IRAP members).

No methodology exists that would produce an equitable result and a precise match of the actuarial accrued liability, so this should be considered a method that comes very close to actuarial equivalence with a small margin for adverse selection.

We determined liabilities and normal cost for active MnSCU employees under a number of different scenarios. First, we compared baseline TRA valuation results as of July 1, 2008 for active MnSCU employees in TRA and active K-12 employees in TRA. Currently, 4.5% of the active members are MnSCU employees, and 7.4% of the active actuarial accrued liability of TRA is attributable to MnSCU members. We also found that the normal cost as a percent of payroll is higher for MnSCU members in TRA (9.8% of pay) versus K-12 members in TRA (8.7% of pay).

Next, we determined the liability that could potentially be added to TRA due to addition of MnSCU faculty currently in IRAP. We also considered valuation results under the alternate assumptions developed in our experience analysis. These alternate results may be more representative of MnSCU costs since they are based on expected MnSCU faculty experience. Our results are summarized below:

MnSCU IRAP Faculty	TRA Valuation Assumptions	MnSCU Alternate Assumptions
Including Past Service in TRA		
Increase in accrued liability (millions)	$ 361	$ 363
Increase in annual normal cost (millions)	29	28
Normal cost as a % of pay (MnSCU IRAP Faculty Only)	9.97%	9.75%
Initial increase/(decrease) in TRA required contribution (% of pay) – no member charge		
Increase/(decrease) in TRA normal cost	0.08%	0.07%
Increase/(decrease) in TRA payment on unfunded liability	0.09%	0.09%
Total increase/(decrease) in TRA required contribution	0.17%	0.16%
Initial increase/(decrease) in TRA required contribution (% of pay) – member charge equals accrued liability		
Increase/(decrease) in TRA normal cost	0.08%	0.07%
Increase/(decrease) in TRA payment on unfunded liability	(0.42%)	(0.41%)
Total increase/(decrease) in TRA required contribution	(0.34%)	(0.34%)
Without Past Service in TRA		
Increase in accrued liability (millions)	$ 0	$ 0
Increase in annual normal cost (millions)	42	43
Normal cost as a % of pay (MnSCU IRAP Faculty Only)	14.40%	15.16%
Increase/(decrease) in TRA required contribution (% of pay)		
Increase/(decrease) in TRA normal cost	0.39%	0.44%
Increase/(decrease) in TRA payment on unfunded liability	(0.42%)	(0.41%)
Total increase/(decrease) in TRA required contribution	(0.03%)	(0.03%)

The inclusion of all MnSCU IRAP faculty in the TRA plan, with future service only, does not increase TRA's accrued liability but results in a larger increase in TRA's normal cost since there is a shorter TRA career to accumulate projected benefits. On the other hand, since there is a significant increase in payroll, the supplemental amortization of the unfunded liability decreases and the net result is a minimal change to the required contribution as a percent of pay.

Adverse selection creates a potential for additional costs. The liabilities in this report have been determined for all active IRAP faculty. In reality, given a choice, some IRAP members will choose to remain in IRAP, and some will choose to enter TRA. Adverse selection represents the additional liability that could occur as individuals make the choice that is most beneficial for them. For example, costs in a defined benefit plan are higher for older employees than for younger employees. Older employees tend to value defined benefit plans more than younger employees, while defined contribution plans may have more value to younger employees. If all employees make the "correct" choice – the one that has more financial value to the individual – then TRA's costs will rise due to this adverse selection. Accurately predicting the degree and financial affect of adverse selection is not possible, but significant adverse selection would have a measurable impact.

Key Points

- At current TRA contribution rates, allowing MnSCU tenure track faculty to transfer into TRA will not increase TRA's deficiency, ignoring adverse selection, as long as those members are required to purchase past service.

- At current TRA contribution rates, allowing MnSCU tenure track faculty to transfer into TRA without purchasing past service will create an approximately 3.4% of pay contribution shortfall for each transfer, ignoring adverse selection. However, because this shortfall is approximately equal to the current deficiency, the net result is a minimal change to TRA's required contribution.

- TRA is currently in a deficiency position. If employee / employer contributions are increased to cover the deficiency for current TRA members, then the addition of MnSCU members at these higher contribution rates will improve the overall sufficiency of TRA's contributions, again ignoring adverse selection.

- On average, the current service purchase methodology does not produce significant gains and losses. However, we are concerned about the effect of adverse selection. The method does tend to produce losses for TRA for individuals who purchase service after age 50. Typically the older the individual, the more significant the loss. We expect that older individuals are more likely to purchase service than younger individuals, assuming they can afford to do so.

- Again, we are concerned that significant adverse selection, if it occurs, could cause measurable losses. We encourage monitoring of any permitted election so as to assess the ongoing level of adverse selection.

Certification

This report has been prepared exclusively for the Teachers Retirement Association of Minnesota and the Legislative Commission on Pensions and Retirement to make the assessments described on the first page of this report under generally accepted actuarial standards. Mercer is not responsible for consequences arising from the use of any elements of this report for any other than their intended purpose. Determinations for other purposes may be significantly different from the results shown in this report.

Over time, a plan's total cost will depend on a number of factors, including the amount of benefits it pays, the number of people to whom it pays them, and the amount earned on any assets invested to pay the benefits. These amounts and others are uncertain and unknowable at the valuation date, but are predicted to fall within a reasonable range of possibilities. To prepare this report, *actuarial assumptions*, as described within, are used to select a single scenario from the range of possibilities. The results of that single scenario are included in this report as a baseline. However, the future is uncertain and the plan's actual experience will differ from those assumptions; these differences may be significant or material. In addition, different assumptions or scenarios may also be within the reasonable range and results based on those assumptions would be different. Actuarial assumptions may also be changed from valuation to valuation based on experience, changes in expectations about the future, and other factors. Evaluating the effect of changes in assumptions, other than those described herein, is beyond the scope of this assignment.

Because actual plan experience will differ from the assumptions, decisions about benefit changes, investment policy, funding amounts, benefit security and/or benefit related issues should be made only after careful consideration of alternative future financial conditions and scenarios, and not solely on the basis of a report.

We used and relied on financial data submitted by TRA without further audit. We have also used and relied on participant data supplied by TRA and by MnSCU; this data would customarily not be verified by TRA's actuary. TRA and MnSCU are solely responsible for the validity and completeness of this information.

All costs, liabilities and other factors for TRA were determined in accordance with generally accepted actuarial principles and procedures, in accordance with the provisions of current federal and state statutes and regulations issued thereunder. The economic assumptions are set in Minnesota Statutes, and the remaining assumptions are adopted by the Legislative Commission on Pensions and Retirement. We believe that these assumptions are reasonable. Substantial portions of the information provided in this report come from our July 1, 2008 valuation report.

Professional Qualifications

We are available to answer any questions on the material contained in the report, or to provide explanations or further details as may be appropriate. The undersigned credentialed actuaries meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained in this report. We are not aware of any direct or material indirect financial interest or relationship, including investments or other services that could create a conflict of interest, that would impair the objectivity of our work.

The information contained in this document (including any attachments) is not intended by Mercer to be used, and it cannot be used, for the purpose of avoiding penalties under the Internal Revenue Code that may be imposed on the taxpayer.

James F. Verlautz

James F. Verlautz, FSA, EA, MAAA
Principal

Date 1/21/2009

Bonita J. Wurst

Bonita J. Wurst, ASA, EA, MAAA
Principal

Date 1/21/2009

Mercer
333 South 7th Street, Suite 1600
Minneapolis, MN 55402-2427
612 642 8600

.... moves to amend S.F. No. 1267; H.F. No. 1528, as follows:

Page 1, before line 6, insert:

"Section 1. Minnesota Statutes 2008, section 354.49, subdivision 1, is amended to read:

Subdivision 1. **Entitlement, application.** (a) A person who ceases to render teaching service in any school or institution to which the provisions of this chapter apply or who is employed as a faculty member by the Minnesota State Colleges and Universities System and elects coverage by chapter 354B in a timely fashion is entitled to a refund provided in subdivision 2, or, if eligible, a deferred retirement annuity under section 354.55, subdivision 11.

(b) An application for a refund must not be made sooner than 30 days after termination of teaching service if the applicant has not again become a teacher.

~~This~~ (c) The refund payment must be made within 45 days after the receipt of an application for a refund or upon the receipt of member reporting data under section 354.52, subdivision 4a, and payroll cycle data under section 354.52, subdivision 4b, whichever is later.

EFFECTIVE DATE. This section is effective July 1, 2009."

Page 2, after line 24, insert:

"Sec. 3. Minnesota Statutes 2008, section 354B.21, subdivision 3, is amended to read:

Subd. 3. **Default coverage.** (a) ~~Prior to~~ During the period of employment by the Minnesota State Colleges and Universities System before making an election under subdivision 2, or if an eligible person fails to elect coverage by the plan under subdivision 2 or if the person fails to make a timely election, the following retirement coverage applies:

(1) for employees of the board who are employed in faculty positions in the technical colleges, in the state universities or in the community colleges, the retirement coverage is by the plan established by ~~this~~ chapter 354;

(2) for employees of the board who are employed in faculty positions in the technical colleges, the retirement coverage is by the plan established by ~~this~~ chapter 354 unless ~~on June 30, 1997, the employee was a member of the Teachers Retirement Association established under chapter 354 and then the retirement coverage is by the Teachers Retirement Association, or, unless~~ the employee was a member of a first class city teacher retirement fund established under chapter 354A on June 30, 1995, and then the retirement coverage is by the Duluth Teachers Retirement Fund Association if the person was a member of that plan on June 30, 1995, or the Teachers Retirement Association if the person was a member of the former Minneapolis Teachers Retirement Fund Association

on June 30, 1995, or the St. Paul Teachers Retirement Fund Association if the person was a member of that plan on June 30, 1995; and

(3) for employees of the board who are employed in eligible unclassified administrative positions, the retirement coverage is by the plan established by this chapter.

(b) If an employee fails to correctly certify prior membership in the Teachers Retirement Association to the Minnesota State colleges and Universities system, the system shall not pay interest on employee contributions, employer contributions, and additional employer contributions to the Teachers Retirement Association under section 354.52, subdivision 4.

EFFECTIVE DATE. This section is effective July 1, 2009."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

Senators Olson, M.; Langseth; Pappas and Frederickson introduced–

S.F. No. 1267: Referred to the Committee on Higher Education.

A bill for an act

relating to retirement; permitting certain Minnesota State Colleges and Universities System tenured faculty to elect defined benefit plan retirement coverage; amending Minnesota Statutes 2008, section 354B.21, subdivision 2.

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

Section 1. Minnesota Statutes 2008, section 354B.21, subdivision 2, is amended to read:

Subd. 2. **Coverage; election.** ~~(a) For Eligible persons who were employed by the former state university system or the former community college system before May 1, 1995, the person has the retirement coverage that the person had for employment immediately before May 1, 1995.~~

~~(b) For all other eligible persons~~ (a) Eligible persons who were employed by the Minnesota State Colleges and Universities System on or after June 30, 2009, unless otherwise specified in this section, ~~the eligible person is~~ are authorized to elect prospective Teachers Retirement Association plan coverage rather than coverage by the plan established by this chapter. The election of prospective Teachers Retirement Association plan coverage ~~shall~~ must be made within one year of commencing eligible Minnesota State Colleges and Universities system employment. If an election is not made within the specified election period due to a termination of Minnesota State Colleges and Universities system employment, an election may be made within 90 days of returning to eligible Minnesota State Colleges and Universities system employment. All elections are irrevocable. ~~Prior to~~ Before making an election, the eligible person ~~shall be~~ is covered by the plan indicated as default coverage under subdivision 3.

(b) Except as provided in paragraph (c), a purchase of service credit in the Teachers Retirement Association plan for any period or periods of Minnesota State Colleges and

Universities system employment occurring ~~prior to~~ before the election under paragraph ~~(b)~~ (a) is prohibited.

(c) Notwithstanding paragraphs (a) and (b), a faculty member who is a member of the individual retirement account plan who first achieves tenure or its equivalent at a Minnesota state college or university after June 30, 2009, may elect to transfer retirement coverage under the teachers retirement plan within one year of the faculty member achieving tenure or its equivalent at a Minnesota state college or university. The faculty member electing Teachers Retirement Association coverage under this paragraph must purchase service credit in the Teachers Retirement Association for the entire period of time covered under the individual retirement account plan and the purchase payment amount must be determined under section 356.551. The Teachers Retirement Association may charge a faculty member transferring coverage a reasonable fee to cover the costs associated with computing the actuarial cost of purchasing service credit and making the transfer. A faculty member transferring from the individual retirement account plan to the Teachers Retirement Association may use any balances to the credit of the faculty member in the individual retirement account plan, any balances to the credit of the faculty member in the higher education supplemental retirement plan established under chapter 354C, or any source specified in section 356.441, subdivision 1, to purchase the service credit in the Teachers Retirement Association. If the total amount of payments under this paragraph are less than the total purchase payment amount under section 356.551, the payment amounts must be refunded to the applicable source. The retirement coverage transfer and service credit purchase authority under this paragraph expires with respect to any Minnesota State Colleges and Universities System faculty initially hired after June 30, 2014.

EFFECTIVE DATE. This section is effective July 1, 2009.