



H.F. 409

(Poppe)

S.F. xxxx

**In the form of
Delete-Everything Amendment H0409-6A**

Executive Summary of Commission Staff Materials

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| <i>Affected Pension Plan(s):</i> | Minnesota State Colleges and Universities System (MnSCU) Individual Retirement Account Plan (IRAP) Teachers Retirement Association (TRA) |
| <i>Relevant Provisions of Law:</i> | Minnesota Statutes, Section 354B.21 |
| <i>General Nature of Proposal:</i> | Revising MnSCU Default Coverage to TRA for Certain New MnSCU Employees |
| <i>Date of Summary:</i> | May 6, 2011 |

Specific Proposed Changes

- Revises the default coverage to be TRA rather than IRAP for any new MnSCU employees if the employee is vested in a plan included in the combined service annuity provision.
- Adds a notification provision requiring notice and counseling before any coverage election.

Policy Issues Raised by the Proposed Legislation

1. Sufficient need for change.
2. Required notice; counseling issues.
3. Whether TRA supports these changes.
4. Financial impact on employees and employers.
5. Whether the eligible group for default TRA coverage should be revised.
6. Repeals obsolete Minnesota Statutes, Sections 354B.21, Subd. 3c (election of TRA coverage in certain instances); and 354B.32 (transfer of funds to IRAP).

Potential Amendments

H0409-7A removes the required notice/counseling provision.

H0409-8A, an alternative to H0409-7A, leaves the notification/counseling provision but revises the timeline for notification/counseling prior to any coverage election from 90 days to a number of days to be determined by the Commission

H0409-9A, an alternative to H0409-7A and which could be used with or without H0409-8A, requires the employee to certify that he or she has received and reviewed materials prior to making the election.

H0409-10A includes in the TRA default coverage group only those who are already vested in a defined benefit plan included under the combined service annuity provision. (This is the approach taken in H.F. 409 (Poppe); S.F. xxx as introduced.)



TO: Members of the Legislative Commission on Pensions and Retirement
FROM: Ed Burek, Deputy Director **EB**
RE: H.F. 409 (Poppe); S.F. xxx, in the Form of Delete-Everything Amendment H0409-6A: MnSCU-IRAP; Revising Default Coverage to TRA for New Employees with Prior Coverage by Any Plan Included in Combined Service Annuity Provision
DATE: April 12, 2011

Summary of H.F. 409 (Poppe); S.F. xxx, in the Form of Delete-Everything Amendment H0409-6A

Delete-everything amendment H0409-6A to H.F. 409 (Poppe); S.F. xxx revises the default coverage for any new Minnesota State Colleges and Universities System (MnSCU) employees eligible for Individual Retirement Account Plan (IRAP) coverage to be the Teachers Retirement Association (TRA) rather than IRAP if the employee has prior service covered by any plan included in the combined service annuity provision; requires 90 days' notice and counseling before any coverage election; and repeals obsolete provisions.

Relevant Background Information

- Background information on the Higher Education IRAP, and general differences between defined benefit plans and defined contribution plans, is contained in **Attachment A**.
- Background information on the combined service annuity provision, including plans included under that provision, is contained in **Attachment B**.

Discussion and Analysis

MnSCU-IRAP, coded as Minnesota Statutes, Chapter 354B, was created in the late 1980s when state university and state college teachers and related employees sought coverage by a defined contribution plan rather than by TRA or a first class city teacher plan, which are defined benefit programs. MnSCU-IRAP was as a result of active lobbying by the union representatives of State University and State Community College faculty members. The plan was expanded to include technical college managerial employees in 1993 and technical college faculty in 1994. MnSCU-IRAP covers faculty members and upper-level administrators at MnSCU, but does not cover faculty or administrators at the University of Minnesota.

Initially, MnSCU-IRAP was the only primary plan coverage available to new eligible MnSCU employees, but this was soon revised to permit elections of TRA coverage in lieu of IRAP, or in some cases election of a first class city teacher plan. In general, the default coverage has been IRAP, while TRA was the optional coverage available through an election.

Delete-everything amendment H0409-6A proposes to revise the default coverage in cases where the new employee has prior service covered by any plan included in the combined service annuity provision. For such an individual, the default coverage would be TRA rather than IRAP. This change does not in any way eliminate options currently available to employees under current law, since the person does have a right to elect IRAP.

The combined service annuity provision (Minn. Stat. Sec. 356.30) is a portability provision, permitting an employee who has periods of employment covered by different plans included under that provision to be treated similar to an employee who has all of his or her service covered by a single plan. For example, service under any of the included plans can be combined for vesting purposes, and the high-five average salary used to compute the annuities when the individual retires will be used to compute the annuities that the person will receive from the various plans that provided coverage during the person's career.

If a new MnSCU employee has prior TRA coverage, particularly if that period is extensive, the person is generally better off continuing in that coverage. If a person has prior coverage by some other plan included in the combined service annuity provision, it would generally be advantageous to have TRA coverage for the MnSCU employment, and then use the combined service annuity provision to link the TRA-covered employment with the employment covered by the other combined service annuity plan.

The plans included in the combined service annuity provision are the Minnesota public defined benefit plans which use high-five average salary to compute annuities. These plans are the defined benefit plans of the Minnesota State Retirement System (MSRS), the Public Employees Retirement Association (PERA), TRA, and the first class city teacher plans. The Unclassified State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-Unclassified) is also included under the provision.

MnSCU's likely justification for this proposal is to avoid harm to its employees who have prior defined benefit plan covered employment and who, through inattention, fail to elect TRA coverage. Under current law, new MnSCU employees are permitted to elect TRA coverage in lieu of IRAP within the first year of covered MnSCU employment. Many do elect TRA coverage. Some make that election because they prefer defined benefit plan coverage despite not having prior service covered by a defined benefit plan. Others do have prior service covered by TRA or another defined benefit plan, and recognize the importance of retaining that coverage during their MnSCU employment. However, some individuals who have prior TRA coverage have failed to elect that coverage for their MnSCU employment, and have regretted it. There have been a few cases where, after several years of MnSCU employment, individuals have sought special legislation to permit them to transfer past and future MnSCU service to TRA, under a contention that MnSCU failed to inform the individual about a right to elect TRA. If TRA was the default coverage for any individual who has prior service covered by TRA or another plan included under the combined service annuity provision, these cases would not have occurred. Two cases in recent years where special law treatment to revise plan coverage to TRA was sought and was enacted are Laws 2008, Chapter 349, Article 16, Section 4; and Laws 2006, Chapter 271, Article 14, Section 8.

If H.F. 409 (Poppe); S.F. xxx in the form of delete-everything amendment H0409-6A, is heard by the Legislative Commission on Pensions and Retirement, the proposed legislation will raise a number of pension and related public policy issues that the Commission may wish to consider and discuss, including the following:

1. Sufficient Need for Change. The issue is whether there is sufficient need for change. The revision in default coverage to TRA rather than IRAP for new MnSCU employees with prior coverage by a plan or plans included in the combined service annuity provision is likely to be beneficial to the employee, and is likely to avoid some past coverage problems caused either by employee inattention or MnSCU error. Thus, if adopted, the Legislature may see fewer special law requests to permit pension plan coverage transfers. The draft also clarifies various plan coverage provisions, plan election provisions, and repeals obsolete provisions.
2. Required Notice; Counseling Issues. The proposed legislation includes a new provision (Section 2 starting on page 1, line 20) requiring MnSCU to provide to the employee, no later than 90 days before the end of any coverage election period, information about default retirement coverage, election procedures for electing coverage by a plan other than the default coverage, and the website and telephone number for additional information about the default plan and the alternative plan which the person is eligible to elect.

There are a few issues relating to this notice. The first is whether it is necessary to include any language in statute regarding notice and counseling, rather than simply leaving it up to MnSCU to develop an acceptable procedure meeting the needs of its employees. The Commission may wish to consider that whenever pension plan elections or mandatory coverage changes occur, it is not uncommon to include in the applicable law a provision requiring the pension plan and/or the employer to provide proper counseling. For example, whenever a PERA employing unit becomes privatized, PERA is required to provide counseling for the privatized employees (Minn. Stat. Sec. 353F.08). PERA is also required to provide counseling when plan coverage elections occur due to consolidation of local plans into PERA (Minn. Stat. Sec. 353A.08, Subd. 8).

A second issue relates to when the employee is to receive election information and counseling. Typically, the election period is the first year of eligible MnSCU employment. Delete-everything amendment H0409-6A specifies that the person must receive information and counseling regarding plan coverage options at least 90 days before the end of the election period. If an employee makes an election soon after becoming employed in an eligible position, he or she may not yet have received proper information or counseling. In contrast, the original bill language of H.F. 409 (Poppe); S.F. xxx requires that the necessary information be provided within five days of starting eligible MnSCU employment. While this would minimize the likelihood of a person making an election without adequate knowledge of the consequences, a five-day requirement may not give MnSCU sufficient time. Nothing in delete-everything amendment H0409-6A or H.F. 409 (Poppe) precludes a person from making an election before receiving proper information and counseling. Since coverage elections are irrevocable, this might create a problem. Perhaps, however, this could be handled

administratively without legislation, by including in the applicable election form a statement in which the individual certifies that he or she has received and reviewed proper materials prior to making the election.

3. TRA Support. The issue is whether TRA supports these changes and whether TRA feels it would be in some way harmed by these changes.
4. Financial Impact on Employees and Employers; Uncertainty at Current Time. The changes may influence to a minimal extent whether a person has TRA coverage rather than IRAP. This will impact the contributions that employees and employers pay. In current law the IRAP employee and employer contribution rates are 4.5% and 6.0%, respectively. For TRA, the employee and employer contribution rates are currently 5.5%, but are scheduled to increase gradually to 7.5% after June 30, 2114. Thus, whether an employee is covered by TRA rather than IRAP will impact both the employee and employer contribution amounts. While current law suggests that in a few years the employer will pay more if the employee has TRA coverage, as of this writing there are proposals to increase TRA employee contribution rates and reduce TRA employer contribution rates. Thus the financial impact is uncertain.
5. Defining TRA Default Coverage Group. The issue is how to define who is in the new employee group with default TRA coverage. Delete-everything amendment H0409-6A includes in that group any new eligible MnSCU employee who has any existing service credit in TRA or in any other plan included in the combined service annuity provision, or who has an MSRS-Unclassified account, since MSRS-Unclassified is included under the combined service provision. An alternative would be to include in the TRA default coverage group only those who are already vested in a defined benefit plan under the combined service annuity provision. An argument for the approach taken in delete-everything amendment H0409-6A is that although a person may not have sufficient past service to vest in TRA or in another applicable plan, they may vest very quickly due to the new MnSCU employment if it is covered by TRA. Similarly, if the person has past service that was covered by MSRS-Unclassified, that past service can be used toward vesting in TRA if the MnSCU service is covered by TRA. If that past service is so minimal that there is little advantage to having TRA coverage for the MnSCU employment, a person with default TRA coverage can select IRAP coverage instead.
6. Repealer. The issue is whether the provisions being repealed are obsolete and can be repealed without negative impact. The first is Minnesota Statutes, Section 354B.21, Subdivision 3c. This provision probably was added to law when the technical colleges first were added to MnSCU and had IRAP coverage become available. Under this provision, individuals who were employed in technical colleges before July 1, 1995, and had first class city teacher plan coverage could elect TRA rather than IRAP. The provision seems to have no current application and can be removed without harm. The other provision for repeal, Minnesota Statutes, Section 354B.32, is obsolete. The provision permitted certain employees to transfer prior TRA employee contributions to IRAP by electing, before July 1, 2004, to transfer assets.

Potential Amendments to Delete-Everything Amendment H409-6A for Commission Consideration

H0409-7A removes the required notice/counseling provision. The Commission may wish to consider this amendment if it concludes that it is not necessary to place a notice/counseling provision in law.

If amendment H0409-7A is not used, the Commission may wish to consider the following two amendments.

H0409-8A, an alternative to H0409-7A, leaves the notification/counseling provision but revises the timeline for notification/counseling prior to any coverage election from 90 days (on page 2, line 3 of the delete-everything amendment) to a number of days to be determined by the Commission by filling in the blank in the amendment.

H0409-9A, an alternative to H0409-7A and which could be used with or without H0409-8A, adds a statement to the required notice/counseling provision requiring the election of coverage forms to include a statement requiring the employee to certify that he or she has received and reviewed materials on the optional coverage plan and the default coverage plan prior to making the election.

H0409-10A includes in the TRA default coverage group only those who are already vested in a defined benefit plan included under the combined service annuity provision. This is the approach taken in H.F. 409 (Poppe); S.F. xxx as introduced.

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 the Combined Service Annuity

The combined service annuity provision, found in Minnesota Statutes, Section 356.30, was enacted in 1975. The plans currently included under the provision are:

1. General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General)
2. Correctional Employees Retirement Plan of the Minnesota State Retirement System (MSRS-Correctional)
3. Unclassified Employees Retirement Program of the Minnesota State Retirement System (MSRS-Unclassified)
4. State Patrol Retirement Plan
5. Legislators Retirement Plan
6. Elective State Officers Retirement Plan
7. General Employee Retirement Plan of the Public Employees Retirement Association (PERA-General)
8. Public Employees Police and Fire Plan (PERA-P&F)
9. Local Government Correctional Service Retirement Plan (PERA-Correctional)
10. Teachers Retirement Association (TRA)
11. Minneapolis Employees Retirement Fund (MERF)
12. Duluth Teachers Retirement Fund Association (DTRFA)
13. St. Paul Teachers Retirement Fund Association (SPTRFA), and
14. Judges Retirement Plan

Basically, the covered plans are the defined benefit plans that use the high-five average salary to compute benefits, and the MSRS Unclassified Program.

The combined service annuity provision provides portability between the included Minnesota public pension plans. Before 1975, if a person shifted employment between a city covered by PERA and state employment covered by MSRS-General or some other MSRS plan, the person would receive separate benefits from each pension plan calculated without reference to the other public employment. The PERA benefit would be based solely on the PERA-covered service as determined under the applicable laws at the time the individual left PERA-covered employment. The MSRS-General benefit would be determined based solely on the MSRS-covered service under laws in effect when the individual left MSRS-General-covered employment. Both are high-five average salary defined benefit pension plans, but the salaries used to compute the benefits would be different, since one reflects more recent salary while the other may be based on salary received years or even decades earlier.

With the combined service annuity law, the benefit calculations for a person with multiple public pension plan coverage are similar to those for a person who worked an entire career for a single public employer, or changed employment between employers covered by the same plan. To provide benefit treatment for the public employee who changed employment to another public employer covered by a different retirement system that is similar to that of a public employee whose coverage is all within the same retirement plan, the combined service annuity law requires that the benefit be computed using a common high-five average salary, with the years used for determining the high-five average salary to include the most recent employment, the prior employment, or a combination of the two, whichever provides the highest average. The common high-five average salary is then used to compute the benefits from all plans to be included in the calculations. The accrual rates and other plan features used to compute the benefits are those in effect for each included plan on the date the individual terminated from the last plan.

Under the combined service annuity provision, the individual is advantaged by receiving benefits from all the plans based on the recent high-five average salary, and the individual receives any benefit improvements or other plan changes that occurred since the individual terminated from the prior plan or plans. If two plans are involved, the benefit is computed by the first plan using the years of service credit the individual had under that plan. The second plan would compute its benefit based on the years of service credit the individual had under the second plan. Thus, an individual with 15 years of service under one plan and five years of service under another would receive two benefit checks, one from each plan, but the total of the two benefit checks should approximate the single retirement check received each month by a comparable individual in comparable employment with 20 years of service credit within a single plan.

When a combined service annuity is used, plans that provided coverage early in a person's career may have a higher liability than the plan administrators had anticipated. In most cases, these losses are spread

across the plans. For instance, in one situation, an individual may have moved from PERA-covered employment to MSRS-covered employment, and the individual's high-five average salary may be due to MSRS-covered service late in an individual's career. PERA's liability may be larger than PERA administrators had anticipated. In another case, an individual may have moved from the MSRS position early in her career to a PERA position. In that case, the MSRS liability may be higher than the plan anticipated. With the MSRS Judges Retirement Plan, however, it is rare that an individual might leave that plan and subsequently have employment covered by another combined service annuity plan. Generally, the Judges Retirement Plan would be the one covering the final employment.

Because the combined service annuity can create more liability than a plan administration may anticipate based solely on the plan's record of covered service, efforts have been made to build an additional liability element into the plan's actuarial report to reflect the action of the combined service annuity. For many years this was ignored, being captured as a loss item when these situations occurred. Several years ago, actuaries added a liability load factor to anticipate the action of this portability provision. More recently, more sophisticated adjustments may be used.

Controversy

The combined service annuity provision can produce controversial results when an individual does not have a typical salary pattern of gradual increases overtime, such as when a large increase in salary occurs late in a person's career.

Some have questioned situations where individuals who served in the Legislature, with coverage under the now-closed Legislators Retirement Plan, are later appointed as a judge. The Legislators Retirement Plan provided high accrual rates (percentage of the high-five salary per year of service) in response to the low salaries which Legislators received. The accrual rate is 5.0 percent per year for the first eight years and 2.5 percent for subsequent years for service prior to January 1979, and 2.5 percent thereafter. The Legislators Retirement Plan was a basic plan during most of its existence. The high accrual rate was in part reflecting that Social Security coverage was not created through the employment, and that salary was very low, particularly prior to 1979. Given very low salaries, it was perceived that high accrual rates were needed to create a reasonable retirement benefit in dollar terms. However, for those later appointed as a judge or to some other high-paying position, under the combined service annuity the high-five average salary created due to employment as a judge or other high-paid official is applied to the years of legislative service, creating benefits far higher than initially expected.

To show at least the approximate impact, if salary as a legislator would have produced a \$30,000 high-five average salary, while the high-five average salary as a judge is \$120,000 per year, the benefit per year of legislative service could be as much as four times higher than expected ($\$120,000/\$30,000 = 4$).

Sec. 4. TEACHERS RETIREMENT ASSOCIATION COVERAGE ELECTION FOR CERTAIN MnSCU FACULTY MEMBERS.

(a) Notwithstanding any provision to the contrary of Minnesota Statutes, chapter 354B, an eligible person described in paragraph (b) may elect prospective and retroactive retirement coverage under paragraph (c).

(b) An eligible person is a person who:

(1) was born on December 9, 1954;

(2) was initially employed by the Minnesota State Colleges and Universities system on a part-time basis at Metropolitan State University on January 12, 2004;

(3) was first employed in excess of 25 percent of full-time employment by the Minnesota State Colleges and Universities system on August 27, 2005;

(4) was covered by the higher education individual retirement account plan because of a failure of the Minnesota State Colleges and Universities system to advise about the default retirement coverage provision of Minnesota Statutes, section 354B.21, subdivision 3; and

(5) became a full-time employee of the Minnesota State Colleges and Universities system as a full-time faculty member at Metropolitan State University on July 17, 2007.

(c) An eligible person may elect retirement coverage by the Teachers Retirement Association rather than the higher education individual retirement account plan for faculty employment rendered after the date of the retirement coverage election under this section and for past Minnesota State Colleges and Universities system faculty employment from January 12, 2004, until the date of the retirement coverage election. The election must be made in writing, must be filed with the executive director of the Teachers Retirement Association, and must be accompanied with any relevant documentation required by the executive director of the Teachers Retirement Association.

(d) If an eligible person makes the retirement coverage election under paragraph (c), the eligible person's member contributions to the higher education individual retirement account plan must be transferred to the Teachers Retirement Association, with any earned investment returns on those contributions. If the transferred member contributions and investment earnings are less than the calculated amount of the member contribution that the eligible person would have made to the Teachers Retirement Association on the eligible person's compensation from the Minnesota State Colleges and Universities system for the period from August 27, 2005, to the date of the retirement coverage election, if the person had been covered by the Teachers Retirement Association during the period, plus annual compound interest at the rate of 8.5 percent, the eligible person shall pay the balance of that calculated member contribution obligation within 30 days of the retirement coverage election. Any payment may be made through an institution-to-institution transfer from the eligible person's account in the Minnesota state deferred compensation program or the eligible person's tax-sheltered savings account under the federal Internal Revenue Code, section 403(b).

(e) Upon the transfer of the equivalent member contribution amount and any additional payments under paragraph (d), the balance of the eligible person's higher education individual retirement account plan account must be transferred to the Teachers Retirement Association. If the amounts under paragraph (d) and the higher education individual retirement account plan account balance under this paragraph are less than the prior service credit purchase payment amount calculated under Minnesota Statutes, section 356.551, the Minnesota State Colleges and Universities system shall pay that difference within 60 days of the retirement coverage election date.

(f) Upon the transfers and payments under paragraphs (d) and (e), the eligible person must be credited by the Teachers Retirement Association with allowable and formula service for Minnesota State Colleges and Universities system employment since January 12, 2004.

(g) The authority to make a retirement coverage election under this section expires on January 1, 2009.

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

Sec. 8. TEACHERS RETIREMENT ASSOCIATION; PROSPECTIVE TEACHERS RETIREMENT ASSOCIATION COVERAGE; PURCHASE OF PAST SERVICE CREDIT.

(a) An eligible person described in paragraph (b) is authorized to become a coordinated member of the Teachers Retirement Association, and to purchase service and salary credit in the Teachers Retirement Association coordinated plan retroactive from January 1, 1995, upon making an election under paragraph (c) and upon making the required payment under paragraph (d).

(b) An eligible person is a person who:

(1) was born on September 10, 1958;

(2) has prior employment covered by the Public Employees Retirement Association general plan;

(3) is the director of student support services at North Hennepin Community College;

(4) began working at North Hennepin Community College on February 3, 1992, with coverage for that service by the higher education individual retirement account plan; and

(5) was not offered an election of Teachers Retirement Association coverage, as required under Laws 1994, chapter 508, article 1, section 10.

(c)(1) To be eligible for coverage by the Teachers Retirement Association, an eligible person must submit a written application to the executive director of the Teachers Retirement Association on a form provided by the Teachers Retirement Association. The application must include all documentation of the applicability of this section and any other relevant information that the executive director may require. Following receipt by the executive director of the written application specified in this paragraph and receipt of the payment specified in paragraph (d):

(i) Teachers Retirement Association plan membership commences as of July 1, 2006;

(ii) individual retirement account plan coverage terminates for the applicable eligible person;

and

(iii) past salary and service credit is granted from January 1, 1995, as specified in this section.

(2) The authority granted by this section is voided if the applicable eligible individual terminates from Minnesota State Colleges and Universities system employment before receipt by the executive director of the Teachers Retirement Association of the application specified in this paragraph and the amount specified in paragraph (d).

(d) To receive the treatment specified in this section, an eligible person shall make payment of the amount determined under Minnesota Statutes, section 356.551, to the executive director of the Teachers Retirement Association for the period from January 1, 1995. The individual is authorized to cover the payment using assets transferred from the eligible individual's individual retirement account plan account, or from any other sources permitted by law. The total amount to be paid under this paragraph must be determined by the executive director of the Teachers Retirement Association. Written notification of the amount required under this paragraph must be transmitted to the eligible individual. The Teachers Retirement Association is authorized to utilize the actuary jointly retained under Minnesota Statutes, section 356.214, to make the computations required under this paragraph. The Teachers Retirement Association shall allocate the amount received under this paragraph between the Teachers Retirement Association and the Public Employees Retirement Association, or other applicable pension fund, as indicated by the full actuarial cost determination required under this paragraph.

- 1.1 moves to amend delete-everything amendment H0409-6A to H.F.
- 1.2 No. 409; S.F. No., as follows:
- 1.3 Page 1, delete section 2
- 1.4 Renumber the sections in sequence
- 1.5 Amend the title accordingly

- 1.1 moves to amend delete-everything amendment H0409-6A to H.F.
- 1.2 No. 409; S.F. No., as follows:
- 1.3 Page 1, line 22, delete "90" and insert "..."

1.1 moves to amend delete-everything amendment H0409-6A to H.F.
1.2 No. 409; S.F. No., as follows:

1.3 Page 1, line 22, before "No" insert "(a)"

1.4 Page 2, after line 5, insert:

1.5 "(b) The election of coverage forms must include a certification statement that the
1.6 employee has received and reviewed materials on the optional coverage and the default
1.7 coverage prior to making the election."

1.1 moves to amend delete-everything amendment H0409-6A to H.F.
 1.2 No. 409; S.F. No., as follows:

1.3 Page 4, line 16, delete "has no:" and insert "does not have sufficient service credit
 1.4 in one or more defined benefit plans listed in section 356.30, subdivision 3, to entitle the
 1.5 person to receive an annuity from one or more of those plans upon reaching the plan's
 1.6 minimum age for receipt of an annuity."

1.7 Page 4, delete lines 17 to 25 and insert:

1.8 "(d) An eligible person described in paragraph (b), except that first employment by
 1.9 the board is on or after July 1, 2011, has retirement coverage by the Teachers Retirement
 1.10 Association if the person has sufficient service credit in one or more defined benefit plans
 1.11 listed in section 356.30, subdivision 3, to entitle the person to receive an annuity from one
 1.12 or more of those plans upon reaching the plan's minimum age for receipt of an annuity."

1.1 moves to amend H.F. No. 409; S.F. No., as follows:

1.2 Delete everything after the enacting clause and insert:

1.3 "Section 1. Minnesota Statutes 2010, section 354B.21, subdivision 1, is amended to
1.4 read:

1.5 Subdivision 1. **Eligibility.** The following persons are eligible to have coverage by
1.6 the individual retirement account plan ~~and to be participants in the~~ or coverage by another
1.7 plan as further specified in this section:

1.8 (1) employees of the board who are employed as faculty in an employment
1.9 classification included in the state university instructional unit or the state college
1.10 instructional unit under section 179A.10, subdivision 2;

1.11 (2) the chancellor and employees of the board in eligible unclassified administrative
1.12 positions;

1.13 (3) the employees in eligible unclassified administrative positions in the state
1.14 universities;

1.15 (4) the employees in eligible unclassified administrative positions in the technical
1.16 colleges; and

1.17 (5) the employees in eligible unclassified administrative positions of the Minnesota
1.18 Office of Higher Education or of the community colleges.

1.19 **EFFECTIVE DATE.** This section is effective July 1, 2011.

1.20 Sec. 2. Minnesota Statutes 2010, section 354B.21, is amended by adding a subdivision
1.21 to read:

1.22 Subd. 1a. **Required notice; counseling.** No later than 90 days before the end of any
1.23 applicable election period specified in this section, the employer must provide to a person
1.24 beginning work in a position subject to this section for which an option to elect alternative
1.25 retirement plan coverage is authorized the following information:

- 2.1 (1) the default retirement coverage;
- 2.2 (2) election procedures, if applicable, for electing coverage other than the default
- 2.3 coverage; and
- 2.4 (3) the Web site and the telephone number for the plan providing default coverage
- 2.5 and comparable information for the plan which the person is eligible to elect.

2.6 **EFFECTIVE DATE.** This section is effective July 1, 2011.

2.7 Sec. 3. Minnesota Statutes 2010, section 354B.21, subdivision 2, is amended to read:

2.8 Subd. 2. **Coverage; election.** (a) ~~An eligible persons who were employed by the~~
 2.9 ~~Minnesota State Colleges and Universities System on or after June 30, 2009, unless~~
 2.10 ~~otherwise person employed by the board has the default coverage specified in subdivision~~
 2.11 ~~3, or other subdivisions of this section, whichever is applicable, and retains that coverage~~
 2.12 ~~for the period of covered employment unless a timely election to change that coverage~~
 2.13 ~~is made as specified in this section, are.~~

2.14 (b) An eligible person under subdivision 3, paragraph (b) or (c), is authorized to elect
 2.15 prospective Teachers Retirement Association plan coverage rather than.

2.16 (c) An eligible person under subdivision 3, paragraph (d), is authorized to elect
 2.17 prospective coverage by the plan established by this chapter.

2.18 ~~(d) The election of prospective Teachers Retirement Association plan coverage~~
 2.19 ~~under paragraph (a) must be made within one year of commencing eligible Minnesota~~
 2.20 ~~State Colleges and Universities system employment. If an election is not made within the~~
 2.21 ~~specified election period due to a termination of Minnesota State Colleges and Universities~~
 2.22 ~~system employment, an election may be made within 90 days of returning to eligible~~
 2.23 ~~Minnesota State Colleges and Universities system employment. Except as specified in~~
 2.24 ~~paragraph (f), all elections are irrevocable. Before making an election, the eligible person~~
 2.25 ~~is covered by the plan indicated as default coverage under subdivision 3.~~

2.26 ~~(b) (e)~~ (f) Except as provided in paragraph ~~(e)~~ (f), a purchase of service credit in the
 2.27 Teachers Retirement Association plan for any period or periods of Minnesota State
 2.28 Colleges and Universities system employment occurring before the election under
 2.29 ~~paragraph (a) this section~~ is prohibited.

2.30 ~~(e) (f)~~ (f) Notwithstanding ~~other paragraphs (a) and (b) in this subdivision,~~ a faculty
 2.31 member who is a member of the individual retirement account plan ~~who first achieves~~
 2.32 ~~tenure or its equivalent at a Minnesota state college or university after June 30, 2009,~~ may
 2.33 elect to transfer retirement coverage ~~under~~ to the teachers retirement plan within one year
 2.34 of the faculty member first achieving tenure or its equivalent at a Minnesota state college
 2.35 or university. The faculty member electing Teachers Retirement Association coverage

3.1 under this paragraph must purchase service credit in the Teachers Retirement Association
 3.2 for the entire period of time covered under the individual retirement account plan and the
 3.3 purchase payment amount must be determined under section 356.551. The Teachers
 3.4 Retirement Association may charge a faculty member transferring coverage a reasonable
 3.5 fee to cover the costs associated with computing the actuarial cost of purchasing service
 3.6 credit and making the transfer. A faculty member transferring from the individual
 3.7 retirement account plan to the Teachers Retirement Association may use any balances to
 3.8 the credit of the faculty member in the individual retirement account plan, any balances
 3.9 to the credit of the faculty member in the higher education supplemental retirement plan
 3.10 established under chapter 354C, or any source specified in section 356.441, subdivision 1,
 3.11 to purchase the service credit in the Teachers Retirement Association. If the total amount
 3.12 of payments under this paragraph are less than the total purchase payment amount under
 3.13 section 356.551, the payment amounts must be refunded to the applicable source. The
 3.14 retirement coverage transfer and service credit purchase authority under this paragraph
 3.15 expires with respect to any Minnesota State Colleges and Universities System faculty
 3.16 initially hired after June 30, 2014.

3.17 **EFFECTIVE DATE.** This section is effective July 1, 2011.

3.18 Sec. 4. Minnesota Statutes 2010, section 354B.21, subdivision 3, is amended to read:

3.19 Subd. 3. **Default coverage.** (a) Prior to making an election under subdivision 2,
 3.20 or if an eligible person fails to elect coverage by the plan under subdivision 2 or if the
 3.21 person fails to make a timely election, the ~~following retirement coverage specified in~~
 3.22 this subdivision applies:

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

3.26 ~~(2) for employees of the board who are employed in faculty positions in the technical~~
 3.27 ~~colleges, the retirement coverage is by the plan established by this chapter unless on June~~
 3.28 ~~30, 1997, the employee was a member of the Teachers Retirement Association established~~
 3.29 ~~under chapter 354 and then the retirement coverage is by the Teachers Retirement~~
 3.30 ~~Association, or, unless the employee was a member of a first class city teacher retirement~~
 3.31 ~~fund established under chapter 354A on June 30, 1995, and then the retirement coverage~~
 3.32 ~~is by the Duluth Teachers Retirement Fund Association if the person was a member of~~
 3.33 ~~that plan on June 30, 1995, or the Teachers Retirement Association if the person was a~~
 3.34 ~~member of the former Minneapolis Teachers Retirement Fund Association on June 30,~~

4.1 ~~1995, or the St. Paul Teachers Retirement Fund Association if the person was a member~~
4.2 ~~of that plan on June 30, 1995; and~~

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

4.5 ~~(b) If an employee fails to correctly certify prior membership in the Teachers~~
4.6 ~~Retirement Association to the Minnesota State colleges and Universities system, the~~
4.7 ~~system shall not pay interest on employee contributions, employer contributions, and~~
4.8 ~~additional employer contributions to the Teachers Retirement Association under section~~
4.9 ~~354.52, subdivision 4.~~

4.10 (b) If an eligible person is employed by the board before July 1, 2011, in an eligible
4.11 unclassified administrative position or in a faculty position in a technical college,
4.12 community college, or state university, the retirement coverage is by the plan established
4.13 by this chapter, unless otherwise specified in this section.

4.14 (c) An eligible person described in paragraph (b), except that first employment by
4.15 the board is on or after July 1, 2011, has retirement coverage by the plan established by
4.16 this chapter if the eligible person has no:

4.17 (1) allowable service credit in any plan listed in section 356.30, subdivision 3; or

4.18 (2) prior employment covered by the state unclassified employees retirement
4.19 program under chapter 352D.

4.20 (d) An eligible person described in paragraph (c) has retirement coverage by the
4.21 Teachers Retirement Association if the person has:

4.22 (1) prior employment covered by the state unclassified employees retirement
4.23 program under chapter 352D and has not withdrawn or transferred assets from that
4.24 account; or

4.25 (2) allowable service credit in a plan listed in section 356.30, subdivision 3.

4.26 (e) To ensure that coverage is provided by the proper plan, the employee must
4.27 certify to the board the existence of any service credit in any plan listed in section 356.30,
4.28 subdivision 3, or whether the person retains a state unclassified employees retirement
4.29 program account. If an employee fails to correctly certify prior membership in a plan
4.30 or the existence of an unclassified program account, the Minnesota State Colleges and
4.31 Universities system and its board shall be held harmless, and notwithstanding any law to
4.32 the contrary, any resulting cost or financial liability becomes the employee's responsibility.

4.33 **EFFECTIVE DATE.** This section is effective July 1, 2011.

4.34 Sec. 5. Minnesota Statutes 2010, section 354B.21, subdivision 3a, is amended to read:

5.1 Subd. 3a. ~~Continuation of Plan coverage in and election; certain instances past~~
 5.2 ~~service technical college faculty. For a person with retirement coverage by a first class~~
 5.3 ~~city teacher retirement fund association instead of the individual retirement account plan~~
 5.4 ~~under subdivision 3, clause (2), coverage by the applicable retirement fund association~~
 5.5 ~~continues~~ (a) Notwithstanding subdivision 3, if an employee of the board was employed in
 5.6 a faculty position in a technical college on June 30, 1997, with coverage by the Teachers
 5.7 Retirement Association, the employee retains that coverage. If the employee was a
 5.8 technical college faculty member on June 30, 1995, covered by a first class city teacher
 5.9 retirement fund established under chapter 354A, the retirement coverage continues with
 5.10 the Duluth Teachers Retirement Fund Association or the St. Paul Teachers Retirement
 5.11 Fund Association, whichever is applicable. If the person was a technical college faculty
 5.12 member on June 30, 1995, covered by the former Minneapolis Teachers Retirement Fund
 5.13 Association, the Teachers Retirement Association shall provide coverage.

5.14 (b) An employee under paragraph (a) who has coverage by a first class city teacher
 5.15 fund association retains that coverage for the duration of the person's employment by
 5.16 the board of Trustees of the Minnesota State Colleges and Universities unless, within
 5.17 90 days one year of a change in employment within the Minnesota State Colleges and
 5.18 Universities system, the person elects the individual retirement account plan for all future
 5.19 employment by the board of Trustees of the Minnesota State Colleges and Universities.
 5.20 The election is irrevocable.

5.21 **EFFECTIVE DATE.** This section is effective July 1, 2011.

5.22 Sec. 6. Minnesota Statutes 2010, section 354B.21, subdivision 5, is amended to read:

5.23 Subd. 5. **Payment for certain prior uncovered service.** (a) A person employed in a
 5.24 faculty position or in an eligible unclassified administrative position by the board who was
 5.25 initially excluded from participation in the individual retirement account plan coverage,
 5.26 who was not covered by any other Minnesota public pension plan for that service, and
 5.27 who is subsequently eligible to participate in the individual retirement account plan may
 5.28 make member contributions for that period of prior uncovered teaching employment or
 5.29 eligible unclassified administrative employment with the board.

5.30 (b) The member contributions for prior uncovered board service are the amount
 5.31 that the person would have paid if the prior service had been covered employment. The
 5.32 payment must be made to the individual retirement account plan administrator and may be
 5.33 made only by payroll deduction. The payment must be made by the later of:

- 5.34 (1) 45 days of the start of covered employment; or
 5.35 (2) the end of the fiscal year in which covered employment began.

6.1 (c) The board must contribute an amount to match any contribution made by a plan
6.2 participant under this subdivision.

6.3 (d) Payments of contributions for prior uncovered board service under this
6.4 subdivision must be invested in the same manner as the regular contributions made by or
6.5 on behalf of the plan participant.

6.6 **EFFECTIVE DATE.** This section is effective July 1, 2011.

6.7 Sec. 7. Minnesota Statutes 2010, section 354B.21, subdivision 6, is amended to read:

6.8 Subd. 6. **Continuation of coverage.** Except as otherwise specified in this section,
6.9 once a person is employed in a position that qualifies for participation in the individual
6.10 retirement account plan and elects to participate in the plan, all subsequent service by the
6.11 person as a faculty member or in an eligible unclassified administrative position employed
6.12 by the board or other employing unit is covered by the individual retirement account plan.

6.13 **EFFECTIVE DATE.** This section is effective July 1, 2011.

6.14 Sec. 8. Minnesota Statutes 2010, section 354B.21, is amended by adding a subdivision
6.15 to read:

6.16 Subd. 7. **Coverage; certain part-time employees.** A person employed in a
6.17 part-time faculty position or in a part-time eligible unclassified administrative position
6.18 who does not meet the definition of covered employment under section 354B.20,
6.19 subdivision 4, because the employment does not meet the threshold required under that
6.20 provision, must certify prior membership in the Teachers Retirement Association to the
6.21 Minnesota State Colleges and Universities system. If the certification is incorrect, the
6.22 employee, and not the employer, is required to pay interest on the employee and employer
6.23 contributions, and, if applicable, on the employer additional contributions to the Teachers
6.24 Retirement Association under section 354.52, subdivision 4.

6.25 **EFFECTIVE DATE.** This section is effective July 1, 2011.

6.26 Sec. 9. **REPEALER.**

6.27 Minnesota Statutes 2010, sections 354B.21, subdivision 3c; and 354B.32, are
6.28 repealed.

6.29 **EFFECTIVE DATE.** This section is effective July 1, 2011."

6.30 Delete the title and insert:

6.31 "A bill for an act

7.1 relating to retirement; Minnesota Colleges and Universities System individual
7.2 retirement account plan; revising default coverage to Teachers Retirement
7.3 Association for employees with past service covered by plans other than the
7.4 individual retirement account plan; making other technical changes; repealing
7.5 obsolete provisions; amending Minnesota Statutes 2010, section 354B.21,
7.6 subdivisions 1, 2, 3, 3a, 5, 6, by adding subdivisions; repealing Minnesota
7.7 Statutes 2010, sections 354B.21, subdivision 3c; 354B.32."

354B.21 COVERAGE.

Subd. 3c. **Election of TRA coverage in certain instances.** (a) A person who was employed as a teacher by a technical college before July 1, 1995, and who has retirement coverage for that technical college teacher employment by a first class city teacher retirement fund association under chapter 354A may elect to have future higher education system teacher employment retirement coverage by the Teachers Retirement Association governed by chapter 354.

(b) The election to transfer prospective retirement coverage under paragraph (a) must be made by the technical college teacher by October 1, 1995, or within 90 days of initially being employed by the higher education system, whichever is later. The election must be made in writing on a form prescribed by the executive director of the Teachers Retirement Association. The election, once filed with the executive director of the Teachers Retirement Association, is irrevocable.

(c) An election to transfer prospective retirement coverage under paragraph (a) does not affect prior allowable service credit under section 354A.011, subdivision 4. The transfer of prospective retirement coverage does not make the person eligible for a refund of member contributions during the course of the person's employment by the higher education system.

354B.32 TRANSFER OF FUNDS TO IRAP.

(a) A participant in the individual retirement account plan established in this chapter who has less than ten years of allowable service under the Teachers Retirement Association or a teachers retirement fund association, whichever applies, may elect to transfer an amount equal to the participant's accumulated member contributions to the Teachers Retirement Association or the applicable teachers retirement fund association, plus compound interest at the rate of six percent per annum, to the individual retirement account plan. The transfers are irrevocable fund-to-fund transfers, and, in no event, may the participant receive direct payment of the money transferred before the termination of employment. If a participant elects the contribution transfer, all of the participant's allowable and formula service credit in the Teachers Retirement Association or the teachers retirement fund association associated with the transferred amount is forfeited.

(b) The executive director of the Teachers Retirement Association and the chief administrative officers of the teachers retirement fund associations, in cooperation with the chancellor of the Minnesota State Colleges and Universities system, shall notify participants who are eligible to transfer of their right to transfer and the amount that they are eligible to transfer, and shall, upon request, provide forms to implement the transfer. The chancellor of the Minnesota State Colleges and Universities system shall assist the Teachers Retirement Association and the teachers retirement fund associations in developing transfer forms and in implementing the transfers.

(c) Authority to elect a transfer under this section expires on July 1, 2004.

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State of Minnesota
HOUSE OF REPRESENTATIVES

**EIGHTY-SEVENTH
SESSION**

HOUSE FILE No. 409

February 9, 2011

Authored by Poppe

The bill was read for the first time and referred to the Committee on Government Operations and Elections

1.1 A bill for an act
1.2 relating to retirement; specifying coverage for certain Minnesota State Colleges
1.3 and Universities employees; requiring employer to provide certain notices;
1.4 amending Minnesota Statutes 2010, section 354B.21, subdivision 3, by adding a
1.5 subdivision.

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

1.7 Section 1. Minnesota Statutes 2010, section 354B.21, subdivision 3, is amended to read:

1.8 Subd. 3. **Default coverage.** (a) Prior to making an election under subdivision 2, or
1.9 if an eligible person fails to elect coverage by the plan under subdivision 2 or if the person
1.10 fails to make a timely election, the following retirement coverage applies:

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

1.14 (2) for employees of the board who are employed in faculty positions in the technical
1.15 colleges, the retirement coverage is by the plan established by this chapter unless on June
1.16 30, 1997, the employee was a member of the Teachers Retirement Association established
1.17 under chapter 354 and then the retirement coverage is by the Teachers Retirement
1.18 Association, or, unless the employee was a member of a first class city teacher retirement
1.19 fund established under chapter 354A on June 30, 1995, and then the retirement coverage
1.20 is by the Duluth Teachers Retirement Fund Association if the person was a member of
1.21 that plan on June 30, 1995, or the Teachers Retirement Association if the person was a
1.22 member of the former Minneapolis Teachers Retirement Fund Association on June 30,
1.23 1995, or the St. Paul Teachers Retirement Fund Association if the person was a member
1.24 of that plan on June 30, 1995; and

2.1 (3) for employees of the board who are employed in eligible unclassified
 2.2 administrative positions, the retirement coverage is by the plan established by this chapter,
 2.3 unless the employee has sufficient service credit in one or more plans listed in section
 2.4 356.30, subdivision 3, to entitle the person to receive an annuity from one or more of those
 2.5 plans upon reaching the plan's minimum age for receipt of an annuity, in which case the
 2.6 retirement coverage is the Teachers Retirement Association.

2.7 (b) If an employee fails to correctly certify prior membership in the Teachers
 2.8 Retirement Association to the Minnesota State Colleges and Universities system, the
 2.9 system shall not pay interest on employee contributions, employer contributions, and
 2.10 additional employer contributions to the Teachers Retirement Association under section
 2.11 354.52, subdivision 4.

2.12 **EFFECTIVE DATE.** This section is effective the day following final enactment
 2.13 and applies to a person who on or after that date is appointed to, transferred to, or whose
 2.14 position is reclassified to an eligible unclassified administrative position.

2.15 Sec. 2. Minnesota Statutes 2010, section 354B.21, is amended by adding a subdivision
 2.16 to read:

2.17 **Subd. 7. Required notice; counseling.** This subdivision applies when a person
 2.18 is appointed to, transferred to, or reclassified to an eligible unclassified administrative
 2.19 position. Within five days of a person beginning work in a position subject to this
 2.20 subdivision, the employer must give the employee the following information:

2.21 (1) the default retirement coverage for the person in the new position, including the
 2.22 fact that the default coverage depends on whether the person is vested in other public
 2.23 pension plans;

2.24 (2) how the person can choose coverage other than the default coverage;

2.25 (3) the name and telephone number of a contact person at the Teachers Retirement
 2.26 Association, a contact person for retirement coverage under this chapter, and a link to
 2.27 the Web site of the Teachers Retirement Association and the Web site for retirement
 2.28 coverage under this chapter; and

2.29 (4) the name and telephone number of a contact person and a link to the Web site
 2.30 of the person's current exclusive representative and of the person's former exclusive
 2.31 representative if the person had a different exclusive representative within the Minnesota
 2.32 State Colleges and Universities System immediately before starting the new position.

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