



**S.F. xxx**

**H.F. 2550**  
(Poppe)

**Executive Summary of Commission Staff Materials**

*Affected Pension Plan(s):* MSRS-General; PERA-General; MnSCU IRAP; and TRA

*Relevant Provisions of Law:* Special Legislation

*General Nature of Proposal:* Second chance benefit coverage election

*Date of Summary:* February 11, 2010

**Specific Proposed Change(s)**

- Authorizes a MnSCU employee to elect TRA coverage instead of MnSCU-IRAP coverage after the deadline for such elections.

**Policy Issues Raised by the Proposed Legislation**

1. Unclear status of teaching service as creditable service.
2. Equitable considerations.
3. Purchase payment amount; allocation.
4. Precedent issues.

**Potential Amendments**

None.



TO: Members of the Legislative Commission on Pensions and Retirement  
FROM: Lawrence A. Martin, Executive Director *JLM*  
RE: S.F. xxx; H.F. 2550 (Poppe): MSRS/MnSCU/TRA; Second Chance Benefit Coverage Election Authorized  
DATE: February 11, 2010

Summary of S.F. xxx; H.F. 2550 (Poppe)

S.F. xxx; H.F. 2550 (Poppe) creates an exception for Cynthia A. Enfield to the general law restrictions (Minnesota Statutes, Sections 352.33, 352.72, subdivision 1; 353.35, subdivision 4; and 356.30, Subdivision 3) on the repayment of refunds only if the person resumes membership with the plan from which the refund was taken or if the person becomes a member of another defined benefit Minnesota retirement plan covered by one of Minnesota's public pension plan portability provisions. Ms. Enfield is permitted to repay her refunds to the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General) and to the General Employee Retirement Plan of the Public Employees Retirement Association (PERA-General) until December 31, 2010. Ms. Enfield also is permitted to elect retirement coverage under the Teachers Retirement Association (TRA) rather than the Minnesota State Colleges and Universities System (MnSCU) Individual Retirement Account Plan (IRAP) for MnSCU employment despite missing the deadline to make that election, with MnSCU obligated to pay the shortfall between her MnSCU-IRAP account balance and the full actuarial value service credit purchase payment amount.

Public Employee Pension Problem of Cynthia A. Enfield

Cynthia A. Enfield is a 61-year-old employee of the Minnesota State Colleges and Universities System (MnSCU) working at the Riverland Community College. Ms. Enfield's employment position at Riverland Community College was upgraded in September 2007 to an unclassified position that was represented by the Minnesota Association of Professional Employees (MAPE) rather than the American Federation of State, County and Municipal Employees (AFSCME), her previous union, and that was covered either by the MnSCU-Individual Retirement Account Plan (IRAP) or the Teachers Retirement Association (TRA). Ms. Enfield, indicating that she was never made aware of the ramifications, did not elect TRA coverage and automatically shifted to MnSCU-IRAP retirement coverage. A consequence of no longer being a member of General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General), a defined benefit retirement plan, of not electing TRA, a defined benefit plan, and of being a member of MnSCU-IRAP was that she no longer was eligible to repay refunds of member contributions taken previously from MSRS-General for prior Mankato State University employment or previously taken from the General Employee Retirement Plan of the Public Employees Retirement Association (PERA-General) for prior City of Austin, Minnesota, employment. Ms. Enfield indicates that she desires to be able to repay those past MSRS-General and PERA-General refunds.

Background Materials

**Attachment A** sets forth background information on the authority to repay refunds to statewide and major local Minnesota retirement plans.

**Attachment B** sets forth background information on Minnesota State Colleges and Universities System (MnSCU) Individual Retirement Account Plan (IRAP) coverage.

**Attachment C** sets forth background information on the extent of retirement plan coverage elections of Minnesota public pension plans, the time deadlines for coverage elections, and the default coverage when no timely election is made.

Discussion and Analysis

S.F. xxx; H.F. 2550 (Poppe) permits Cynthia A. Enfield of Austin, Minnesota, to repay her Minnesota State Retirement System General State Employees Retirement Plan (MSRS-General) and Public Employees Retirement Association General Employee Retirement Plan (PERA-General) prior to January 1, 2011, despite her current retirement coverage by the Minnesota State Colleges and Universities System (MnSCU) Individual Retirement Account Plan (IRAP), a defined contribution retirement plan outside of the general Minnesota public retirement plan portability provision, Minnesota Statutes, Section 356.30, and

permits her to elect TRA coverage instead of MnSCU-IRAP for her MnSCU employment despite missing the deadline for that coverage election, with MnSCU obligated to pay any shortfall between the transferred IRAP account balance and the full actuarial value service credit purchase payment amount.

The proposed legislation raises several pension and related public policy issues for consideration and potential discussion by the Legislative Commission on Pensions and Retirement, as follows:

1. Equitable Considerations. The policy issue is the weighing of the equitable considerations favoring and disfavoring the special relief sought by Cynthia A. Enfield. There is no specific pension policy principle previously established by the Legislative Commission on Pensions and Retirement that addresses the refund exception relief sought by Ms. Enfield, but the Commission requires, in Pension Policy Principle II.E.11., in considering special exceptions, waivers and extensions to general provisions that favorable equitable considerations outweigh unfavorable equitable considerations.

The equitable considerations that appear to favor Ms. Enfield's requested relief are that her change in retirement coverage was not a result of any change of employers that she initiated, but apparently was a reclassification of her position within MnSCU, either a lateral position change or a nominal promotion, and that her change in retirement coverage was not accompanied by any significant or meaningful benefit counseling by MnSCU about its ramifications or any pertinent assistance from her former labor organization representative, AFSCME, or from her new labor organization representative, MAPE.

The equitable considerations disfavoring her requested relief would be her failure to repay her prior MSRS-General refund and PERA-General refund earlier, before the retirement coverage change, and her apparent lack of interest in obtaining more information about the implications of a change in retirement coverage to MnSCU-IRAP prior to the expiration of the one-year election period during which she could have elected TRA coverage, which would not have made her ineligible to repay prior MSRS-General and PERA-General refunds and appears to have been the more beneficial retirement coverage.

The Commission should consider taking testimony from Ms. Enfield and from MnSCU about the circumstances of her employment change and about the quality and quantity of information provided to her during the retirement coverage election period.

2. Additional Pension Policy Principle Considerations. The policy issue is the question of conformity with the additional considerations of Pension Policy Principle II.C.11., relating to deadline waivers and extensions. The principle, in addition to weighing equitable considerations, requires that the requested relief not involve broader applicability than the requester or requesters and that the relief is unlikely to constitute an inappropriate future precedent. The number of Minnesota public pension plan members employed by MnSCU and shifting to MnSCU-IRAP coverage upon a job reclassification or lateral transfer is likely to be relatively small, meaning that broader applicability of the requested relief probably has been avoided. The requested relief also is unlikely to have much precedent value. The Commission staff is unable to identify any past prior similar special refund repayment authority proposed legislation processed by the Legislative Commission on Pensions and Retirement, so this special relief request is unlikely to become any sort of future adverse precedent.
3. Actuarial Impact of Exercising Refund Repayment Authority. The policy issue is the extent of the adverse actuarial impact that permitting refunds to be repaid to defined benefit retirement plans generally and permitting these refund repayments by Ms. Enfield specifically. In Minnesota, refund repayments have traditionally been permitted. At least as early as 1953, general law permitted a repayment of a prior refund of member contributions, after the resumption of covered employment for a specified period, for MSRS-General, then known as the State Employees Retirement Association, under Minnesota Statutes 1953, Section 352.02, Subdivision 4, and for PERA-General under Minnesota Statutes 1953, Section 353.10, but was not authorized in 1953 for TRA. A repayment of a refund, usually exercised late in a person's working career and exercised only if the resulting increased retirement benefit exceeds the refund repayment amount, has the same sort of adverse actuarial impact on a defined benefit retirement plan that a prior service credit purchase would have. In 1978, when a Commission subcommittee considering setting a general policy on prior service credit purchases also addressed the general practice of broad authorizations of refund repayments by individuals who resume public employment, because of the similar actuarial impact of refund repayments to service credit purchases, the subcommittee declined to limit the existing broad refund repayment authority. The Commission should consider requesting from MSRS and PERA a comparison of the actuarial liability of the retirement benefit amount reinstated by a refund repayment with the refund repayment amount in Ms. Enfield's case. If the difference is too great, that conclusion

could constitute a basis for the Commission declining to extend the requested refund repayment authority.

4. Potential Additional Relief; Appropriateness of Second Chance Retirement Plan Coverage Election. The policy issue is whether or not the relief requested by Cynthia A. Enfield matches the equitable considerations present and whether or not the additional relief of allowing Ms. Enfield to elect between TRA defined benefit retirement plan coverage and MnSCU-IRAP defined contribution retirement plan coverage is appropriate.

Ms. Enfield's primary equitable argument appears to be that she was not properly informed or counseled about the ramifications of a default automatic election of MnSCU-IRAP rather than TRA. One of the ramifications of her shift from defined benefit plan coverage to defined contribution in the form of MnSCU-IRAP was the loss of eligibility to repay a prior refund, which is authority that runs with defined benefit pension plan membership rather than public employment, but Ms. Enfield's late career shift from defined benefit plan coverage to defined contribution coverage had more immediate and potentially more significant ramifications. Ms. Enfield is in her early 60s and is either in or at the later portion of her likely highest five successive years' salary averaging period that will be used in calculating her defined benefit plan retirement annuity, but a shift to MnSCU-IRAP in September 2007 excludes all post-September 2007 salary from inclusion in the final average salary. Although her retirement coverage change to MnSCU-IRAP triggers deferred annuity augmentation on any MSRS-General and PERA-General retirement annuities payable to her, the augmentation may not offset the impact of the post-2007 salary amounts excluded from her final average salary.

A defined contribution retirement plan, such as MnSCU-IRAP, is best suited for employees who are early in their career, are employment-mobile, and are in a national job market, where the portability created by fungible account balances is an important retirement plan feature. Defined contribution plan coverage is unlikely ever to be optimal for employees concluding their employment careers that included significant past defined benefit plan coverage, such as Ms. Enfield. If Ms. Enfield was not provided with significant and meaningful notice of the implications of shifting to MnSCU-IRAP rather than transferring coverage to TRA, she has a good argument for the additional relief of authorizing a second chance election of benefit coverage between MnSCU-IRAP and TRA, with MnSCU responsible for the majority of the prior service credit purchase payment cost for the past service credit from September 2007 until an election of TRA coverage in 2010.

## Background Information on Refund Repayments to Minnesota Public Pension Plans

### Member Contribution Refunds Generally

Although not frequently viewed by many policy makers and public employees as a benefit provided by the public pension plan, the refund of accumulated member contributions and interest to a public pension plan member who terminates before reaching retirement age is a benefit generally provided by the various statewide and major local retirement plans. All Minnesota public pension plans, with the exception of some local police and paid firefighter relief associations, provide a refund of member contributions, plus interest, upon application, to plan members who have terminated active employment giving rise to pension plan coverage.

If public pension plans were not contributory plans, meaning that the public employees make member contributions to the plan, there would be no need for a refund benefit and none likely would be provided.

The adequacy of the refund benefit depends on the commitment of the public pension plan to plan members who do not vest or who vest (have sufficient service to qualify for a deferred annuity, generally three years in Minnesota) but elect not to retain their deferred retirement annuity rights. Some public pension plans in Minnesota (some first class city public safety plans) do not provide any refund of member contributions. Other public pension plans in Minnesota (mostly second class city police relief associations) provide a refund equal to only three-quarters of the total member contributions previously paid. Some public pension plans in Minnesota (the Teachers Retirement Association in the past and some local public safety plans) provide or provided a refund of accumulated member contributions without any interest on that amount. The remaining Minnesota public pension plans (statewide and major local) pay a refund of accumulated member contributions plus interest at a compound rate of six percent per year (the Minneapolis Employees Retirement Fund (MERF) provides a rate of interest unspecified in statute). The refund results in a forfeiture of prior plan service credit.

Given Minnesota's generally short service credit vesting requirement (three years) and augmentation of deferred retirement annuities (three percent until age 55 and five percent thereafter,) which represent a commitment to short service terminating employees, it is unclear how great an additional commitment its public pension plans should make in paying interest on refunds of accumulated member contributions.

### Refund Repayment Provisions – MSRS, PERA, TRA, First Class City Teachers

The following summarizes the provisions of statutes governing the repayment of previously taken refunds for the statewide and major local general employee retirement plans:

	<u>MSRS-General</u>	<u>PERA-General</u>	<u>TRA</u>	<u>First Class City Teacher Plans</u>	<u>MERF</u>
Applicable Statutory Provisions	M.S., Sec. 352.23; 356.30, Subd. 2; 356.44	M.S., Sec. 353.35; 356.30, Subd. 2; 356.44	M.S., Sec. 354.50; 356.30, Subd. 2; 356.44	M.S., Sec. 354A.38; 356.30, Subd. 2; 356.44	M.S., Sec. 422A.22, Subd. 5-6; 356.30, Subd. 2; 356.44
Repayment Eligibility	Resumption of active membership for minimum of six months	Resumption of active membership for minimum of six months	Resumption of active membership for minimum of two years	Resumption of active membership for minimum of two years	Resumption of active membership
Minimum Repayment Amount	All amounts under M.S., Sec. 352.23; partial under M.S., Sec. 356.44	All amounts under M.S., Sec. 353.35; partial under M.S., Sec. 356.44	All amounts under M.S., Sec. 354.50; partial under M.S., Sec. 356.44	All amounts under M.S., Sec. 354A.38; partial under M.S., Sec. 356.44	All amounts under M.S., Sec. 422A.23, Subd. 6; partial under M.S., Sec. 356.44
Repayment Limit	Repayment of refunds of salary deductions, payments in lieu of deductions, permitted service purchases, or temporary workers compensation service	N/A	N/A	N/A	N/A
Interest on Repayment	8.5%, compounded	8.5%, compounded	8.5%, compounded	8.5%, compounded	8.5%, compounded
Payment Options	Lump sum, deductions, or partial payments	Unspecified	Unspecified	Unspecified	Unspecified
Eligibility After Membership Termination	Six months after active service termination	Six months after active service termination	None	None	None
Effect of Repayment	Reinstates service and salary credit	Reinstates service and salary credit	Reinstates service and salary credit	Reinstates service and salary credit	Reinstates service and salary credit

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

### 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.

### 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.

### 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.

## Background Information on Default Retirement Coverage Where the Position is Covered by a Coverage Election

### Coverage Elections Are Rare in Minnesota Public Pension Plan Practice

With the exception of a small number of volunteer fire departments, local government employees receiving compensation of less than \$425 per month consistently, or Minnesota State Colleges and Universities System (MnSCU) part-time faculty teaching less than one-quarter of a full-time schedule, Minnesota public employees have retirement coverage on a mandatory basis.

Of the Minnesota public employees with mandatory retirement coverage, most employees have retirement coverage by a specific retirement plan, with only a very small number having a choice between plans. The Minnesota public employees with options in their retirement coverage are the following:

<u>Type of Minnesota Public Employee</u>	<u>Alternative Retirement Coverage Options</u>
1. Employees of the Offices of the Governor, Lieutenant Governor, the Secretary of State, State Auditor, Attorney General	Minnesota State Retirement System General State Employees Retirement Plan (MSRS-General) or MSRS Unclassified Employees Retirement Program (MSRS-Unclassified)
2. The head of a department, division or agency created by statute in the unclassified service, an acting department head subsequently appointed to the position or an employee enumerated in M.S., Sec. 15A.0815, 15A.083, Subd. 4, or 43A.08, Subd. 3	MSRS-General or MSRS-Unclassified
3. The deputy, assistant head or director of a department or agency authorized under statute	MSRS-General or MSRS-Unclassified
4. One confidential secretary in agencies listed in M.S., Sec. 43A.08, Subd. 1, Cl. (3)	MSRS-General or MSRS-Unclassified
5. Employees of the legislature, legislative commissions or agencies (including all permanent, full-time employees; also temporary employees who return to legislative positions and at the time of rehire have shares in the Unclassified Program from former employment)	MSRS-General or MSRS-Unclassified
6. Employees of the State Board of Investment	MSRS-General or MSRS-Unclassified
7. 27 positions designated by the Metropolitan Council	MSRS-General or MSRS-Unclassified
8. Nine positions designated by the Higher Education Services Office	MSRS-General or MSRS-Unclassified
9. The clerk of the appellate courts	MSRS-General or MSRS-Unclassified
10. The state court administrator and the judicial district administrators.	MSRS-General or MSRS-Unclassified
11. The Chief executive officers of correctional facilities and hospitals and nursing homes	MSRS-General or MSRS-Unclassified
12. Employees of the state ceremonial house	MSRS-General or MSRS-Unclassified
13. Employees in the managerial plan at the State Lottery	MSRS-General or MSRS-Unclassified
14. Employees of Enterprise Minnesota	MSRS-General or MSRS-Unclassified
15. Employees of the Iron Range Resources and Rehabilitation Board	MSRS-General or MSRS-Unclassified
16. Employees of the Agricultural Utilization Research Institute	MSRS-General or MSRS-Unclassified
17. Certain Minnesota State Colleges and Universities System (MnSCU) administrators with state service previous to July 1, 1995, rather than MnSCU-Individual Retirement Account Plan (IRAP) as a MnSCU employee	MSRS-General or MSRS-Unclassified
18. MnSCU faculty members at Lake Superior College hired before June 30, 1995	MnSCU-IRAP or Duluth Teachers Retirement Fund Association (DTRFA)
19. MnSCU faculty members at the St. Paul College hired before June 30, 1995	MnSCU-IRAP or St. Paul Teachers Retirement Fund Association (SPTRFA)
20. MnSCU faculty members at all other institutions hired before June 30, 1995	MnSCU-IRAP or Teachers Retirement Association (TRA)
21. MnSCU faculty members hired after June 30, 1995	MnSCU-IRAP or TRA
22. Employees of the State Department of Education	MSRS-General or TRA
23. District court administrators with prior Public Employees Retirement Association General Employee Retirement Plan (PERA-General) coverage	PERA-General or MSRS-General
24. Chaplains or nuns	MSRS-General or non-public coverage



Type of Minnesota Public Employee	Alternative Retirement Coverage Options
25. Non-faculty MnSCU employees hired before 1995	MSRS-General, PERA-General or Minneapolis Employees Retirement Fund (MERF)
26. State labor organization employees	MSRS-General or non-public coverage
27. Local government labor organization employees	PERA-General or non-public coverage
28. PERA-General members appointed state department head by the Governor	PERA-General or MSRS-General
29. City managers	PERA-General or non-public coverage
30. St. Paul Port Authority employees who were at least age 45 on January 1, 2003	PERA-General or non-public coverage
31. Teachers on leave of absence and employed by a labor organization	TRA or non-public coverage

### Coverage Election Timeframe and Default Provisions

Where a Minnesota governmental employee has a retirement coverage option, the applicable statute generally specifies a default coverage if the eligible person does not make an election or does not make an election in a timely fashion.

For employees who have the option of retirement coverage by the Minnesota State Retirement System General State Employees Retirement Plan (MSRS-General) or by the MSRS Unclassified Employees Retirement Program (MSRS-Unclassified) (employee types 1 to 17 above), Minnesota Statutes, Section 352D.02, provides that the election must be made within one year following the commencement of applicable employment and if the election is not made in a timely fashion, the default coverage is the MSRS-Unclassified Program.

For employees who have the option of retirement coverage by the Teachers Retirement Association (TRA) or by the Minnesota State Colleges and Universities System Individual Retirement Account Plan (MnSCU-IRAP) (employee type 21 above), Minnesota Statutes, Section 354B.21, Subdivisions 2 and 3, provide that the election must be made within one year of the commencement of MnSCU-IRAP eligible MnSCU employment and for most employees, if the election is not made in a timely fashion, the default coverage is MnSCU-IRAP, with a second chance election of coverage within one year of attaining tenure or its equivalent for MnSCU faculty members who first attain tenure after June 30, 2009.

For employees of the State Department of Education (employee type 22 above), Minnesota Statutes, Section 352.01, Subdivision 2b, Clause (2), specifies no election procedure or time limit and sets the default retirement coverage as TRA.

For employees who are employed as district court administrators (employee type 23 above) under Minnesota Statutes, Section 484.68, Subdivision 8, the election between retirement coverage options must be made within 12 months of appointment to the administrator's position and the default coverage, is MSRS-General coverage is not affirmatively elected in a timely fashion, is coverage by PERA-General.

For chaplains and nuns (employee type 24 above) under Minnesota Statutes, Section 352.01, Subdivision 2b, Clause (22), the election is governed by federal Social Security and federal Internal Revenue Code provisions.

For various public labor organization employees (employee types 26, 27, and 31 above), Minnesota Statutes, Sections 352.029, Subdivision 2, 353.017, Subdivision 2, and 354.41, Subdivision 4, provide that coverage by the Minnesota public employee retirement plan must be elected within 90 days of commencing the labor organization employment (MSRS-General and TRA) or within six months of commencing the labor organization employment (PERA-General), with the default being no public pension plan coverage.

For PERA-General members who appointed state department heads by the Governor (employee type 28 above), Minnesota Statutes, Section 353.01, Subdivision 2d, Paragraph (a), Clause (3), provides that the person is a member of PERA-General if the person elects not to be covered by MSRS-General, consistent with MSRS-General coverage as the default coverage, but without any timeframe for the election.

For city managers (employee type 29 above), Minnesota Statutes, Section 353.028, Subdivision 2, provides that the election must occur within six months of the commencement of the employment as a city manager and the default coverage is PERA-General.

**Jeanne Poppe**  
State Representative

District 27B  
Fillmore and Mower Counties



## Minnesota House of Representatives

DATE: July 28, 2009

TO:  Lawrence Martin, Executive Director  
Ed Burek, Deputy Director  
Legislative Commission on Pensions and Retirement

FROM: Representative Jeanne Poppe (296-4193) *Jeanne Poppe*

RE: Cynthia Enfield, IRAP election

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I was recently contacted by my constituent, Ms. Cynthia Enfield, regarding her desire to buy-back service for her previous employment with the State of Minnesota (approx. 1969-70) and the City of Austin (early 1980s). She contacted the Minnesota State Retirement System and inquired about the service buy-back, but was told that she is not in an MSRS-eligible position and, therefore, cannot buy-back the service.

Ms. Enfield is currently employed at the Riverland Community College where, in September 2007, her job was upgraded to a non-MSRS eligible position. Although she didn't fully understand the implications at the time, Ms. Enfield signed paperwork to transfer to the Minnesota Individual Retirement Account Plan. In her email to me, Ms. Enfield indicated that the transfer to IRAP was "automatic" and she did not realize the ramifications of this change.

I would appreciate your assistance with drafting legislation that would allow Ms. Enfield a new window of time to make a retirement plan election so that she can make a decision that would allow for her to buy-back her previous service. I have enclosed Ms. Enfield original email to me, as well as a copy of the letter that she received from MSRS that indicates she is not eligible to buy-back her service.

If you have any additional questions, please feel free to contact me or Marye Knudson (297-8168) in DFL Constituent Services, who has been researching this issue for me.

From: "Cindy Enfield" <mjenfiel@smig.net>  
Date: June 23, 2009 10:07:05 PM CDT  
To: <rep.jeanne.poppe@house.mn>  
Subject: Service Buy-Back

Hi Jeanne,

Thank you for taking the time to look into credit buy-back for previous years of service with the State of Minnesota and the City of Austin (PERA).

When I received verbal notice of a probable layoff due to the elimination of my position at Riverland Community College, I began checking every possible option available to me. I worked for Mankato State University in approximately 1969 and also for the City of Austin in the early 1980's. After leaving both places of employment, I opted for a refund of the money that was withheld from my check for the retirement plans in place at the time for each employer.

I had telephone conversations with MSRS in January 2009 and requested the cost to repay my refunds, and I also requested information about my retirement estimates. I received a letter dated 01/23/2009 from a MSRS benefits counselor, advising me that my MSRS serviced ended on September 9, 2007 (my last day in the AFSCME Union), and therefore I am not eligible to repay any forfeited service. She also stated that she contacted the Public Employees Retirement Association and the Teachers Retirement Association and were informed that I was currently contributing to either of those associations.

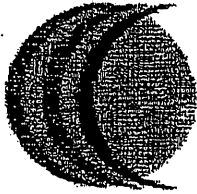
I had further conversations with MSRS, only to be told that since I was no longer a Minnesota State employee, I was not eligible to repay my forfeited service. I explained I was still a Minnesota State employee, but they apparently do not consider me as such since my retirement plan is an IRAP (the plan which I was automatically placed in when my position was upgraded to an unclassified MAPE position). I had one year from September 10, 2007, to request a change to TRA. Unfortunately, I was not aware of the ramifications for being in IRAP--this was never explained to me.

I appreciate anything you can do to allow me the opportunity to buy-back previous service credit. I met with a representative from MNDCP this spring and mentioned this situation to him and my frustration. He mentioned possible legislation being discussed that would allow service credit buy back. He also suggested contacting my senator or representative for help in resolving this matter.

Jul 24 2009 11:41AM Foundation Office

433-0355

p.1



Minnesota State Retirement System  
60 Empire Drive, Suite 300  
St. Paul, MN 55103-3000  
(651) 296-2761 or Toll-Free 1 (800) 657-5757  
www.msrs.state.mn.us msrs@state.mn.us

To: Mariah Knutson

From: Cindy Enfield

2 pages

Date: July 24, 2009

01/23/2009

ID# 5140021843

CYNTHIA A ENFIELD  
2002 SW 8TH ST  
AUSTIN MN 55912-5007

DEAR MS. ENFIELD:

Enclosed are your retirement estimates.

You had also requested the cost to repay your refund. Your MSRS service ended on September 9, 2007 therefore you are not eligible to repay any forfeited service.

I also contacted the Public Employees Retirement Association and the Teachers Retirement Association and were informed that you are not currently contributing to either of those associations.

Please contact our office if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Jenny Nowicki".

Jenny Nowicki  
Benefits Counselor  
(651) 284-7817

JN

This Document can be made available  
in alternative formats upon request

State of Minnesota  
HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH  
SESSION

HOUSE FILE No. **2550**

January 7, 2010

Authored by Poppe

Unofficially referred to the Committee on State and Local Government Operations Reform, Technology and Elections

1.1 A bill for an act  
1.2 relating to retirement; permitting the repayment of certain member contribution  
1.3 refunds; authorizing a second chance option to elect Teachers Retirement  
1.4 Association retirement plan benefit coverage; mandating certain contributions.

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

1.6 Section 1. MSRS-GENERAL; SECOND CHANCE RETIREMENT COVERAGE  
1.7 AUTHORITY FOR IRAP MEMBER.

1.8 (a) Notwithstanding any provision of Minnesota Statutes, chapter 352, 353, or  
1.9 354B, to the contrary, an eligible person described in paragraph (b) is entitled to repay  
1.10 member contribution refunds taken from the general state employees retirement plan  
1.11 of the Minnesota State Retirement System and from the general employees retirement  
1.12 plan of the Public Employees Retirement Association, and to elect retirement coverage  
1.13 for Minnesota State Colleges and Universities System employment by the Teachers  
1.14 Retirement Association under Minnesota Statutes, section 354B.21, subdivisions 2 and 3,  
1.15 despite the time limitation on the election.

1.16 (b) An eligible person is a person who:

1.17 (1) was born on July 19, 1948;

1.18 (2) was employed by Mankato State University in 1969, with retirement coverage in  
1.19 the general state employees retirement plan of the Minnesota State Retirement System, for  
1.20 which a refund of member contributions and interest was taken before 2007;

1.21 (3) was employed by the city of Austin in the early 1980s, with retirement coverage  
1.22 in the general employees retirement plan of the Public Employees Retirement Association,  
1.23 for which a refund of member contributions and interest was taken before 2007;

2.1 (4) is employed by the Minnesota State Colleges and Universities System at  
2.2 Riverland Community College; and

2.3 (5) had the person's employment position upgraded by the Minnesota State Colleges  
2.4 and Universities System on September 9, 2007, and had retirement coverage transferred  
2.5 by operation of law to the higher education individual retirement account plan without  
2.6 receiving appropriate counseling from the Minnesota State Colleges and Universities  
2.7 System.

2.8 (c) The refund repayment amount is governed by Minnesota Statutes, sections  
2.9 352.23 and 353.35.

2.10 (d) Authority to repay a refund under this section expires on December 31, 2010.

2.11 (e) An election to change retirement coverage from the Minnesota State Colleges  
2.12 and Universities System individual retirement account plan to the Teachers Retirement  
2.13 Association must be made by September 2, 2010, and is retroactive to September 9, 2007.  
2.14 If a retirement coverage change is elected, the eligible person's account in the individual  
2.15 retirement account plan must be transferred to the Teachers Retirement Association. If  
2.16 the member contribution portion of the individual retirement account plan transfer is less  
2.17 than the member contribution under Minnesota Statutes, section 354.42, subdivision 2,  
2.18 for the period between September 9, 2007, and the effective date of the coverage election  
2.19 under this section, plus 8.5 percent interest on any member contribution difference from  
2.20 June 30, 2008, until the date of payment, the eligible person shall pay that amount in a  
2.21 lump sum by October 1, 2010. If the amount of the transferred individual retirement  
2.22 account plan account and any member contribution difference is less than the prior  
2.23 service credit purchase payment amount under Minnesota Statutes, section 356.551, the  
2.24 Minnesota State Colleges and Universities System shall pay the difference in a lump sum  
2.25 by October 15, 2010. Retroactive service credit in the Teachers Retirement Association  
2.26 must be granted to the eligible person once the transfers and payments required under  
2.27 this paragraph have been made.

2.28 **EFFECTIVE DATE.** This section is effective the day following final enactment.