

**S.F. xxx; LCPR05-368**  
(Gerlach)

**H.F. xxx**

**Executive Summary of Commission Staff Materials**

*Affected Pension Plan(s):* Teachers Retirement Association  
*Relevant Provisions of Law:* Special Law Provision  
*General Nature of Proposal:* Authorize Repayment of Prior Pension Transfer  
*Date of Summary:* January 26, 2006

**Specific Proposed Changes**

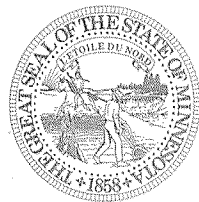
- Authorizes a current Teachers Retirement Association (TRA) member to repay to TRA as if it were a refund an amount transferred to the Unclassified State Employees Retirement Program of the Minnesota State Retirement System (MSRS-Unclassified) Program in 1985.

**Policy Issues Raised by the Proposed Legislation**

1. Equitable considerations.
2. Comparability of Minnesota Statutes, Section 352D.12, transfers to refunds.
3. Adverse actuarial impact on TRA.
4. Appropriateness of special or general legislation.
5. Continued appropriateness of Minnesota Statutes, Section 352D.12, transfers.

**Potential Amendments**

No Commission staff amendments.



TO: Members of the Legislative Commission on Pensions and Retirement

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

RE: S.F. xxx (Gerlach); H.F. xxx: TRA/MSRS-Unclassified; Repay Contributions Transferred to MSRS-Unclassified and Reinstate Prior TRA Service Credit (Document LCPR05-368)

DATE: January 26, 2006

#### Summary of Document LCPR05-368

Document LCPR05-368 permits Kevin Mosher, identified as the intended sole member of a described class of Teachers Retirement Association (TRA) members, to repay to TRA as if it were a refund an amount of member and employer contributions previously transferred to the Unclassified State Employees Retirement Program of the Minnesota State Retirement System (MSRS-Unclassified) under Minnesota Statutes, 1985 Supplement, Section 352D.12, plus interest on the principal amount at an annual compound rate of 8.5 percent from 1985 until repayment, and thereby to have ten years of TRA service credit reinstated to him.

#### Public Pension Problem of Kevin Mosher

Kevin Mosher is a 58-year-old resident of Burnsville, Minnesota, who is a teacher with 28 years experience (ten with Independent School District No. 191, Burnsville, and 18 with Independent School District No. 196, Rosemount-Apple Valley-Eagan) who is a current member of the Teachers Retirement Association (TRA). Mr. Mosher's public pension problem is the result of a period of quasi-public and private employment between his Burnsville and Apple Valley teaching careers.

In 1984, after finishing his Master's degree in Curriculum Instructional Systems from the University of Minnesota, Mr. Mosher accepted a position with the Minnesota Educational Computing Corporation (originally the Minnesota Educational Computing Consortium (MECC), which shifted from a state-supported entity in the 1970s to a self-funded entity in the 1980s) to develop educational software. While at MECC, Mr. Mosher was covered by the Unclassified State Employees Retirement Program of the Minnesota State Retirement System (MSRS-Unclassified), a defined contribution plan, and legislation in 1985 permitted State employees covered by the MSRS-Unclassified Program with prior defined benefit plan coverage to transfer their defined benefit plan member contributions and an equal amount of employer contributions, plus six percent interest, from the prior plan to the MSRS-Unclassified Program. Mr. Mosher made that transfer in 1985, thereby canceling his ten years of TRA service credit. When MECC began significant downsizing in 1985, Mr. Mosher took a job with a start-up branch of McGraw-Hill. In 1987, Mr. Mosher missed classroom teaching and became a teacher for Independent School District No. 196. In 1995, Mr. Mosher began inquiring about repaying a refund of his transferred contributions to TRA in order to reinstate his lost TRA service credit, eventually (and mistakenly) was told that he could, subsequently initiated a cash-out of mutual fund investments to make the payment to TRA, and then was informed by TRA that he lacked the statutory authority to make the payment to TRA.

Mr. Mosher desires special legislation that would permit him to treat the transfer of TRA contributions to MSRS-Unclassified as a refund and to repay that amount on the same terms as a TRA refund repayment (i.e., the principal amount plus 8.5 percent annual compound interest for the period 1985-2005).

#### Background Information on Minnesota Defined Contribution and Defined Benefit Retirement Plans

Background information on defined contribution retirement plans and on defined benefit retirement plans in Minnesota is set forth in Attachment A.

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

Background information in the establishment, coverage, governance, funding, investments, counseling, and election opportunities is set forth in Attachment B.

## Background Information on Transfers from Defined Benefit Plans to the MSRS-Unclassified Program

Background information on transfers of past contributions from a Minnesota defined benefit plan to the Unclassified State Employees Retirement Program of the Minnesota State Retirement System (MSRS-Unclassified) under Minnesota Statutes, Section 352D.12, is set forth in Attachment C.

## Discussion and Analysis

Draft special legislation LCPR05-368 would permit Kevin Mosher, not identified by name, but the intended lone member of a described class of Teachers Retirement Association (TRA) members, to repay to TRA the amount of contributions transferred to the Unclassified State Employees Retirement Program of the Minnesota State Retirement System (MSRS-Unclassified) under Minnesota Statutes, Section 352D.12, plus interest at a compound annual rate of 8.5 percent from 1985 to the date of the repayment, and to have his prior ten years of TRA allowable and formula service credit reinstated. The special authority would expire on July 1, 2007.

The draft special legislation raises several pension and related public policy issues for potential Commission member consideration and discussion, as follows:

1. Equitable Considerations. The policy issue is the presence or absence of equitable considerations related to the potential proposed special legislation that argue for or against its recommendation and possible enactment. The adverse considerations related to Kevin Mosher are that the special legislation would advantage him to the actuarial detriment of the retirement plan. The favorable considerations related to Mr. Mosher are that his situation is virtually identical to that of any returning TRA member who previously had taken a refund and that MR. Mosher had relied on prior TRA information that he could repay the transfer amount to his financial detriment. Mr. Mosher clearly took advantage of the 1985 law that allowed him to transfer an enhanced amount beyond a normal refund from TRA to MSRS-Unclassified when he changed employment to the Minnesota Educational Computing Consortium, and clearly would be advantaged by the proposed special legislation, but his situation is not different in kind and maybe even in amount compared to any TRA member who took a refund and repaid it, as discussed in issues #2 and #3. Personal advantage is at the heart of virtually all requests for legislation by plan members, so the question is really whether or not Mr. Mosher is receiving undue advantage. The amount of the transfer repayment owed by Mr. Mosher, including 20 years of compound interest at 8.5 percent, will be considerable. Mr. Mosher indicates that it is his intention to continue teaching for another six years, until he is age 64 or 65, so the requested special legislation is not apparently intended to gain early access to the "Rule of 90" or the "age 62 with 30 years of service" early normal retirement age provisions. Although the current Commission staff members were not employed by the Commission during the 1985 Session and, hence, cannot relate any particular understanding of the intent underlying the enactment of Minnesota Statutes, Section 352D.12, the provision on its face clearly was designed to be attractive to State employees who became members of the MSRS-Unclassified Program in order to induce them to relinquish their prior defined benefit plan coverage. Because the apparent interest of the legislative proponents of Minnesota Statutes, Section 352D.12, in 1985 was to favor defined contribution plan coverage over defined benefit plan coverage, the provision probably intentionally did not address the issue of the situation of those individuals who made the prior contribution transfer but for whom later events made defined benefit coverage the more appropriate retirement coverage. For whatever reason, TRA initially advised Mr. Mosher that he could repay his 1985 transfer and Mr. Mosher cashed out various mutual fund investments and arranged for a fund transfer to TRA in reliance, which worked to his detriment when TRA subsequently and correctly determined that it lacked statutory authority to accept the repayment. Mr. Mosher and TRA should be provided an opportunity to elaborate on the issue and their prior actions.
2. Comparability of Minnesota Statutes, Section 352D.12, Transfers to Refunds. The policy issue is the extent to which the transfer of member and equivalent employer contributions from a defined benefit plan to the MSRS-Unclassified Program, a defined contribution plan, under Minnesota Statutes, Section 352D.12, is comparable to a standard refund of member contributions to terminating plan members. The primary differences between the Minnesota Statutes, Section 352D.12, transfer and a refund are the amount of the money involved, with the transfer including some employer contributions while a refund would not, and that the transfer amount is only payable to the MSRS-Unclassified Program while the refund amount is payable to the member directly. For most pension plan members terminating covered service, the refund reflects a greater value than the actuarial accrued liability for the retirement benefits earned to date by the terminating member. The MSRS-Unclassified Program transfer amount would be even a greater value for short service employees, but could be a value

smaller than the actuarial accrued liability for the retirement benefits earned by older and longer service employees. With ten years of prior service and at age 38 when the transfer occurred, Kevin Mosher was likely approaching the liability/value break point. TRA members have been allowed to take a refund of contributions since before 1953 and have been allowed to repay a previously taken refund since 1957 (Extra Session Laws 1957, Chapter 16, Section 12). The Commission, which recommended the 1957 legislation authorizing refund repayments, and the Legislature have favored the repayment of refunds in TRA and the other major and statewide retirement plans as a matter of policy, even though the provisions permit members to elect against the retirement plan in order to correct a prior detrimental decision. Since 1978, when the Commission began considering large numbers of prior service credit purchase requests, the Commission has favored refund repayments over prior service credit purchasers as a matter of policy, by charging prior service credit purchasers the full actuarial value of the benefit obtained by the purchase while requiring refund repayers to be charged with the refund principal amount, plus interest.

3. Adverse Actuarial Impact on TRA. The policy issue is whether or not the likely adverse actuarial impact on TRA of permitting the repayment to TRA of a transfer of member and equivalent employer contributions to the MSRS-Unclassified Program should disqualify the requested special legislation. The transfer repayment and virtually all refund repayments adversely affect the retirement plan, since only members who are likely to receive a retirement annuity from the defined benefit plan or to receive a larger benefit amount from the plan would consider making the repayment and since only those members for whom the retirement benefit gain exceeds the financial cost of the repayment would actually suffer the cash flow impact of making the payment. The adverse liability phenomenon is frequently referred to as “an election against the plan or fund.” Any time an individual is permitted to make a consequential choice about retirement coverage, the liability pool is skewed towards those who will benefit by the decision, creating more plan actuarial liability, and away from the situation of a broader liability pool. The Commission staff has not requested from TRA a calculation of the transfer repayment amount that would be required from Kevin Mosher or a calculation of the TRA actuarial accrued liability associated with the service credit to be restored to Mr. Mosher by the repayment, but it can be expected that the TRA liability increase will exceed the Mosher repayment amount, just as is the case of regular TRA refund repayments permitted under current law. If no “election against the plan” situations are ever to be permitted by the Legislature, current defined benefit retirement plan practices such as coverage choices (i.e., choices of Individual Retirement Account Plan (IRAP) coverage or TRA coverage by Minnesota State Colleges and Universities System (MnSCU) faculty or MSRS-Unclassified Program or MSRS-General Plan coverage), optional annuity form choices, early reduced retirement elections, early normal retirement elections, leave of absence and related service credit choices, and refund repayments would also need to be eliminated.
4. Appropriateness of Special or General Legislation. The policy issue is whether legislation to assist Kevin Mosher, if determined by the Commission to be appropriate policy, should be special legislation applicable to Mr. Mosher only or should be general legislation applicable to all individuals with a transfer from a defined benefit plan to the MSRS-Unclassified Program under Minnesota Statutes, Section 352D.12. The request from Kevin Mosher is the first legislative request that the Commission staff is aware of for the repayment of a past transfer to the MSRS-Unclassified Program. It is unclear how many individuals have transferred prior defined benefit plan member and equivalent employer contributions to the MSRS-Unclassified Program since 1985, although MSRS may be able to provide an estimate in its testimony. Although there undoubtedly have been a number of these transfers, it is less likely that many of the affected individuals will have subsequently ended up in traditional public employment for which defined benefit plan coverage would be more appropriate as Mr. Mosher did. If special legislation for Mr. Mosher were enacted, it would constitute a precedent for subsequent similar repayment requests that would be difficult to distinguish, including Minnesota State Colleges and Universities System (MnSCU) faculty members who previously elected to transfer amounts to the Individual Retirement Account Plan (IRAP) and now desire TRA or first class city teacher retirement fund association coverage restored. Given the lack of prior legislative requests, special legislation in response to this request is probably an appropriate approach, with general legislation more appropriate as an approach at a later time if successive MSRS-Unclassified Program transfer repayment requests do occur.
5. Continued Appropriateness of Minnesota Statutes, Section 352D.12, Transfers. The policy issue is whether the practice of allowing transfers of prior defined benefit plan member and equivalent employer contribution amounts to the MSRS-Unclassified Program under Minnesota Statutes, Section 352D.12, is appropriate to continue. When the proposed legislation that eventually became Minnesota Statutes, Section 352D.12, was considered in 1985, it was part of a broader proposal to change the retirement coverage for several additional public employee groups from defined benefit pension plans

to defined contribution retirement plans and had a policy rationale based on encouraging a greater number of and earlier defined contribution plan coverage elections. When the transfer provision was stripped from that broader proposal of encouraging expanded defined contribution plan coverage, the policy basis for the transfer provision became less clear and seems to have been driven primarily to benefit some MSRS-Unclassified Program participants in 1985. In 1998, following the shift of retirement coverage for legislators and constitutional officers from defined benefit plan coverage to the MSRS-Unclassified Program in 1997, transfers under Minnesota Statutes, Section 352D.12, also made policy sense. Outside of MSRS-Unclassified Program membership expansion situations, the contribution transfer provision lacks any clear policy rationale, raising the question of whether the provision should be a general law provision rather than temporary transitional provisions accompanying each MSRS-Unclassified Program coverage expansion.

Attachment A

Background Information on Minnesota Defined Contribution and Defined Benefit Retirement Plans

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

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

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

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

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

Defined Benefit Plans	Defined Contribution Plans
1. General State Employee Retirement Plan of the Minnesota State Retirement System	1. MSRS Unclassified State Employees Retirement Plan
2. MSRS State Correctional Employees Retirement Plan	2. PERA Defined Contribution Retirement Plan
3. MSRS Military Affairs Retirement Plan	3. Higher Education Individual Retirement Account Plan
4. MSRS Transportation Department Pilots Retirement Plan	4. Higher Education Supplemental Retirement Plan
5. State Patrol Retirement Plan	5. Volunteer Firefighters Relief Associations (approximate total of 74)
6. Elective State Officers Retirement Plan	6. Ambulance Personnel Longevity Plan
7. Legislators Retirement Plan	7. Hennepin County Supplemental Retirement Plan
8. Judges Retirement Plan	8. University of Minnesota Faculty Retirement Plan
9. General Employees Retirement Plan of the Public Employees Retirement Association	9. Public Employee Supplemental Thrift Plan through State Deferred Compensation Plan or selected Tax Sheltered Annuity programs
10. Public Employees Police and Fire Plan	10. Various Housing and Redevelopment Agency Retirement Plans
11. Teachers Retirement Association	11. Pre-1971 School District Supplemental Retirement Plans (total of 8)
12. Duluth Teachers Retirement Fund Association	12. DTRFA Internal Revenue Code Section 403(b) Supplemental Retirement Plan
13. Minneapolis Teachers Retirement Fund Association	
14. St. Paul Teachers Retirement Fund Association	
15. Minneapolis Employees Retirement Fund	

**Attachment A**

16. Local Police Relief Associations (total of 2)

17. Local Paid Fire Relief Associations (total of 2)

18. Volunteer Firefighter Relief Associations (approximate total of 625)

19. University of Minnesota Faculty Supplemental Plan

20. MSRS State Fire Marshal Arson Division Retirement Plan

21. PERA Local Government Correctional Employees Retirement Plan
13. Historical Society, Arts Board, and Humanities Commission Individual Retirement Plan

**Attachment B**

Background Information on the MSRS-Unclassified Retirement Program

- a. In General. The Unclassified State Employees Retirement Program of the Minnesota State Retirement System (MSRS-Unclassified) was established in 1971 (Laws 1971, Chapter 604), and is governed by Minnesota Statutes, Chapter 352D.
- b. Establishment and Membership. The Unclassified State Employees Retirement Program of the Minnesota State Retirement System (MSRS-Unclassified) is a defined contribution plan established by Minnesota Statutes, Chapter 352D. It covers a number of State employees or officers in the unclassified service of the State of Minnesota on a mandatory or optional basis. The individuals specified in clauses (1) and (5) 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 the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General). The program membership includes:
- (1) the Governor, the Lieutenant Governor, the Secretary of State, the State Auditor, and the Attorney General;
  - (2) an employee in the office of the Governor, Lieutenant Governor, Secretary of State, State Auditor, or Attorney General;
  - (3) an employee of the State Board of Investment;
  - (4) the head of a department, division, or agency created by statute in the unclassified service;
  - (5) a member of the legislature;
  - (6) a permanent, full-time unclassified employee of the legislature or a commission or an agency of the legislature;
  - (7) the regional administrator or executive director of the Metropolitan Council, general counsel, division directors, operations managers, and other positions as designated by the council;
  - (8) the executive director, associate executive director of the Higher Education Services Office in the unclassified service;
  - (9) the clerk of the appellate court;
  - (10) the chief executive officers of correctional facilities, hospitals, and nursing homes;
  - (11) an employee of the State ceremonial house;
  - (12) an employee of the Minnesota Educational Computing Corporation;
  - (13) an employee of the World Trade Center board;
  - (14) an employee of the State Lottery board; and
  - (15) a judge whose service has exceeded the service credit limit of Minnesota Statutes, Section 490.121, Subdivision 22.
- c. MSRS-Unclassified Demographic Information.
- |   |  |
|---|--|
| Number of employing units covered .....                     | 26   |
| Number of active participants .....                         | 1908                                       |
| Average salary of 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                              |
- d. Plan Governance and Administration. An 11-member board of directors, the MSRS Board of Directors, chaired by a board member performs the policy-making function of the MSRS-Unclassified. The MSRS administrative staff and the Minnesota State Board of Investment carry out the general administration of the Unclassified Plan. The MSRS staff, with 47 employees in 2001, executes the record keeping and the communication functions of the plan. The State Board of Investment and its staff perform the investment function of the plan. As of December 2001, the State Board of Investment is supported by 25 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.
- e. Contribution Rates and Collection. The contribution rate to the Unclassified Program for an employee is four percent of gross salary, except for the long service judges covered by the program, where the member contribution is eight percent of salary. In addition, the employer must contribute six percent of the employee gross salary, except for the long service judges covered by the program, where there is no employer contribution to the Unclassified Program. Both contributions, which are not taxable, are collected at payday every two weeks and credited to the employee's account each month. The contributions generally are collected electronically by MSRS. An 8.5 percent fee applies for late collection or payment.

## Attachment B

- f. Administrative Expenses. All administrative and investment expenses are borne by participants, who are charged 0.08 percent of total program assets a year for the plan administrative expenses, compared to the 0.22 percent of covered pay for MSRS-General.
- g. Plan Investments. The plan investments are directed individually by each participant, who makes the actual choice in the composition of investment securities in the person's own account. Under Minnesota Statutes, Section 11A.17, the investments are shares in one or a combination of the income share account, the growth share account, the international share account, the money market account, the bond market account the fixed interest account and the common stock index account. The contributions are invested within the month they are received. Actual investments are done through outside vendors who enter into competitively bid contracts with the State Board of Investment for five years. The contracts are reviewed periodically by the State Board of Investment.
- h. 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 Minnesota Post Retirement Investment Fund, governed by Minnesota Statutes, Section 11A.018, with the accumulated balance of the participant's account. An annuity may be purchased at age 55 or older.
- i. Option to Return to Defined Benefit Plan Coverage. Under Minnesota Statutes, Section 352D.02, Subdivision 3, a participant in MSRS-Unclassified with at least 10 years of State service is permitted at any time prior to the termination of employment to elect to transfer coverage back to the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General), a defined benefit plan governed by Minnesota Statutes, Chapter 352. The MSRS-General retirement annuity is 1.7 percent of a member's highest five successive years average salary per year of covered service, payable in full at age 65 and reduced actuarially if the annuity commenced before age 65, with the earliest reduced benefit retirement age of 55.

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 July 1, 2004, MSRS-General actuarial valuation calculated the actuarial liability for the active members of the MSRS-Unclassified Program under the Unclassified Program asset value or the present value of the MSRS-General benefit, whichever is greater. As of July 1, 2004, the MSRS-General transfer provision creates a \$5.6 million unfunded actuarial accrued liability in MSRS-General. The normal cost under the MSRS-General defined benefit plan for the MSRS-Unclassified active participants is 12.77 percent of covered pay, compared to the normal cost for MSRS-General active members of 9.13 percent of covered pay.

## Attachment C

### Background Information on Transfers from Defined Benefit Plans to MSRS-Unclassified under Minnesota Statutes, Section 352D.12


Minnesota Statutes, Section 352D.12, a provision of the Unclassified State Employees Retirement Program of the Minnesota State Retirement System (MSRS-Unclassified) law, permits a MSRS-Unclassified Program participant with prior service in the Legislators Retirement Plan, the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General), the Elective State Officers Retirement Plan, 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 (First Special Session Laws 1985, Chapter 7, Section 9). The 1985 provision did not cover the Legislators Retirement Plan or the Elective State Officers Retirement Plan and 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, Chapter 432, Article 2, Section 1, and Laws 1992, Chapter 598, Article 1, Section 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 the MSRS-Unclassified Program. The second 1992 change increased the interest payable on a refund repayment to 8.5 percent annual compound interest.

The final changes to Minnesota Statutes, Chapter 352D.12, occurred in 1998 (Laws 1998, Chapter 366, Section 74, and Laws 1998, Chapter 390, Article 6, Section 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 the MSRS-Unclassified Program for legislators and constitutional officers newly covered by the MSRS-Unclassified Program. The State Departments Appropriations Bill also included appropriations for four biennia to cover the State General Fund exposure for the transfers.

TO:

FROM: Karen Dudley 

RE: Summary of SF 489: Revising the Unclassified Employees Retirement Program

DATE: February 26, 1985

The bill to revise the current unclassified retirement program does the following:

- 1) Changes the name to the Minnesota retirement savings plan (sec. 1).
- 2) Permits the following current employees to join the plan and requires all new employees in these positions to join the plan (sec. 5):
  - a) all non-judicial employees of the supreme court, appeals courts and employees of the district court administrators;
  - b) all employees of metro agencies, except MTC drivers, and the tradesmen of the metropolitan waste control commission;
  - c) elected officials of cities and counties, etc, who earn at least \$2,400 annually;
  - d) elected county attorneys and their elected and appointed deputies;
  - e) employees of the League of Cities, Association of Counties, Metropolitan Intercounty Association, and Minnesota Municipal Utilities Association.
- 3) Permits participants in the plan to remain in the plan even though that position is later removed from unclassified service (sec. 6)
- 4) Limits the right of participants to transfer credit back to the MSRS general plan. Only participants BEFORE the effective date of this act would retain the right to transfer to the MSRS General Plan once they have more than 10 years of service (sec. 7).
- 5) Permits new participants and current participants who have prior service credit in certain other public pension plans to elect to transfer the employee and employer contributions to the savings plan. That transfer would include interest at the actuarially assumed rates during the period (sec. 9).
- 6) Limits the rights of participants to repay refunds from the general plan to only those participants who were members of the savings plan prior to the passage of the act (sec. 10).
- 7) Permits early retirement at age 55, the same as in the other major retirement funds. Benefit would be actuarially reduced (sec. 11).
- 8) Makes necessary changes to permit the use of time in the savings plan to qualify for benefits under a service in more than one fund approach from PERA (sec. 13).
- 9) Amends PERA law to conform with the changes in membership (sec. 19).
- 10) States the current PERA or MSRS members newly eligible for the savings plan can transfer their coverage (sec. 20).
- 11) Provides that current legislative employees can repay refunds from the general plan (sec. 21 and 22).
- 12) Repeals an obsolete portion of the unclassified plan law that changed coverage for certain employees whose positions were changed to classified positions in 1982 (sec. 24).
- 13) Makes necessary corresponding name changes (sections 2, 3, 4, 8, 12, 14, 16, 17, 18, & 23) and makes a technical language correction referring to payments of unclaimed benefits (sec. 15).

## 1       Sec. 20. [ELECTION OF COVERAGE; TRANSITION.]

2       An employee or official enumerated in section 352D.02,  
3       subdivision 1, clauses (11) through (18) as added by section 5,  
4       who has coverage in either the state employees retirement fund  
5       or the public employees retirement association on the effective  
6       date of this act may elect coverage by the Minnesota retirement  
7       savings plan. If coverage is elected, accumulated employee and  
8       matching employer contributions shall be transferred to the  
9       plan, as provided in section 352D.03.

10       The executive director of the state retirement system or  
11       the public employees retirement association, as appropriate,  
12       shall notify current employees or officials of the option within  
13       90 days following the effective date of this act. An employee  
14       or official eligible to elect coverage by the plan shall notify  
15       the appropriate director within 90 days after the date of  
16       notice. An election to participate in the plan is irrevocable  
17       during any current or subsequent period of employment.

18       An employee or official electing coverage by the plan shall  
19       cease to be a public employee within the meaning of section  
20       353.01, subdivision 2a.

## 21       Sec. 21. [RETROACTIVE EFFECT.]

22       Laws 1984, chapter 574, section 8, is applicable to any  
23       person who was employed with the legislature or any commission  
24       or agency of the legislature on April 26, 1984, as a permanent  
25       full-time unclassified employee.

## 26       Sec. 22. [REPAYMENT OF REFUNDS.]

27       Notwithstanding any law to the contrary, a current state  
28       employee or a person who has been an employee of the state  
29       covered by the Minnesota state retirement system regular plan  
30       and who has received a refund under that plan and who has become  
31       or later becomes a full-time permanent unclassified employee of  
32       the legislature or any agency or commission of the legislature,  
33       is entitled to repay the refund with interest under Minnesota  
34       Statutes, chapter 352D, and have those contributions transferred  
35       to the plan under Minnesota Statutes 352D.02, subdivision 1b.

## 36       Sec. 23. [INSTRUCTION TO REVISOR.]

(3) Any member who after not less than five years of service, before reaching the age of 55, terminates employment because of sickness or injury occurring while not on duty and not engaged in state work entitling the member to membership and the termination is necessary because the member is unable to perform his or her duties shall be entitled to receive a disability benefit. The benefit shall be in the same amount and computed in the same manner as if the member were 55 years of age at the date of disability and the annuity were paid pursuant to section 352B.08. Should disability under this clause occur after five but in less than ten years service, the disability benefit shall be computed as though the member had ten years service.

(4) (3) No member shall receive any disability benefit payment when the member has unused annual leave or sick leave or under any other circumstances, when during the period of disability there has been no impairment of salary. Should such member or former member resume a gainful occupation and his or her earnings are less than the salary received at the date of disability or the salary currently paid for similar positions, the disability benefit shall be continued in an amount which when added to earnings does not exceed the salary received at the date of disability or the salary currently paid for similar positions, whichever is higher, provided the disability benefit in such case does not exceed the disability benefit originally allowed.

(5) (4) No disability benefit payment shall be made except upon adequate proof furnished to the director of the existence of such disability, and during the time when any such benefits are being paid, the director shall have the right, at reasonable times, to require the disabled former member to submit proof of the continuance of the disability claimed.

(6) (5) A disabled member not eligible for survivorship coverage pursuant to section 352B.11, subdivision 2, may elect the normal disability benefit or an optional annuity as provided in section 352B.08, subdivision 2. The election of an optional annuity shall be made prior to commencement of payment of the disability benefit and shall be effective 30 days after receipt of this election or the date on which the disability benefit begins to accrue, whichever occurs later. Upon becoming effective, the optional annuity shall begin to accrue on the same date as provided for the disability benefit.

Sec. 9. [352D.12] TRANSFER OF PRIOR SERVICE CONTRIBUTIONS.

An employee who is a participant in the unclassified program and who has prior service credit in a covered plan under chapters 352, 353, 354, 354A, and 422A may, within the time limits in this section, elect to transfer to the unclassified program accumulated employee and equal employer contributions with interest at six percent a year compounded annually, based on fiscal year balances.

If a participant has taken a refund from a fund listed in this section, the participant may repay the refund to that fund, notwithstanding any restrictions on repayment to that fund, plus six percent interest a year compounded annually and have the accumulated employee and equal employer contributions transferred to the unclassified program with interest at six percent a year compounded annually based on fiscal year balances.

A participant electing to transfer prior service contributions under this section must complete the application for the transfer and repay any refund within one year of the effective date of this section or the commencement of the employee's participation in the unclassified program, whichever is later.

Sec. 10. Minnesota Statutes 1984, section 352E.01, subdivision 2, is amended to read:

Subd. 2. **PEACE OFFICER.** "Peace officer" means:

(a) A police officer employed by the state of Minnesota or any governmental subdivision within the state to enforce the criminal laws;

(b) A Minnesota state patrol officer;

(c) A sheriff or fulltime deputy sheriff with power of arrest by warrant;

(d) A state conservation officer as defined in section 84.028, subdivision 3;

(e) A person employed by the bureau of criminal apprehension as a police officer with power of arrest by warrant;

(f) A correction officer employed at any correctional institution and charged with maintaining the safety, security, discipline and custody of inmates at such institutions;

(g) A firefighter employed on a fulltime basis by a fire department of any governmental subdivision of the state who is engaged in the hazards of fire fighting or a regularly enrolled member of a volunteer fire department or member of an independent nonprofit firefighting corporation who is engaged in the hazards of fire fighting;

(h) A good samaritan who complies with the request or direction of a peace officer to assist the officer; and

(i) A reserve police officer or a reserve deputy sheriff acting under the supervision and authority of a political subdivision.

Sec. 11. Minnesota Statutes 1984, section 352E.04, is amended to read:

**352E.04 DISBURSEMENTS.**

Upon certification to the governor by the administrator of the fund that a peace officer employed by a state or governmental subdivision within this state

Sec. 10. Minnesota Statutes 1990, section 490.124, subdivision 11, is amended to read:

Subd. 11. **OPTIONAL ANNUITIES.** No survivor or death benefits may be paid in connection with the death of a judge who retires after December 31, 1973, except as otherwise provided in sections 490.121 to 490.132. ~~Within 30 days before retirement,~~ Except as provided in subdivision 10, a judge may elect to receive, instead of the normal retirement annuity, an optional retirement annuity in the form of an annuity payable for a period certain and for life after that period, a joint and survivor annuity without reinstatement in the event of the designated beneficiary predeceasing the retired judge, or a joint and survivor annuity with reinstatement in the event of the designated beneficiary predeceasing the retired judge. An optional retirement annuity must be actuarially equivalent to a ~~single life~~ single-life annuity with no term certain and must be established by the board of directors of the Minnesota state retirement system. In establishing these optional retirement annuity forms, the board shall obtain the written recommendation of the actuary retained by the legislative commission on pensions and retirement. The recommendations must be a part of the permanent records of the board.

Sec. 11. **REPEALER.**

Minnesota Statutes 1990, section 352.029, subdivision 4, is repealed.

Sec. 12. **EFFECTIVE DATE.**

Sections 1 to 11 are effective the day following final enactment.

## ARTICLE 2

### PUBLIC EMPLOYEES RETIREMENT ASSOCIATION

Section 1. Minnesota Statutes 1990, section 352D.12, is amended to read:

#### 352D.12 TRANSFER OF PRIOR SERVICE CONTRIBUTIONS.

An employee who is a participant in the unclassified program and who has prior service credit in a covered plan under chapters 352, 353, 354, 354A, and 422A may, within the time limits in this section, elect to transfer to the unclassified program accumulated employee and equal employer contributions with interest at six percent a year compounded annually, based on fiscal year balances.

If a participant has taken a refund from a fund listed in this section, the participant may repay the refund to that fund, notwithstanding any restrictions on repayment to that fund, plus six percent interest a year compounded annually and have the accumulated employee and equal employer contributions trans-

ferred to the unclassified program with interest at six percent a year compounded annually based on fiscal year balances. If a person repays a refund and subsequently elects to have the money transferred to the unclassified program, the repayment amount, including interest, is added to the fiscal year balance in the year which the repayment was made.

A participant electing to transfer prior service contributions under this section must complete the application for the transfer and repay any refund within one year of July 1, 1985 or the commencement of the employee's participation in the unclassified program, whichever is later.

Sec. 2. Minnesota Statutes 1991 Supplement, section 353.01, subdivision 2b, is amended to read:

Subd. 2b. **EXCLUDED EMPLOYEES.** The following persons are excluded from the meaning of "public employee":

(1) persons who are employed for professional services where the service is incidental to regular professional duties, determined on the basis that compensation for the service amounts to no more than 25 percent of the person's total annual gross earnings for all professional duties;

(2) election officers;

(3) independent contractors and their employees;

(4) patient and inmate personnel who perform services in charitable, penal, or correctional institutions of a governmental subdivision;

(5) members of boards and commissions who serve a governmental subdivision intermittently unless their position on the board or commission is the result of public employment within the same governmental unit;

(6) employees who are hired for a period of less than six consecutive months but not those employees who are hired for an unlimited period but are serving a probationary period. If the period of employment is extended beyond the six-month period and the employee earns more than \$425 from one governmental subdivision in any one calendar month, the department head shall report the employee for membership and require employee deductions be made on behalf of the employee under section 353.27, subdivision 4. Membership eligibility of an employee who holds concurrent temporary employment of six months or less and nontemporary positions in one governmental subdivision must be determined by the salary of each position. Membership eligibility of an employee who holds nontemporary positions in one governmental subdivision must be determined by the total salary of all positions;

(7) ~~appointed and elected~~ employees whose actual compensation from one governmental subdivision does not exceed \$425 per month, or whose annual compensation from one governmental subdivision is stipulated in advance, in writing, to be not more than \$5,100 per calendar year or per school year for

feited employment period until the date that the refund is paid. If the participant had withdrawn only the employee shares as permitted under prior laws, repayment shall be pro rata. Payment shall be made in a lump sum.

Sec. 11. Minnesota Statutes 1990, section 352D.11, subdivision 2, is amended to read:

Subd. 2. **PAYMENTS BY EMPLOYEE.** An employee entitled to purchase service credit may make the purchase by paying to the state retirement system an amount equal to the current employee contribution rate in effect for the state retirement system applied to the current or final salary rate multiplied by the months and days of prior temporary, intermittent, or contract legislative service. Payment shall be made in one lump sum unless the executive director of the state retirement system agrees to accept payment in installments over a period of not more than three years from the date of the agreement. Installment payments shall be charged interest at a an annual rate found appropriate by the executive director of 8.5 percent compounded annually.

Sec. 12. Minnesota Statutes 1990, section 352D.12, is amended to read:

**352D.12 TRANSFER OF PRIOR SERVICE CONTRIBUTIONS.**

An employee who is a participant in the unclassified program and who has prior service credit in a covered plan under chapters 352, 353, 354, 354A, and 422A may, within the time limits in this section, elect to transfer to the unclassified program accumulated employee and equal employer contributions with interest at ~~six~~ an annual rate of 8.5 percent a year compounded annually, based on fiscal year balances.

If a participant has taken a refund from a fund listed in this section, the participant may repay the refund to that fund, notwithstanding any restrictions on repayment to that fund, plus ~~six~~ 8.5 percent interest a year compounded annually and have the accumulated employee and equal employer contributions transferred to the unclassified program with interest at ~~six~~ an annual rate of 8.5 percent a year compounded annually based on fiscal year balances.

A participant electing to transfer prior service contributions under this section must complete the application for the transfer and repay any refund within one year of July 1, 1985 or the commencement of the employee's participation in the unclassified program, whichever is later.

Sec. 13. Minnesota Statutes 1990, section 490.124, subdivision 12, is amended to read:

Subd. 12. **REFUND.** (a) Any person who ceases to be a judge but who does not qualify for a retirement annuity or other benefit under section 490.121 shall be entitled to a refund in an amount equal to all the person's contributions to the judges' retirement fund plus interest computed to the first day of the month in which the refund is processed based on fiscal year balances at ~~the~~ an annual rate of five percent per annum compounded annually.

Sec. 72. Minnesota Statutes 1996, section 349A.11, is amended to read:

**349A.11 CONFLICT OF INTEREST.**

**Subdivision 1. LOTTERY TICKET; RETAILER.** (a) The director, an employee of the lottery, a member of the immediate family of the director or employee residing in the same household may not:

- (1) purchase a lottery ticket; or
- (2) have any personal pecuniary interest in any vendor holding a lottery procurement contract, or in any lottery retailer; or
- (3) receive any gift, gratuity, or other thing of value, excluding food or beverage, from any lottery vendor or lottery retailer, or person applying to be a retailer or vendor, in excess of \$100 in any calendar year.

**Subd. 2. GIFTS.** The director or an employee of the lottery in the unclassified service may not accept a gift the acceptance of which by an official would be prohibited by section 10A.071.

**Subd. 3. PENALTY.** (b) A violation of paragraph (a) subdivision 1, clause (1), is a misdemeanor. A violation of paragraph (a) subdivision 1, clause (2), is a gross misdemeanor. A violation of paragraph (a) subdivision 1, clause (3), is a misdemeanor unless the gift, gratuity, or other item of value received has a value in excess of \$500, in which case a violation is a gross misdemeanor.

**Subd. 4. FUTURE EMPLOYMENT.** (c) The director or an unclassified employee of the lottery may not, within one year two years of terminating employment with the lottery, ~~accept employment with;~~ act as an agent or attorney for, or otherwise represent any person, corporation, or entity that had any lottery procurement contract or bid for a lottery procurement contract with before the lottery within a period of two years prior to the termination of their employment. A violation of this paragraph is a misdemeanor.

**Sec. 73. [349A.16] LOTTERY RETAILER COMMISSIONS.**

The director of the state lottery shall: (1) increase commissions paid to lottery retailers in effect on January 1, 1998, by one-half percent on the price of each ticket sold by each retailer; and (2) provide that each lottery retailer receive a commission of at least one percent on the amount of each winning ticket cashed by that retailer. The director of the state lottery shall periodically review lottery ticket sales and make such adjustments to lottery retailer commission rates as are deemed necessary to maintain appropriate return to the state.

Sec. 74. Minnesota Statutes 1996, section 352D.12, is amended to read:

**352D.12 TRANSFER OF PRIOR SERVICE CONTRIBUTIONS.**

(a) An employee who is a participant in the unclassified program and who has prior service credit in a covered plan under chapters 3A, 352, 352C, 353, 354, 354A, and 422A may, within the time limits specified in this section, elect to transfer to the unclassified program prior service contributions to one or more of those plans. Participants with six or more years of prior service credit in a plan governed by chapter 3A or 352C on July 1, 1998, may not transfer prior service contributions. Participants with less than six years of

prior service credit in a plan governed by chapter 3A or 352C on July 1, 1998, must be contributing to the unclassified plan on or after January 5, 1999, in order to transfer prior contributions.

(b) For participants with prior service credit in a plan governed by chapter 352, 353, 354, 354A, or 422A, "prior service contributions" means the accumulated employee and equal employer contributions with interest at an annual rate of 8.5 percent compounded annually, based on fiscal year balances. For participants with less than six years of service credit as of July 1, 1998, and with prior service credit in a plan governed by chapter 3A or 352C, "prior service contributions" means twice the amount of the accumulated member contributions plus annual compound interest at the rate of 8.5 percent, computed on fiscal year balances.

(c) If a participant has taken a refund from a fund retirement plan listed in this section, the participant may repay the refund to that fund plan, notwithstanding any restrictions on repayment to that fund plan, plus 8.5 percent interest compounded annually and have the accumulated employee and equal employer contributions transferred to the unclassified program with interest at an annual rate of 8.5 percent compounded annually based on fiscal year balances. If a person repays a refund and subsequently elects to have the money transferred to the unclassified program, the repayment amount, including interest, is added to the fiscal year balance in the year which the repayment was made.

(d) A participant electing to transfer prior service contributions credited to a retirement plan governed by chapter 352, 353, 354, 354A, or 422A as provided under this section must complete the application for the transfer and repay any refund within one year of July 1, 1985 or the commencement of the employee's participation in the unclassified program, whichever is later. A participant electing to transfer prior service contributions credited to a retirement plan governed by chapter 3A or 352C as provided under this section must complete the application for the transfer and repay any refund between January 5, 1999, and June 1, 1999, if the employee commenced participation in the unclassified program before January 5, 1999, or within one year of the commencement of the employee's participation in the unclassified program if the employee commenced participation in the unclassified program after January 4, 1999.

Sec. 75. Minnesota Statutes 1997 Supplement, section 357.021, subdivision 1a, is amended to read:

Subd. 1a. (a) Every person, including the state of Minnesota and all bodies politic and corporate, who shall transact any business in the district court, shall pay to the court administrator of said court the sundry fees prescribed in subdivision 2. Except as provided in paragraph (d), the court administrator shall transmit the fees monthly to the state treasurer for deposit in the state treasury and credit to the general fund.

(b) In a county which has a screener-collector position, fees paid by a county pursuant to this subdivision shall be transmitted monthly to the county treasurer, who shall apply the fees first to reimburse the county for the amount of the salary paid for the screener-collector position. The balance of the fees collected shall then be forwarded to the state treasurer for deposit in the state treasury and credited to the general fund. In a county in the eighth judicial district which has a screener-collector position, the fees paid by a county shall be transmitted monthly to the state treasurer for deposit in the state treasury and credited to the general fund. A screener-collector position for purposes of this

(c) The salaries of the judges of the supreme court, court of appeals, and district court are increased by 4.0 percent effective July 1, 1997, and by 5.0 percent effective January 1, 1998, and by 1.5 percent effective July 1, 1998.

(d) Effective July 1, 1999, the salaries of judges of the supreme court, court of appeals, and district court are increased by the average of the general salary adjustments for state employees in fiscal year 1998 provided by negotiated collective bargaining agreements or arbitration awards ratified by the legislature in the 1998 legislative session.

(e) Effective January 1, 2000, the salaries of judges of the supreme court, court of appeals, and district court are increased by the average of the general salary adjustments for state employees in fiscal year 1999 provided by negotiated collective bargaining agreements or arbitration awards ratified by the legislature in the 1998 legislative session.

(f) The commissioner of employee relations shall calculate the average of the general salary adjustments provided by negotiated collective bargaining agreements or arbitration awards ratified by the legislature in the 1998 legislative session. Negotiated collective bargaining agreements or arbitration awards that do not include general salary adjustments may not be included in these calculations. The commissioner shall weigh the general salary adjustments by the number of full-time equivalent employees covered by each agreement or arbitration award. The commissioner shall calculate the average general salary adjustment for each fiscal year covered by the agreements or arbitration awards. The results of these calculations must be expressed as percentages, rounded to the nearest one-tenth of one percent. The commissioner shall calculate the new salaries for the positions listed in paragraphs (d) and (e) using the applicable percentages from the calculations in this paragraph and report them to the speaker of the house, the president of the senate, the chief justice of the supreme court, and the governor.

#### Sec. 7. SALARY INCREASE CONDITIONED ON MEMBER CONTRIBUTION INCREASE.

(a) The increase in judicial salaries under section 6 is not applicable to a judge if the member contribution rate increase under section 4, paragraph (a), is not also deducted from the salary of the judge.

(b) The increase in judicial salaries under section 6 also applies to judges who are not covered by the federal old age, survivors, disability, and health insurance program.

#### Sec. 8. EFFECTIVE DATE.

Sections 1 to 7 are effective on July 1, 1998.

### ARTICLE 6

#### UNCLASSIFIED STATE EMPLOYEE PENSION PLAN MODIFICATIONS

Section 1. Minnesota Statutes 1996, section 352D.12, is amended to read:

#### 352D.12 TRANSFER OF PRIOR SERVICE CONTRIBUTIONS.

(a) An employee who is a participant in the unclassified program and who has prior service credit in a covered plan under chapters 3A, 352, 352C, 353, 354, 354A, and 422A

may, within the time limits specified in this section, elect to transfer to the unclassified program prior service contributions to one or more of those plans. Participants with six or more years of prior service credit in a plan governed by chapter 3A or 352C on July 1, 1998, may not transfer prior service contributions. Participants with less than six years of prior service credit in a plan governed by chapter 3A or 352C on July 1, 1998, must be contributing to the unclassified plan on or after January 5, 1999, in order to transfer prior contributions.

(b) For participants with prior service credit in a plan governed by chapter 352, 353, 354, 354A, or 422A, "prior service contributions" means the accumulated employee and equal employer contributions with interest at an annual rate of 8.5 percent compounded annually, based on fiscal year balances. For participants with less than six years of service credit as of July 1, 1998, and with prior service credit in a plan governed by chapter 3A or 352C, "prior service contributions" means an amount equal to twice the amount of the accumulated member contributions plus annual compound interest at the rate of 8.5 percent, computed on fiscal year balances.

(c) If a participant has taken a refund from a fund retirement plan listed in this section, the participant may repay the refund to that fund plan, notwithstanding any restrictions on repayment to that fund plan, plus 8.5 percent interest compounded annually and have the accumulated employee and equal employer contributions transferred to the unclassified program with interest at an annual rate of 8.5 percent compounded annually based on fiscal year balances. If a person repays a refund and subsequently elects to have the money transferred to the unclassified program, the repayment amount, including interest, is added to the fiscal year balance in the year which the repayment was made.

(d) A participant electing to transfer prior service contributions credited to a retirement plan governed by chapter 352, 353, 354, 354A, or 422A as provided under this section must complete the application for the transfer and repay any refund within one year of July 1, 1985 or the commencement of the employee's participation in the unclassified program, whichever is later. A participant electing to transfer prior service contributions credited to a retirement plan governed by chapter 3A or 352C as provided under this section must complete the application for the transfer and repay any refund between January 5, 1999, and June 1, 1999, if the employee commenced participation in the unclassified program before January 5, 1999, or within one year of the commencement of the employee's participation in the unclassified program if the employee commenced participation in the unclassified program after January 4, 1999.

## Sec. 2. FUNDING.

Money appropriated in Laws 1997, chapter 202, article 1, section 31, may be used to make transfers of funds on behalf of legislators and constitutional officers under section 1.

## Sec. 3. EFFECTIVE DATE.

Sections 1 and 2 are effective July 1, 1998.

1.1 A bill for an act  
1.2 relating to retirement; Teachers Retirement Association; permitting the  
1.3 repayment of a refund to the Teachers Retirement Association of contribution  
1.4 amounts previously transferred to the unclassified state employees retirement  
1.5 program.

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

1.7 Section 1. **TEACHERS RETIREMENT ASSOCIATION; REFUND**  
1.8 **REPAYMENT OF CERTAIN TRANSFERRED AMOUNTS.**

1.9 (a) Notwithstanding Minnesota Statutes, Section 352D.12 or 354.50, or any other  
1.10 provision to the contrary, an eligible person described in paragraph (b) may repay to  
1.11 the Teachers Retirement Association the amount specified in paragraph (c) and thereby  
1.12 restore the person's prior allowable and formula service credit under Minnesota Statutes,  
1.13 chapter 354.

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

1.15 (1) was born on July 17, 1947;

1.16 (2) taught for ten years with Independent School District No. 191, Burnsville;

1.17 (3) was employed by the Minnesota Educational Computing Corporation in 1984  
1.18 and 1985;

1.19 (4) transferred accumulated employee contributions and an equal employer  
1.20 contribution amount, plus interest, from the Teachers Retirement Association to the  
1.21 unclassified state employees retirement program of the Minnesota State Retirement  
1.22 System in 1985; and

1.23 (5) after employment in the private sector in educational computing, returned to  
1.24 teaching employed by Independent School District No. 196, Rosemount-Apple-Valley  
1.25 Eagan.

2.1        (c) The amount of the refund to be repaid to the Teachers Retirement Association is  
2.2        an amount equal to the amount transferred from the Teachers Retirement Association to the  
2.3        unclassified state employees retirement program of the Minnesota State Retirement System  
2.4        under Minnesota Statutes 1985 Supplement, section 352D.12, plus compound annual  
2.5        interest at the rate of 8.5 percent from the date on which the amount was transferred from  
2.6        the Teachers Retirement Association to the date on which the transfer amount is repaid.

2.7        (d) Upon the repayment of the transfer amount, plus interest, the allowable and  
2.8        formula service credit in the Teachers Retirement Association under Minnesota Statutes,  
2.9        section 354.05, subdivisions 13 and 25, related to the transferred amount in 1985, must  
2.10       be restored to the eligible person.

2.11       (e) The transfer amount repayment, plus interest, may be made through an institution  
2.12       to institution transfer.

2.13       (f) This provision expires on July 1, 2007.