

**H.F. 1292**

(Nelson)

S.F. xxxx**Executive Summary of Commission Staff Materials**

<i>Affected Pension Plan(s):</i>	MSRS-Unclassified, MSRS-General
<i>Relevant Provisions of Law:</i>	Minnesota Statutes, Section 352.01, Subdivision 2a
<i>General Nature of Proposal:</i>	Coverage election options for legislators.
<i>Date of Summary:</i>	March 16, 2015

Specific Proposed Changes

- Legislators are included in the definition of "state employee" for MSRS-General.
- Certain legislators exempted from mandatory MSRS-Unclassified coverage.
- Legislators with minimal service may elect MSRS-General coverage.
- Legislators with seven years of service may temporarily elect MSRS-General coverage.

Policy Issues Raised by the Proposed Legislation

1. Appropriateness of permitting legislators with minimal service to elect MSRS-General coverage.
2. Appropriateness of temporarily permitting legislators with lengthy MSRS-Unclassified coverage to transfer past service to MSRS-General Coverage.
3. Precedent.

Potential Amendment

H1292-1A amends Section 4 of the proposed legislation for clarity, specifies that pre-1997 legislators who chose MSRS-Unclassified coverage under Minnesota Statutes, Section 3A.07, which is irrevocable under paragraph (c) of Section 3A.07, are not excluded from the transfer election.

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TO: Members of the Legislative Commission on Pensions and Retirement

FROM: Rachel Thurlow, Deputy Director *RT*

RE: H.F. 1292 (Nelson); S.F. xxxx: MSRS-Unclassified; MSRS-General; Election Options for Legislators

DATE: March 16, 2015

Summary of H.F. 1292 (Nelson); S.F. xxxx

H.F. 1292 (Nelson); S.F. xxxx amends Minnesota Statutes, Section 352.01, Subdivision 2a, the definition provision of which employees are included in the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General), and Minnesota Statutes, Section 352D.02, Subdivisions 1 and 3, the coverage and transfer of coverage provisions of the MSRS Unclassified Employees Retirement Program (MSRS-Unclassified) by making the following changes:

1. Legislators Included in the Definition of “State Employee” for MSRS-General. Includes legislators in the definition of “state employee” under Minnesota Statutes, Section 352.01, Subdivision 2a, who have opted to transfer from MSRS-Unclassified to MSRS-General under section 3 or 4 of the proposed legislation (*Sec. 1*).
2. Certain Legislators Exempted from Mandatory MSRS-Unclassified Coverage. Specifies that legislators who have opted for MSRS-General coverage under section 3 or 4 of the proposed legislation are exempted from mandatory MSRS-Unclassified coverage under Minnesota Statutes, Section 352D.02, Subdivision 1 (*Sec. 2*).
3. Legislators With Minimal Service May Elect MSRS-General Plan Coverage. Permits legislators with less than seven years of allowable service to terminate MSRS-Unclassified and elect MSRS-General under Minnesota Statutes, section 352D.02, subdivision 3 (*Sec. 3*).
4. Legislators With Seven Years of Service May Temporarily Elect MSRS-General Plan Coverage. Permits a temporary election for any legislator currently serving as of July 1, 2015, with seven or more years of service and covered by MSRS-Unclassified to elect MSRS-General before July 1, 2017 (*Sec. 4*).

Background Information on Relevant Topics

The following attachments provide background information on topics relevant to the proposed legislation:

- **Attachment A:** Background information on and the history of coverage by the Legislators Retirement Plan.
- **Attachment B:** Background information on the MSRS-Unclassified Retirement Program.

Discussion and Analysis

H.F. 1292 (Nelson); S.F. xxxx modifies the retirement options for Minnesota legislators who first became legislators after July 1, 1997, or who elected to transfer from the Legislators Retirement Plan to the Unclassified Employees Retirement Program of the Minnesota State Retirement System (MSRS-Unclassified) under Laws 1997, Chapter 233, Article 2, by changing the definition of a “state employee” to include certain legislators, allowing legislators with less than seven years of allowable service to transfer from the MSRS-Unclassified Program to the General State Employees Retirement Plan of MSRS (MSRS-General), and allowing current legislators with more than seven years of allowable service to transfer from MSRS-Unclassified Program to the MSRS-General Plan before July 1, 2017.

The proposed legislation raises several pension and related public policy issues for consideration by and possible discussion between members of the Commission, including the following:

1. Appropriateness of Permitting Legislators with Minimal Service to Elect MSRS-General Coverage. The policy issue is whether it is appropriate to allow legislators to transfer from the Unclassified Employees Retirement Program of the Minnesota State Retirement System (MSRS-Unclassified) to the MSRS General State Employees Retirement Plan (MSRS-General) at any time within the first seven years of their legislative career. MSRS-Unclassified is a defined contribution plan, where the

legislator bears a majority of the active membership period investment risk and the benefit is based on the level of contributions. MSRS-General is a defined benefit plan, where the employer bears a majority of the total period investment risk and the promised benefit is based on the legislator's average final compensation. Since July 1, 1997, all newly elected legislators have been covered by MSRS-Unclassified. The Legislature determined MSRS-Unclassified to be the best option for legislators due to the relative uncertainty of how long a legislator serves, most of whom serve for shorter periods of time, and because many legislators have employment outside of their legislative service that provides retirement benefits as well, unlike most public employees. MSRS-Unclassified coverage would therefore allow for portability and additional retirement revenue, and eliminate any vesting requirements, which is five years for employees employed after June 30, 2010 in MSRS-General. Further, a majority of Minnesota employees have defined contribution retirement coverage, so it may also have been a goal for legislators to have retirement coverage that is similar to a majority of their constituents. If those are still the objectives, then it is appropriate to continue MSRS-Unclassified coverage for legislators. If the objectives are now to provide newer legislators with retirement coverage similar to the coverage of pre-1997 legislators or that is identical to the retirement coverage provided general state employees, who have the option to transfer from defined contribution to defined benefit coverage, then it would be appropriate to permit MSRS-General coverage within the first seven years of a legislator's career.

2. Appropriateness of Temporarily Permitting Legislators with Lengthy MSRS-Unclassified Coverage to Transfer Past Service to MSRS-General Coverage. The policy issue is whether it is appropriate to allow only current legislators with more than seven years of allowable service the temporary option to transfer from the Unclassified Employees Retirement Program of the Minnesota State Retirement System (MSRS-Unclassified) to the MSRS General State Employees Retirement Plan (MSRS-General). The same determinations of what is the appropriate type of retirement coverage discussed in issue #1 apply to this issue as well. A main concern for allowing any current legislator with more than seven years of allowable service to transfer from MSRS-Unclassified to MSRS-General is the financial impact of such transfers. An eligible legislator would likely only choose to transfer if the value of an MSRS-General benefit is greater than the MSRS-Unclassified account value. Such a transfer would add liability to the MSRS-General Plan without the legislator providing sufficient assets to fully cover that liability. The longer the legislator has served, the larger the liability. The proposed legislation may also elicit negative reactions from the general public because it may be viewed as either a benefit increase for legislators or an effort to protect legislators' retirement benefits from the volatility of the market, while the general public has no similar protection. The shifting of liability that occurs when transferring from a defined contribution to a defined benefit plan could also cause a negative reaction from the general public because the proposed transfers would shift liability from the legislators, as the employees, to the state, as the employer, and thus the taxpayers.
3. Precedent. The policy issue is the extent to which previous proposed legislation exists to provide guidance for the Commission as well as what future precedent may be set if the proposed legislation is enacted. In both 2008 (H.F. 3223 (Mahoney); S.F. 3054 (Tomassoni)) and 2010 (S.F. 1407 (Tomassoni); H.F. 1358 (Mahoney)), identical legislation was proposed to revise the Unclassified Employees Retirement Program of the Minnesota State Retirement System (MSRS-Unclassified) coverage provision to allow legislators, judges, and other elected officials the option to choose between MSRS-Unclassified and MSRS General State Employees Retirement Plan (MSRS-General) coverage within the first year of service. The proposed legislation further allowed the elected official group, if they had initially chosen MSRS-Unclassified coverage, to switch to MSRS-General after providing ten years of service. Neither bills were enacted into law. The past and current proposed legislation reverse actions by prior Legislatures to reform the pension system in order to meet the objectives discussed in issue #1. The failure of similar previous bills to be enacted indicates that the objectives behind the continued MSRS-Unclassified coverage for legislators have not changed and indicate it may be appropriate to continue such coverage. The proposed legislation excludes judges and other elected officials, so enacting the legislation may allow the excluded groups to pursue similar legislation. It may also set a precedent of allowing legislators to switch retirement coverage whenever there is a dramatic shift in the markets.

Potential Amendment for Commission Consideration

- **Amendment H1292-1A** amends Section 4 of the proposed legislation for clarity, specifies that pre-1997 legislators who chose MSRS-Unclassified coverage under Minnesota Statutes, Section 3A.07, which is irrevocable under paragraph (c) of Section 3A.07, are not excluded from the transfer election.

Background Information on Legislator Pension Coverage

Retirement Coverage for Legislators Before 1965

Before 1965, if a legislator wanted retirement coverage the only choice was coverage under the General Employees Retirement Plan of the Public Employees Retirement Association (PERA-General). PERA-General was a basic plan, meaning that the employee did not have Social Security coverage for the public employment and no contributions were made into the federal Social Security program. (In contrast, a coordinated plan is a pension plan where the individual is also covered by Social Security for the employment.) PERA-General in 1965 used a career average salary and had back-loaded accrual rates, heavily favoring long-service employees. In a back-loaded plan the accrual rate used for early years of service is lower than the accrual rate used for later years. In PERA-General, the employee would eventually receive a benefit that was 1.0% of the career average salary for each of the first ten years of service, 2.0% for each year during the second decade of service, 2.5% for each year during the third decade, and 3.0% for each year thereafter.

The Legislators Retirement Plan

In 1965, when the Legislature created a separate Legislators Retirement Plan in the Minnesota State Retirement System (MSRS), current legislators and new members with prior PERA-General coverage had an option to retain PERA-General coverage, but all other new legislators would be covered by the Legislators Retirement Plan. The motivation for establishing a separate Legislators Retirement Plan probably came from a growing recognition that the back-loaded PERA-General plan was not well suited to legislative retirement coverage, since the typical legislator would not be providing many decades of service. Another likely factor was the minimal salary paid to legislators. Since the pension benefit was based on salary, a higher accrual rate seemed necessary to generate a meaningful benefit.

The Legislators Retirement Plan that was created in 1965 used more generous accrual rates, and the rates were front-loaded rather than level or back-loaded. The Legislators Retirement Plan that was enacted was a basic plan providing a retirement benefit of 5% of the average monthly salary received during the final term of office for each of the first eight years of service, and an additional 2.5% per year for each year beyond eight. The plan also had a provision covering spouses of members who died in office, providing a benefit equal to half the retirement benefit, and an additional amount for dependent children.

The Legislators Retirement Plan was closed to new members in 1997. All legislators first elected after 1997 are covered by the Unclassified State Employees Retirement Program (MSRS-Unclassified), a defined contribution plan which is coordinated with Social Security. Existing legislators were given an option to elect Social Security coverage and MSRS-Unclassified for continuing coverage, rather than continuing in the Legislators Retirement Plan with no Social Security coverage.

The Legislators Retirement Plan has been revised numerous times since 1965:

- Several changes occurred in 1977 and 1978 (Laws 1977, Ch. 35, Sec. 12; Laws 1978, Ch. 796, Sec. 1-4). Beginning with the 1979 Legislative Session, the maximum benefit accrual rate for any new legislative service was set at 2.5%, rather than 5% for each of the first eight years and 2.5% per year thereafter. This accrual rate change was adopted in recognition of the changing nature of legislative work and increases in legislator salaries. Until the early 1970s, legislative salaries were minimal. In order to provide any meaningful retirement benefit, a very high benefit accrual rate was used for initial years of service. As legislative salaries increased in recognition that legislative work was becoming more like a full-time occupation, the Legislature recognized that it needed to revise the benefit accrual rates downward. Also, salary for pension purposes was redefined to exclude any additional compensation for leadership positions. A 20-year cap on creditable service was imposed. The plan was revised to use the high-five average salary rather than the average salary in the final term in office and the normal retirement age was increased from age 60 to age 62, with age 60 becoming the earliest age for retirement with a reduced annuity. Vesting for a retirement annuity was reduced from eight years to six years.
- In 1989 (Laws 1989, Ch. 319, Art. 16, Sec. 1-7), the definition of salary was changed to include regular and special session per diem payments, the deferred annuity augmentation rates were revised to 3% per year up to the year in which the former legislator becomes age 55 and 5% per year thereafter, the reduction factors for early retirement were revised to require a more substantial penalty, and the 20-year cap on service credit was removed. Members who were no longer

accruing service credit because their service exceeded 20 years were authorized to again begin accruing service credit.

- In 1992 (Laws 1992, Ch. 598, Art. 1, Sec. 1; Art. 4, Sec. 3, 5) the 1989 removal of the Legislators Retirement Plan service credit cap was made retroactive. Long-term legislators, including those in deferred status with uncredited service prior to June 2, 1989, due to the then-existing cap on service accrual, were authorized to purchase service credit for the uncredited period by paying 9% of salary received during the uncredited period plus 6% interest from the midpoint of the period of uncredited service to the date of payment. Payment had to be received prior to retirement or by January 1, 1994, whichever was earlier.
- In 1997 (Laws 1997, Ch. 233, Art. 2) the plan was closed to new legislators. New legislators are covered by the MSRS-Unclassified Program, and Legislators Retirement Plan members are permitted to transfer coverage to that defined contribution plan.
- In 2002 (Laws 2002, Ch. 392, Art. 15), legislators who had chosen to remain in the Legislators Retirement Plan were given an opportunity to elect Social Security coverage while remaining in the Legislators Retirement Plan, provided that they agreed to cover the Social Security employee and employer contribution requirement.
- In 2003 (1st Spec. Sess. Laws 2003, Ch. 1, Art. 2, Sec. 3, 136), the Legislators Retirement Plan was revised from a terminally funded plan, with transfer of full actuarial reserves to the Minnesota Post Retirement Investment Fund (Post Fund) to cover expected lifetime annuity payments, to a pay-as-you-go plan for new retirees. No assets were transferred to the Post Fund for new retirees; instead, annual appropriations are made from the state general fund as necessary to cover the annual benefits.
- In 2006 (Laws 2006, Ch. 271, Art. 10), the plan's surviving spouse benefit provision was revised to be consistent with other MSRS defined benefit plans, permitting the survivor spouse of a legislator who dies in office to start receiving a surviving spouse joint-and-survivor annuity as early as age 55 rather than at a minimum of age 60. The remainder of the Legislators Retirement Plan chapter was recodified to improve clarity.
- In 2009 (Laws 2009, Ch. 169, Art. 1, Sec. 1-5) the Minnesota Post Retirement Investment Fund was dissolved. Another fund was created to receive any assets from the Post Fund which were applicable to legislators who retired before 2003 and to surviving spouses. The post-retirement adjustment procedures of the Post Fund were stricken, and in its place a fixed 2.5% annual increase was to be paid.
- In 2010 (Laws 2010, Ch. 359, Art. 1, Sec. 1, 76, 77) the deferred annuity augmentation rate was revised downward to 2.0% per year beginning January 1, 2011. Also in 2010, the post-retirement adjustment provision which provided a 2.5% per-year increase was temporarily revised to provide a 2.0% annual increase until financial stability is achieved, defined as when the funding ratio of MSRS-General based on market value is at least 90%.
- In 2011 (1st Spec. Sess. Laws 2011, Ch. 10, Art. 1, Sec. 28), for the biennium, \$4.881 million was appropriated to pay legislative retirement allowance and survivor benefits. If that amount is insufficient, the fund created in 2009 to accept assets applicable to legislators from the Post Fund is to be tapped for needed amounts.

MSRS-Unclassified Coverage for Post-1997 Legislators and Constitutional Officers, and Existing Legislators and Constitutional Officers Electing That Coverage

Defined benefit plan coverage utilizes a formula to determine the retirement annuity, typically by using a percentage benefit accrual rate per year of service applied to a designated salary base. Defined contribution plan coverage, similar to a 401(k) plan or an Individual Retirement Account (IRA), amasses contributions and investment returns that either can be taken as a lump sum payment upon retirement or can be converted to a life annuity.

Prior to 1997, legislators were covered by the Legislators Retirement Plan, a basic defined benefit plan. However, benefit increase legislation assembled in 1997 by the Minnesota State Retirement System (MSRS), the Public Employees Retirement Association (PERA), and the Teachers Retirement Association (TRA) included provisions revising pension coverage for legislators and constitutional officers. Laws 1997, Chapter 233, Article 2, required all legislators first elected after June 30, 1997, to be covered by a defined contribution plan, the Unclassified State Employees Retirement Program of

the Minnesota State Retirement System (MSRS-Unclassified), which is a coordinated plan, rather than the Legislators Retirement Plan.

MSRS-Unclassified also provides coverage to certain legislators first elected before 1997, because the 1997 legislation included a Social Security referendum for pre-1997 legislators, giving them a chance to elect Social Security coverage. Any legislator electing to have Social Security coverage was placed in MSRS-Unclassified for continuing service.

The 1997 legislation also treated constitutional officers in a manner similar to legislators. Any newly elected constitutional officer after 1997 is covered by MSRS-Unclassified, rather than the basic defined benefit Elective State Officers Plan. Constitutional officers first elected prior to 1997 were permitted to elect Social Security coverage, and be covered by that system plus MSRS-Unclassified for continuing service.

The 1997 legislation included a required study by the Legislative Commission on Pensions and Retirement of the appropriateness of the legislator and constitutional officer coverage change. The Commission completed the mandated study during the 1997-1998 interim and concluded that the coverage change was appropriate and recommended retaining the 1997 provisions.

Post-1997 Continuing Defined Contribution/Defined Benefit Coverage Issue

An MSRS-Unclassified Program provision, Minnesota Statutes, Section 352D.02, Subdivision 1, permitted employees to choose between the MSRS-Unclassified Program and MSRS-General within the first year of employment, with the MSRS-Unclassified Program being the default if no coverage was specifically chosen. However, given the presumption in the 1997 legislation that defined benefit plan coverage was not appropriate for legislators, this subdivision was revised in that legislation to exclude legislators. They were to be limited to the MSRS-Unclassified Program. However, Subdivision 3 in that section appeared to permit employees with MSRS-Unclassified Program coverage to transfer to MSRS-General after the individual had provided at least ten years of service. While the application to legislators was unclear from the wording of that provision, MSRS administrators took the position that a legislator was not an employee for purposes of that transfer provision and that long-service legislators were not eligible to transfer coverage.

Some legislators later questioned the 1997 changes which placed legislators in the MSRS-Unclassified Program. In 2008, H.F. 3223 (Mahoney); S.F. 3054 (Tomassoni) proposed revising the MSRS-Unclassified first-year-of-coverage provision to permit legislators, judges, the governor, the lieutenant governor, the secretary of state, the state auditor, and the attorney general to choose between MSRS-Unclassified and MSRS-General during the first year. The bill also proposed revising the coverage transfer-after-ten-years provision to explicitly include legislators and other elected officials. However, the bill did not pass. H.F. 3223 (Mahoney); S.F. 3054 (Tomassoni) was initially made part of the 2008 Omnibus Retirement Bill but was removed on the Senate Floor, through an amendment authored by then Commission Chair, Senator Don Betzold, and the Senate position prevailed in the conference committee.

The 2010 Omnibus Retirement Bill, passed as Laws 2010, Chapter 359, included many provisions trimming pension plan benefits in order to address pension plan liabilities. The bill was in response to the market meltdown of 2008 and early 2009, which substantially lowered pension plan assets. Most of the provisions which trimmed liabilities and shored up pension assets were contained in Article 1, the Financial Sustainability Provisions. However, other provisions trimming liabilities were found elsewhere in the bill. Article 4 revised MSRS-Unclassified Program provisions. MSRS had long expressed concern that the MSRS-Unclassified ten-year-transfer provision imposed added liability on MSRS-General, because those transferring into MSRS-General added more liability to the plan than they added in assets. Among the revisions in Article 4 was a revision to the ten-year transfer provision limiting the right to transfer after ten or more years to those first employed before July 1, 2010. For those first employed on or after that date, if they are to transfer they must do so before accruing seven years service. The provision was also revised by adding language explicitly excluding legislators, judges, and other elected officials from any right to transfer to MSRS-General.

Thus, any legislator in the MSRS-Unclassified Program clearly is not permitted to transfer to another plan. The legislators covered by the MSRS-Unclassified Program are those first elected after June 30, 1997, and also any legislator first elected before that date who chose to transfer to the MSRS-Unclassified Program.

Legislators Retirement Plan: Creating a Coordinated Program

Laws 1997, Chapter 233, Article 2, gave each sitting legislator first elected before July 1997 an option. He or she could choose to be treated like a new legislator and have MSRS-Unclassified coverage for continuing legislative service with Social Security coordination, or he or she could remain in the Legislators Retirement Plan with no Social Security coverage.

Sitting legislators who in 1998 declined Social Security coverage presumably felt the added value of Social Security coverage was not sufficient to justify leaving the Legislators Retirement Plan for prospective service. Later, however, some legislators who remained in the Legislators Retirement Plan became convinced that they would be better off having Social Security coverage for their legislative service. This may have been due to the impact that provisions of Social Security law might have on the Social Security benefit to which they would be entitled due to non-legislative employment for which they had Social Security coverage, and by another provision of Social Security law, called the Government Pension Offset, which can significantly reduce the spousal or widow (widower) Social Security benefit which they might receive based on a spouse's Social Security coverage. A provision of federal law waived any reduction under the Government Pension Offset if the individual was contributing to Social Security immediately prior to leaving employment. For some individuals, this may have provided a considerable incentive to elect Social Security coverage for their legislative employment.

In 2001, S.F. 1863 (Rest); H.F. 1896 (Skoglund) was introduced on behalf of a small group of legislators who declined Social Security coverage under the 1998 coverage election, rather than obtaining that coverage and having prospective service covered by MSRS-Unclassified. Under S.F. 1863 (Rest); H.F. 1896 (Skoglund), those legislators who earlier had declined Social Security coverage would be permitted to have a second Social Security election. If that coverage were elected, the employee would begin paying into the Social Security system and would be permitted to remain in the Legislators Retirement Plan for continuing legislative service, in a new coordinated program. Previously, the Legislators Retirement Plan was strictly a basic plan. The benefits and contribution rates in that new coordinated program would be identical to the benefits and contribution rates found in the basic program of the Legislators Retirement Plan. This raised policy issues:

1. Consistency and Fairness. The bill treated comparable employees differently. Some legislators, those first elected after June 1997, have defined contribution plan coverage and Social Security coverage, some pre-1997 legislators also have that defined contribution plan coverage plus Social Security because of the coverage they selected in 1998, while other pre-1997 legislators would now be permitted to have Social Security coverage while remaining in the defined benefit Legislators Retirement Plan.
2. Proper Contribution Rates and Benefit Levels. Another issue was whether benefits and contribution rates in the proposed Legislators Retirement Plan coordinated program should be reduced below those of the basic program. 2001 S.F. 1863 (Rest); H.F. 1896 (Skoglund) did not include any reduction in the benefits or contribution rates under the Legislators Retirement Plan. In general, when a coordinated program is created, the benefits provided by that coordinated plan (and the related contribution requirements) are reduced in recognition that the individual can also expect to receive Social Security benefits due to the covered employment. For example, the accrual rate (percentage of the high-five average salary which the individual will receive per year of service) for retirement at normal retirement age is 2.7% in the PERA-General basic plan, while the comparable accrual rate in the PERA-General Coordinated Plan is 1.7%. Contribution rates are much lower in PERA-General's Coordinated Plan compared to the Basic Plan in recognition that a less costly benefit was being provided under the Coordinated Plan. However, when a coordinated program was established in the Judges Retirement Plan many years ago, the benefits and contribution rates for the coordinated program of the Judges Retirement Plan were made the same as in the basic Judges Retirement Plan.

The Commission did not recommend that 2001 S.F. 1863 (Rest); H.F. 1896 (Skoglund) should pass, and the bill was not enacted.

However, in 2002 comparable provisions were added to the 2002 Omnibus Pension Bill and were enacted as Laws 2002, Chapter 392, Article 15. These provisions were added by amendment late in the process. Perhaps in an effort to make the provisions more palatable and to avoid any fiscal impact on the employer, the language included a requirement that any employee who elected Social Security coverage under the second Social Security referendum had to pay both the Social Security employee contribution and the Social Security employer contribution.

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

1. In General. The Unclassified State Employees Retirement Program of the Minnesota State Retirement System (MSRS-Unclassified) was established in 1971 (Laws 1971, Ch. 604), and is governed by Minnesota Statutes, Chapter 352D.
2. Establishment. MSRS-Unclassified is a defined contribution plan established by Minnesota Statutes, Chapter 352D. The retirement program was developed on behalf of the commissioners of the various departments in the Executive Branch in state government. It was premised on the unattractiveness in 1971 of the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General) for upper echelon officials in state government who were unlikely to spend enough time in state employment to meet the MSRS-General vesting provision of ten years of service then applicable in 1971. It was intended to be an attractive fringe benefit to aid in the recruitment of department heads in state government. Since 1971, there have been numerous expansions in program coverage and modifications in coverage after established, as summarized in Item 12.
3. Program Coverage. The program currently covers a number of state employees or officers in the unclassified service of the State of Minnesota on either a mandatory or on an optional basis. The individuals specified in (a), (e), and (g), if first elected after June 30, 1997, below are members of the program on a mandatory basis and the remaining individuals have the option to elect to be members of the program rather than being a member of MSRS-General. The program membership includes:
 - a. the Governor, Lieutenant Governor, Secretary of State, State Auditor, and Attorney General;
 - b. an employee in the office of the Governor, Lt. Governor, Secretary of State, State Auditor, or Attorney General;
 - c. an employee of the State Board of Investment;
 - d. the head of a department, a division, or an agency created by statute in the unclassified service;
 - e. a member of the legislature;
 - f. a permanent, full-time unclassified employee of the legislature or a commission or an agency of the legislature;
 - g. the regional administrator or executive director of the Metropolitan Council, its general counsel, division directors, operations managers, and other positions as designated by the council;
 - h. the executive director, associate executive director of the Higher Education Services Office in the unclassified service;
 - i. the clerk of the appellate court;
 - j. the chief executive officers of correctional facilities, hospitals, and nursing homes;
 - k. an employee of the state ceremonial house;
 - l. an employee of the Minnesota Educational Computing Corporation;
 - m. an employee of the World Trade Center board;
 - n. an employee of the State Lottery board; and
 - o. a judge whose service has exceeded the 24-year service credit limit of Minn. Stat. Sec. 490.121, Subd. 22.
4. MSRS-Unclassified Demographic Information.

As of June 30, 2006:

Number of active participants	1,908
Average salary of active participants	\$62,441
Average contribution by and on behalf of participants	\$6,244 (\$2,498 member; \$3,746 employer)
Number of inactive participants	1,563
Average account balance per inactive participant.....	\$60,254
Total program assets	\$259,861,273

As of June 30, 2010:

Number of active participants	1,493
Average salary of active participants	\$70,537
Average contribution by and on behalf of participants	\$7,759 (\$3,527 member; \$4,232 employer)
Average account balance per active participant.....	\$107,377
Average age of active participants	48.1 years
Average service of active participants	11.3 years
Number of inactive participants	1,705
Average account balance per inactive participant.....	\$53,559
Total program assets	\$253,388,000

As of June 30, 2014:

Number of active participants	1,172
Average salary of active participants	\$79,236
Average contribution by and on behalf of participants	\$9,112 (\$4,358 member; \$4,754 employer)
Average account balance per active participant.....	\$142,258
Average age of active participants	45.8 years
Average service of active participants	10.3 years
Number of inactive participants	2,441
Average account balance per inactive participant.....	\$65,046
Total program assets	\$325,737,000

5. Plan Governance and Administration. An 11-member board of directors, the Minnesota State Retirement System (MSRS) board of directors, chaired by a board member elected from its membership, performs the policymaking function of MSRS-Unclassified. The MSRS administrative staff and the Minnesota State Board of Investment carry out the general administration or investment of the Unclassified Program. The MSRS staff, with 100 employees in 2012, executes the recordkeeping and the communication functions of the plan. The State Board of Investment and its staff perform the investment function of the plan. As of 2012, the State Board of Investment is supported by 22 staff members, two consultant firms, two custodian banks, and a 17-member Investment Advisory Council to advise the board and its staff on investment-related matters.
6. Contribution Rates and Collection. Statute requires that the employee contribution rate to the Unclassified Program must match the employee contribution rate to MSRS-General, which is currently 5% of gross salary, except for the long service judges covered by the Unclassified Program, where the member contribution is 8% of salary. In addition, the employer must contribute 6% of the employee gross salary, except for the long service judges covered by the program, where there is no employer contribution to the Unclassified Program. Employee and employer contributions, which are not taxable, are deducted or collected each payroll period and credited to the employee's account each month. The contributions generally are collected electronically by MSRS. An 8.5% fee applies for a late collection or payment.
7. Administrative Expenses. All administrative and investment expenses are borne by participants, who are charged a fee based on the size of their individual account (\$12 annually for an account balance under \$10,000, \$24 annually for an account balance between \$10,000 and \$50,000, and \$36 annually for an account balance over \$50,000) on contributions made after July 1, 1992. The 2011 program administrative expenses were \$174,000, or \$53.23 per active or inactive participant, compared to 2011 MSRS-General administrative expenses which were \$6,064,000, or \$60.85 per active, retired, or inactive participant.
8. Plan Investments. The plan investments are directed individually by each participant, who makes the actual choice in the composition of investment securities in the person's own account in the Minnesota Supplemental Investment Fund, a functional equivalent of a family of mutual funds. Under Minnesota Statutes, Section 11A.17, the investments are shares in one or a combination of the income share account, the growth share account, the international share account, the money market account, the bond market account, the fixed interest account, and the common stock index account. The contributions are invested within the month they are received. Actual investments are done through outside vendors who enter into competitively bid contracts with the State Board of Investment for five years. The contracts are reviewed periodically by the State Board of Investment.
9. Plan Communication, New Member Processing and Benefit Counseling. MSRS provides information to plan members through three newsletters each year, a quarterly benefit statement, a plan handbook, and financial reports each year. MSRS also presents to every new member a welcome letter, forms for membership, and the plan handbook. Finally, for an employee approaching retirement, MSRS provides an estimate of the person's benefit, the tax impact on the benefit if the participant either opts for a lump sum payment or an annuity. An annuity is purchased from the MSRS-General Plan fund using the accumulated balance of the participant's account. An annuity may be purchased at age 55 or older.
10. Transfers from Prior Defined Benefit Plans to MSRS-Unclassified. Minnesota Statutes, Section 352D.12, a provision of MSRS-Unclassified law, permits an MSRS-Unclassified Program participant with prior service in MSRS-General, the Correctional Employees Retirement Plan of the Minnesota State Retirement System (MSRS-Correctional), the General Employee Retirement Plan of the Public Employees Retirement Association (PERA-General), the Teachers Retirement Association (TRA), one of the first class city teacher retirement fund associations, or the Minneapolis Employees Retirement Fund (MERF), to transfer the prior member contributions and an equivalent amount of employer contributions, plus interest, from the defined benefit plan to MSRS-Unclassified. MSRS-Unclassified Program participants who had taken a refund from a defined benefit plan are also permitted to repay that refund and transfer the refund amount and equivalent employer contributions, plus interest.

Minnesota Statutes, Section 352D.12, was initially enacted in 1985 (1st Spec. Sess. Laws 1985, Ch. 7, Sec. 9). The 1985 provision was a simpler version of the current statutory provision. The 1985 provision was the last surviving provision of a broader proposed 1985 reformulation of the MSRS-Unclassified Program contained in 1985 Session S.F. 489 (Moe, D.M.) and 1985 Session H.F. 740 (Simoneau), which would have expanded the membership of the MSRS-Unclassified Program to include court employees other than judges, all Metropolitan Council employees other than MTC bus drivers and MWCC tradesmen, local elected officials earning at least \$2,400 annually, elected county attorneys and their deputies, and employees of the League of Minnesota Cities, the Association of Minnesota Counties, the Metropolitan Inter-County Association, and the Minnesota Municipal Utilities Association, would have limited the ability of MSRS-Unclassified Program participants to elect an MSRS-General retirement annuity in lieu of an MSRS-Unclassified Program benefit, and permitted the transfer of past defined benefit plan contribution accumulations to the MSRS-Unclassified Program. The proposed MSRS-Unclassified

Program reformulation was not ultimately recommended by the Commission beyond the prior contribution transfer provision.

Minnesota Statutes, Section 352D.12, was subsequently amended in 1992 (Laws 1992, Ch. 432, Art. 2, Sec. 1; Laws 1992, Ch. 598, Art. 1, Sec. 12). The first 1992 change added a sentence to the refund repayment authorization clarifying the timing for the crediting of the refund repayment, presumably for purposes of calculating interest on the amounts for transfer to MSRS-Unclassified. The second 1992 change increased the interest payable on a refund repayment to 8.5% annual compound interest.

Minnesota Statutes, Section 352D.12, was again revised in 1998 (Laws 1998, Ch. 366, Sec. 74; Laws 1998, Ch. 390, Art. 6, Sec. 1). The identical changes, one in the State Departments Appropriations Bill and the other in the Omnibus Retirement Bill, covered the transfer of past contributions from the Legislators and Elective State Officers Retirement Plans to MSRS-Unclassified for legislators and constitutional officers newly covered by MSRS-Unclassified. Laws 1998, Chapter 366, Section 12, the State Departments Appropriations Bill, also included appropriations to cover the general fund exposure for the transfers. By 2005, the transfer language had become obsolete and was removed by First Special Session Laws 2005, Chapter 8, Article 10, Section 37.

11. Option to Return to Defined Benefit Plan Coverage. Under Minnesota Statutes, Section 352D.02, Subdivision 3, a participant in MSRS-Unclassified other than a legislator, a judge, or an elected state officer who became a state employee before July 1, 2010, with at least ten years of state service, or who became a state employee after June 30, 2010, with no more than seven years of state service, is permitted to elect to transfer coverage to MSRS-General, a defined benefit plan governed by Minnesota Statutes, Chapter 352. The MSRS-General retirement annuity is 1.7% of a member's highest five successive years average salary per year of covered service, payable in full at age 65 and reduced actuarially if the annuity commenced before age 65, with the earliest reduced benefit retirement age of 55.

Laws 2010, Chapter 359, Article 4, Section 7, clarified in the language of the law, consistent with how MSRS has long interpreted the application of the provision to legislators, elected state officers, and judges. These three groups are not permitted to transfer to MSRS-General, regardless of length of service. Regarding judges, most individuals who become judges do so relatively late in their careers. To permit a retirement benefit deemed reasonable to be generated, the Judges Plan, a defined benefit plan, has a high service accrual rate. However, when an individual becomes a judge relatively early and provides long service, that accrual rate could lead to an annuity that is a very high portion of salary. The plan has long had limits to cap benefit accrual. In 2000, the previous benefit maximum (70% of annual salary in the year immediately preceding retirement) was converted to a length of service maximum (24 years of service). If a judge continued in employment beyond 24 years, no further employee contributions or service accrual was permitted in the Judges Plan. Instead, an account is created in the MSRS-Unclassified Program for the judge, funded by employee contributions. Given this apparent intention of limiting further participation in a defined benefit plan, it would be inconsistent with that policy to permit a long-service judge to opt out of the MSRS-Unclassified Program and enter MSRS-General, another defined benefit plan. Regarding legislators and elected state officers, the Legislature decided in 1997 that defined contribution coverage, rather than defined benefit coverage, was appropriate for elected officials. In 1997, as part of major benefit increase legislation assembled by MSRS, the Public Employees Retirement Association (PERA), and TRA, retirement coverage for all newly elected legislators and for sitting legislators who elected to change coverage was provided by MSRS-Unclassified. A comparable change was made for state constitutional officers. The legislation (Laws 1997, Ch. 233, Art. 2) also added Social Security coverage for legislators and constitutional officers and included a required study by the Legislative Commission on Pensions and Retirement of the appropriateness of the coverage change (see Laws 1997, Ch. 233, Art. 2, Sec. 16.) The Commission completed the mandated study during the 1997-1998 Interim and concluded that the change was appropriate and recommended no change in the 1997 coverage change.

The defined benefit plan coverage election authorization in the MSRS-Unclassified Program allows various MSRS-Unclassified Program participants to adversely select or elect against the MSRS-General pension plan, with a significant potential benefit gain for the participant and a significant potential risk of the creation of an unfunded actuarial accrued liability in the MSRS-General Plan. The option to transfer coverage from the MSRS-Unclassified Program to defined benefit plan coverage by MSRS-General has an actuarial cost for MSRS-General. The normal cost under the MSRS-General defined benefit plan for the MSRS-Unclassified active participants as of July 1, 2010, was 11.52% of covered pay, compared to the normal cost for MSRS-General active members as of the same date of 7.77% of covered pay, which is a difference of 3.75% of covered pay.

12. Summary of Program Coverage Inclusion Changes.

- In 1971 (Laws 1971, Ch. 604, Sec. 2), as part of the initial enactment of the retirement program, the coverage of the program as an alternative to the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General) included full-time employees of the Governor,

Secretary of State, State Auditor, State Treasurer in the unclassified service; full-time employees of the State Board of Investment in the unclassified service, any department division or agency head in the Executive Branch, a deputy or employee listed in Minnesota Statutes, Chapter 15A; and permanent full-time unclassified legislative employees.

- In 1973 (Laws 1973, Ch. 624, Sec. 3), the full-time requirements for employees of the constitutional officers or State Board of Investment were eliminated, employees of the Lieutenant Governor, Attorney General, and Revisor of Statutes were added to coverage eligibility, and part-time legislative employees with an account in the Minnesota Supplemental Investment Fund, whether or not eligible for MSRS-General coverage, were added to coverage eligibility, and assistant department heads were added to coverage eligibility.
- In 1976 (Laws 1973, Ch. 329, Sec. 11), the 1973 inclusion of assistant department heads was clarified as the assistant department head, but any state employee classified under statute at the deputy or assistant department, agency head, or director level were included in memberships eligibility, and the chair, chief administrator and nine upper management level employees at the Metropolitan Council or the Metropolitan Waste Control Commission were included in membership eligibility.
- In 1977 (Laws 1977, Ch. 429, Sec. 17), the executive director, assistant executive director, and nine upper management employees of the higher education coordinating board in the unclassified service were included in membership eligibility.
- In 1980 (Laws 1980, Ch. 607, Art. 14, Sec. 37), the department head and deputy or assistant department head inclusions were restructured grammatically without apparent substantive effect, the part-time legislative employee inclusion was revised to apply only to temporary legislative employees, and acting department heads were included in membership eligibility.
- In 1981 (Laws 1981, Ch. 224, Sec. 68), the Minnesota Supreme Court clerk was included in membership eligibility.
- In 1982 (Laws 1982, Ch. 399, Sec. 1), employees principally employed at the state ceremonial house were included in membership eligibility. Also in 1982 (Laws 1982, Ch. 560, Sec. 56), the chief executive officers of Department of Correction correctional facilities or Department of Welfare hospitals and nursing homes were included in membership eligibility.
- In 1983 (Laws 1983, Ch. 247, Sec. 138), the inclusion of the State Supreme Court clerk was revised as the clerk of the appellate courts.
- In 1984 (Laws 1984, Ch. 619, Sec. 14), employees of the Minnesota educational computing corporation were included in membership eligibility. Also in 1984, (Laws 1984, Ch. 654, Art. 2, Sec. 124), employees of the World Trade Center board were included in membership eligibility.
- In 1985 (1st Spec. Sess. Laws 1985, Ch. 10, Sec. 88), the chair, the executive director and the top three division directors of the Regional Transit Board, and the chief administrator of the Metropolitan Transit Commission were included in membership eligibility.
- In 1986 (Laws 1986, Ch. 458, Sec. 7), the chancellor, the state university presidents and the unclassified service managerial employees of the Minnesota State Colleges and Universities System (MnSCU) were included in membership eligibility.
- In 1990 (Laws 1990, Ch. 570, Art. 4, Sec. 1), employees of the State Lottery covered by the managerial employment plan were included in membership eligibility.
- In 1991 (Laws 1991, Ch. 317, Sec. 1), employees who participated in the program were authorized to continue in that coverage upon subsequent employment in an unlimited, full-time, unclassified position in state employment.
- In 1992 (Laws 1992, Ch. 446, Sec. 3-4), the inclusion of higher education coordinating board employees and MnSCU upper management employees was modified to accommodate an alternative election of the MnSCU-Individual Retirement Account Plan (MnSCU-IRAP).
- In 1993 (Laws 1993, Ch. 239, Art. 1, Sec. 1-3), employees of the higher education board and acting, temporary or interim upper MnSCU management employees were included in membership eligibility as an alternative to MnSCU-IRAP coverage.
- In 1994 (Laws 1994, Ch. 628, Art. 1, Sec. 3, and Art. 3, Sec. 30), the inclusions for the Metropolitan Council were revised, with coverage for the chair of the Metropolitan Council eliminated, and re-specified for the Metropolitan Council, regional administrator, executive director, general counsel, division director, operation managers, and other positions up to a total of 27 positions.
- In 1995 (Laws 1995, Ch. 141, Art. 14, Sec. 2), the 1992 inclusions related to the State Board of Technical Colleges and the Higher Education Board were eliminated and the 1994 removal of the chair of the Metropolitan Council was revised, re-including the Metropolitan Council chair in membership eligibility.

- In 1997 (Laws 1997, Ch. 233, Art. 2, Sec. 3), constitutional officers and legislators who were first elected after July 1, 1997, or who were elected before July 1, 1997, and elected the coverage were included in membership coverage.
- In 2000 (Laws 2000, Ch. 260, Sec. 56; Ch. 457, Sec. 7-8; and Ch. 461, Art. 3, Sec. 3 and Art. 18, Sec. 1), the inclusion of employees of the World Trade Center board was eliminated, the requirement for inclusion that legislative employees be permanent was replaced with the condition that legislative employees be appointed without a duration limit on that employment, the requirement that changes from the initial designations of Metropolitan Council employees included be made only with the approval of the MSRS board of directors, and judges with judicial service in excess of the Judges Retirement Plan service credit maximum were mandated post-service credit limit inclusion in the program.
- In 2002 (Laws 2002, Ch. 379, Art. 1, Sec. 77), a reference to the State Lottery was clarified by eliminating the specification of “board.”
- In 2006 (Laws 2006, Ch. 271, Art. 10, Sec. 32), an obsolete reference to the 1997-1998 election of retirement coverage by constitutional officers or legislators was eliminated.
- In 2007 (Laws 2007, Ch. 54, Art. 5, Sec. 7; and Ch. 134, Art. 2, Sec. 10), the state court administrator and the judicial district administrators, employees of the Agricultural Utilization Research Institute, employees of Minnesota Technology Incorporated, MnSCU faculty or unclassified administrators with pre-1995 employment by the state university system or state community college system and pre-1995 MSRS-Unclassified coverage, and pre-1995 state employees who are employed by MnSCU as unclassified service administrators were included in membership eligibility, and the inclusion of employees of the Minnesota Educational Computing Corporation was eliminated.

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1.1 moves to amend H.F. No. 1292; S.F. No., as follows:

1.2 Page 6, line 18, delete "section" and insert "sections 3A.07, paragraph (c), and "

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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 1292

03/02/2015 Authored by Nelson; Mahoney; Murphy, M., and Johnson, S.,
The bill was read for the first time and referred to the Committee on Government Operations and Elections Policy

1.1 A bill for an act
1.2 relating to retirement; Minnesota State Retirement System; permitting legislators
1.3 to transfer to general state employees retirement plan coverage rather than retain
1.4 unclassified state employees retirement program coverage; amending Minnesota
1.5 Statutes 2014, sections 352.01, subdivision 2a; 352D.02, subdivisions 1, 3.

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

1.7 Section 1. Minnesota Statutes 2014, section 352.01, subdivision 2a, is amended to read:

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

1.9 (1) employees of the Minnesota Historical Society;

1.10 (2) employees of the State Horticultural Society;

1.11 (3) employees of the Minnesota Crop Improvement Association;

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

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

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

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

1.23 (8) trainees who are employed on a full-time established training program
1.24 performing the duties of the classified position for which they will be eligible to receive
1.25 immediate appointment at the completion of the training period;

- 2.1 (9) employees of the Minnesota Safety Council;
- 2.2 (10) any employees who are on authorized leave of absence from the Transit
2.3 Operating Division of the former Metropolitan Transit Commission and who are employed
2.4 by the labor organization which is the exclusive bargaining agent representing employees
2.5 of the Transit Operating Division;
- 2.6 (11) employees of the Metropolitan Council, Metropolitan Parks and Open Space
2.7 Commission, Metropolitan Sports Facilities Commission, or Metropolitan Mosquito
2.8 Control Commission unless excluded under subdivision 2b or are covered by another
2.9 public pension fund or plan under section 473.415, subdivision 3;
- 2.10 (12) judges of the Tax Court;
- 2.11 (13) personnel who were employed on June 30, 1992, by the University of
2.12 Minnesota in the management, operation, or maintenance of its heating plant facilities,
2.13 whose employment transfers to an employer assuming operation of the heating plant
2.14 facilities, so long as the person is employed at the University of Minnesota heating plant
2.15 by that employer or by its successor organization;
- 2.16 (14) personnel who are employed as seasonal employees in the classified or
2.17 unclassified service;
- 2.18 (15) persons who are employed by the Department of Commerce as a peace officer
2.19 in the Commerce Fraud Bureau under section 45.0135 who have attained the mandatory
2.20 retirement age specified in section 43A.34, subdivision 4;
- 2.21 (16) employees of the University of Minnesota unless excluded under subdivision
2.22 2b, clause (3);
- 2.23 (17) employees of the Middle Management Association whose employment began
2.24 after July 1, 2007, and to whom section 352.029 does not apply;
- 2.25 (18) employees of the Minnesota Government Engineers Council to whom section
2.26 352.029 does not apply;
- 2.27 (19) employees of the Minnesota Sports Facilities Authority;
- 2.28 (20) employees of the Minnesota Association of Professional Employees;
- 2.29 (21) employees of the Minnesota State Retirement System;
- 2.30 (22) employees of the State Agricultural Society;
- 2.31 (23) employees of the Gillette Children's Hospital Board who were employed in the
2.32 state unclassified service at the former Gillette Children's Hospital on March 28, 1974; ~~and~~
- 2.33 (24) if approved for coverage by the Board of Directors of Conservation Corps
2.34 Minnesota, employees of Conservation Corps Minnesota so employed on June 30, 2003; ~~;~~
2.35 and

3.1 (25) a legislator who elects under section 4 or section 352D.02 to have coverage
 3.2 under the general state employees retirement plan.

3.3 (b) Employees specified in paragraph (a), clause (13), are included employees under
 3.4 paragraph (a) if employer and employee contributions are made in a timely manner in the
 3.5 amounts required by section 352.04. Employee contributions must be deducted from
 3.6 salary. Employer contributions are the sole obligation of the employer assuming operation
 3.7 of the University of Minnesota heating plant facilities or any successor organizations to
 3.8 that employer.

3.9 **EFFECTIVE DATE.** This section is effective July 1, 2015.

3.10 Sec. 2. Minnesota Statutes 2014, section 352D.02, subdivision 1, is amended to read:

3.11 Subdivision 1. **Coverage.** (a) ~~Employees enumerated~~ Persons specified in paragraph
 3.12 (c), clauses (2), (3), (4), (6) to (14), and (16) to (18), if they are in the unclassified service
 3.13 of the state or Metropolitan Council and are eligible for coverage under the general state
 3.14 employees retirement plan under chapter 352, are participants in the unclassified program
 3.15 under this chapter unless the employee gives notice to the executive director of the
 3.16 Minnesota State Retirement System within one year following the ~~commencement~~ start
 3.17 of employment in the unclassified service that the employee desires coverage under the
 3.18 general state employees retirement plan. For the purposes of this chapter, an employee
 3.19 who does not file notice with the executive director is deemed to have exercised the option
 3.20 to participate in the unclassified program.

3.21 (b) Persons referenced in paragraph (c), clause (5), are participants in the unclassified
 3.22 program under this chapter unless the person was eligible to elect different coverage under
 3.23 section 3A.07 and elected retirement coverage by the applicable alternative retirement
 3.24 plan or elected general state employees retirement plan coverage under subdivision 3
 3.25 or section 4. Persons referenced in paragraph (c), clause (15), are participants in the
 3.26 unclassified program under this chapter for judicial employment in excess of the service
 3.27 credit limit in section 490.121, subdivision 22.

3.28 (c) ~~Enumerated~~ Employees and referenced persons are:

3.29 (1) the governor, the lieutenant governor, the secretary of state, the state auditor,
 3.30 and the attorney general;

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

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

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

4.4 (5) a member of the legislature;

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

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

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

4.17 (9) the commissioner, deputy commissioner, and not to exceed nine positions
4.18 of the Minnesota Office of Higher Education in the unclassified service, as designated
4.19 by the Minnesota Office of Higher Education before January 1, 1992, or subsequently
4.20 redesignated with the approval of the board of directors of the Minnesota State Retirement
4.21 System, unless the person has elected coverage by the individual retirement account
4.22 plan under chapter 354B;

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

4.26 (11) the chief executive officers of correctional facilities operated by the Department
4.27 of Corrections and of hospitals and nursing homes operated by the Department of Human
4.28 Services;

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

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

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

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

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

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

5.6 (18) a person employed by the Minnesota State Colleges and Universities who
 5.7 was employed in state service before July 1, 1995, who subsequently is employed in an
 5.8 eligible unclassified administrative position as defined in section 354B.20, subdivision
 5.9 6, and who elects coverage by the unclassified program.

5.10 **EFFECTIVE DATE.** This section is effective July 1, 2015.

5.11 Sec. 3. Minnesota Statutes 2014, section 352D.02, subdivision 3, is amended to read:

5.12 Subd. 3. **Transfer to general employees retirement plan.** (a) If permitted under
 5.13 paragraph (b), an employee referred to in subdivision 1, paragraph (c), clauses (2) to (4),
 5.14 (6) to (14), and (16) to (18), who is credited with shares in the unclassified program and
 5.15 has credit for allowable service may elect to terminate participation in the unclassified
 5.16 program and be covered by the general employees retirement plan.

5.17 (b) An employee specified in paragraph (a) is permitted to terminate participation
 5.18 in the unclassified program and be covered by the general employees retirement plan if
 5.19 the employee:

5.20 (1) was employed before July 1, 2010, and has at least ten years of allowable
 5.21 service; or

5.22 (2) was first employed after June 30, 2010, and has no more than seven years of
 5.23 allowable service.

5.24 (c) A legislator referred to in subdivision 1, paragraph (c), clause (5), who is credited
 5.25 with no more than seven years of allowable service may elect to terminate participation in
 5.26 the unclassified program and be covered by the general state employees retirement plan.

5.27 ~~The election~~ (d) Elections under this subdivision must be in writing on a form
 5.28 provided by the executive director, and can be made no later than one month following
 5.29 the termination of covered employment.

5.30 ~~(e)~~ (e) If the transfer election is made, the executive director shall redeem the
 5.31 employee's total shares and credit to the employee's account in the general employees
 5.32 retirement plan the amount of contributions that would have been credited had the
 5.33 employee been covered by the general employees retirement plan during the employee's
 5.34 entire covered employment. The balance of money redeemed and not credited to the

6.1 employee's account must be transferred to the general employees retirement plan, except
6.2 that the executive director must determine:

6.3 (1) the employee contributions paid to the unclassified program; and

6.4 (2) the employee contributions that would have been paid to the general employees
6.5 retirement plan for the comparable period, if the individual had been covered by that plan.

6.6 If clause (1) is greater than clause (2), the difference must be refunded to the
6.7 employee as provided in section 352.22. If clause (2) is greater than clause (1), the
6.8 difference must be paid by the employee within six months of electing general employees
6.9 retirement plan coverage or before the effective date of the annuity, whichever is sooner.

6.10 ~~(d)~~ (f) An election under ~~paragraph (b)~~ this subdivision to transfer coverage to the
6.11 general employees retirement plan is irrevocable during any period of covered employment.

6.12 ~~(e)~~ (g) A person referenced in subdivision 1, paragraph (c), clause (1), ~~(5)~~, or
6.13 (15), who is credited with employee shares in the unclassified program is not permitted
6.14 to terminate participation in the unclassified program and be covered by the general
6.15 employees retirement plan.

6.16 **EFFECTIVE DATE.** This section is effective July 1, 2015.

6.17 Sec. 4. **PLAN ELECTION.**

6.18 (a) Notwithstanding the length of service limitation in Minnesota Statutes, section
6.19 352D.02, subdivision 3, paragraph (c), regarding legislative service, any legislator
6.20 currently serving on July 1, 2015, covered by the unclassified state employees retirement
6.21 program for that service, whose length of legislative service exceeds seven years, may
6.22 elect the coverage transfer specified in Minnesota Statutes, section 352D.02, subdivision
6.23 3, before July 1, 2017.

6.24 (b) Authority to elect a coverage transfer under this section expires July 1, 2017.

6.25 **EFFECTIVE DATE.** This section is effective July 1, 2015.