



S.F. 889
(Betzold)

H.F. xxxx

Executive Summary of Commission Staff Materials

Affected Pension Plan(s): MSRS-Unclassified and MSRS-General
Relevant Provisions of Law: Minnesota Statutes, Chapters 352 and 352D
General Nature of Proposal: MSRS-Unclassified default coverage and transfer rights modifications
Date of Summary: July 2, 2009

Specific Proposed Change(s)

- For employees first hired after June 30, 2009, who under existing law would be covered by MSRS-Unclassified unless they elect MSRS-General, the default coverage will be MSRS-General with an option to transfer to MSRS-Unclassified within the first three years
- For employees first hired after June 30, 2009, the right to transfer from MSRS-Unclassified to MSRS-General after ten years of covered MSRS service is removed
- Any right to retain MSRS-Unclassified Program coverage upon moving to an unclassified position not included in the plan is restricted to those hired before July 1, 2009
- For transfers from MSRS-General to MSRS-Unclassified, prior employer and employee contributions will transfer with six percent interest rather than 8.5 percent
- The cap on MSRS-Unclassified administrative fees is removed

Policy Issues Raised by the Proposed Legislation

1. Revised transfer of assets interest procedures, harm to existing employees.
2. Wage impacts on employers of Unclassified Program employees.
3. Implications of removing the ten-year transfer right.
4. Negligible impact of current system.
5. Lack of transfer rights in other defined contribution plans.
6. Lack of effective dates; appropriate effective dates.
7. Unclear implication of start of coverage provision.
8. Drafting issue, Section 3.
9. Inconsistencies between S.F. 889/H.F. xxxx and S.F. 1180/H.F. 1174.

Potential Amendments

- S0889-1A reinstates the definition of "general fund" with technical revisions and adds as a new subdivision a definition of "general employees retirement plan."
- S0889-2A creates consistent use of an 8.5 percent interest on transfers rather than 6.5 percent.
- S0889-3A continues the use of an 8.5 percent annual interest on transfers for employees first hired prior to the effective date in situations where 8.5 percent interest is permitted under existing law.
- S0889-4A adds June 30, 2010, effective dates to the bill sections, and uses that same date within the sections whenever authority is to differ between existing employees and new employees.
- S0889-5A removes the "start of coverage" provision starting on line 9.34.
- S0889-6A, an alternative to Amendment S0889-5A, would repeal the "start of coverage" provision.
- S0889-7A deletes Section 11, the MSRS-Unclassified investment option provision, and Section 13, the MSRS-Unclassified administrative fees provision.
- S0889-8A, an alternative to Amendment S0889-7A, replaces Sections 11 and 13 with the language found in the delete-everything amendment to S.F. 1180 (Betzold); H.F. 1774 (Nelson) (S1180-1A). The Commission would need to insert effective dates on lines 1.33 and 2.7 of the amendment.



TO: Members of the Legislative Commission on Pensions and Retirement
FROM: Ed Burek, Deputy Director *EB*
RE: S.F. 889 (Betzold); H.F. xxxx: MSRS-General, MSRS-Unclassified: Changes in Default Plan Coverage for New Employees; Elimination of Ten-Year Plan Transfer Right for New Plan Members; Reduction of Interest Rate on Transfers; Elimination of Maximum Plan Administration Fees
DATE: July 2, 2009

Summary of S.F. 889 (Betzold); H.F. xxxx

S.F. 889 (Betzold); H.F. xxxx makes certain administrative changes and includes the following substantive changes:

- For employees first hired after June 30, 2009, who under existing law would be covered by the Unclassified Employees Retirement Program of the Minnesota State Retirement System (MSRS-Unclassified) unless they elect the MSRS General State Employees Retirement Plan (MSRS-General), the default coverage will be MSRS-General with an option to transfer to MSRS-Unclassified within the first three years;
- For employees first hired after June 30, 2009, the right to transfer from MSRS-Unclassified to MSRS-General after ten years of covered MSRS service is removed;
- Any right to retain MSRS-Unclassified Program coverage upon moving to an unclassified position not included in the plan is restricted to those hired before July 1, 2009;
- For transfers from MSRS-General to MSRS-Unclassified, prior employer and employee contributions will transfer with six percent interest rather than 8.5 percent; and
- The cap on MSRS-Unclassified administrative fees (one-tenth of one percent of account assets) is removed.

Section-by-Section Summary of S.F. 889 (Betzold); H.F. xxxx

- Section 1. The MSRS-General included employee provision (M.S., Sec. 352.01, Subd. 2a) is amended to include members who transfer from MSRS-Unclassified to MSRS-General, and individuals covered by MSRS-General who have not exercised any existing right to transfer to MSRS-Unclassified. (1.8-3.2)
- Section 2. The MSRS-General excluded employee provision (M.S., Sec. 352.01, Subd. 2b) is amended to exclude employees who transfer to MSRS-Unclassified. (3.3-5.33)
- Section 3. The MSRS-Unclassified general fund definition is revised to a general employees retirement plan definition, meaning the MSRS-General plan under Chapter 352. (5.34-6.3)
- Section 4. The MSRS-Unclassified coverage provision (M.S., Section 352D.02, Subd. 2) is revised by changing the default coverage to be MSRS-General rather than MSRS-Unclassified for unclassified employees first hired after June 30, 2009. (6.4-8.4)
- Section 5. An MSRS-Unclassified transfer of contribution provision (M.S., Section 352D.02, Subd. 1c) is revised by correcting the name of the General Plan. (8.5-8.10)
- Section 6. An MSRS-Unclassified election of participation provision is revised by removing authority for those first hired after June 30, 2009, to continue MSRS-Unclassified coverage if the person moves to an unclassified position not normally covered by the program; and by specifying that for post-June 30, 2009, hires the default coverage is MSRS-General, with a right to elect MSRS-Unclassified within the first three years of service. If MSRS-Unclassified is elected, the employee and employer contributions will transfer to MSRS-Unclassified with six percent interest. (8.11-8.34)
- Section 7. An MSRS-Unclassified coverage-upon-employment-change provision which permits certain individuals in MSRS-Unclassified to remain in the program if the position held is deleted from coverage is revised to apply only to those in the program before July 1, 2009. (9.1-9.11)
- Section 8. The MSRS-Unclassified provision permitting transfer from MSRS-Unclassified to MSRS-General after ten years of covered service (M.S., Sec. 352D.02, Subd. 3), is amended by restricting this treatment to those hired before July 1, 2009. (9.12-9.33)

- Section 9. An MSRS-Unclassified coverage start provision which specifies that when a person elects MSRS-Unclassified, all contributions from the time first eligible to make an election shall be covered by the plan, is restricted to those first hired before July 1, 2009. (9.34-10.3)
- Section 10. The MSRS-Unclassified provision covering the treatment of assets transferred to MSRS-Unclassified is revised by requiring the transfers to include six percent interest rather than 8.5 percent interest. (10.4-10.13)
- Section 11. An MSRS-Unclassified investment option provision (M.S., Section 352D.04, Subd. 1) is amended by permitting individuals to specify the desired investment vehicles in a manner provided by the executive director, rather than on a provided form, and by eliminating references to guaranteed investment contracts. (10.14-11.6)
- Section 12. The MSRS-Unclassified repayment of refund provision, (M.S., Section 352D.05, Subd. 4) is amended by correcting the reference to MSRS-General. (11.7-11.18)
- Section 13. The MSRS-Unclassified administrative fees provision is revised by removing the cap on the fees. (11.19-11.25)

Relevant Background Information

- **Attachment A** contains background information on the Unclassified Employees Retirement Program of the Minnesota State Retirement System (MSRS-Unclassified).

Discussion and Analysis

S.F. 889 (Betzold); H.F. xxxx revises the default coverage for employees first hired after June 30, 2009, who under existing law would be covered by MSRS-Unclassified unless they elect MSRS-General to default to MSRS-General coverage with an option to transfer to MSRS-Unclassified within the first three years; removes the right to transfer from MSRS-Unclassified to MSRS-General after ten years of covered MSRS service for employees first hired after June 30, 2009; restricts any right to retain MSRS-Unclassified Program coverage upon moving to an unclassified position not included in the plan to those hired before July 1, 2009; revises the interest rate for prior employer and employee contribution transfers from MSRS-General to MSRS-Unclassified to six percent interest rather than 8.5 percent; and removes the cap on MSRS-Unclassified administrative fees.

The bill raises the following pension or related public policy issues:

1. Revised Transfer of Assets Interest Procedures, Harm to Existing Employees. The general issue is the shift in policy represented by revised interest procedures for transferring assets to MSRS-Unclassified. Under Section 10 (*lines 10.4 to 10.13*), amounts transferred to MSRS-Unclassified will transfer with six percent interest rather than interest at the pre-retirement interest rate assumption (8.5 percent). This change is not limited to new hires, so it will harm existing employees. A related concern is that this change reflects a policy shift from treating these transfers as to effort to keep the individual whole (by transferring the full 8.5 percent annual investment earnings presumed to have been earned by the pension fund which held those assets), to treating these like a refund with only six percent interest. Current interest treatment within this chapter and bill are inconsistent (compare Section 5 on page 8 which currently pays 8.5 percent interest to Section 9 which is a similar transfer provision but which under current law allows only six percent interest). In attempting to create more consistent treatment, MSRS wants to settle on six percent interest. The Commission may wish to have the MSRS Executive Director discuss the reasoning behind these proposed changes. If the Commission is comfortable with the general direction of this change, the Commission may wish to consider whether to have this new policy apply only to new hires or to all employees. As drafted, it applies to all. The application to existing employees may create legal challenges.
2. Wage Impacts on Employers of Unclassified Program Employees. The reduced interest rate on transfers (six percent rather than 8.5 percent) may make state employees currently covered by MSRS-General less willing to take employment as legislative staff, or any other position for which MSRS-Unclassified coverage is offered. If employees view this change as harmful, higher wages will be required to get existing employees or new hires to take these positions.
3. Implications of Removing the Ten-Year Transfer Right. A significant policy change presented by this bill is the removal of authority (in Section 8) to transfer from MSRS-Unclassified to MSRS-General after ten or more years of covered MSRS service for any employee first hired after June 30, 2009.

The right provided to existing employees under current law has considerable value. It permits individuals to select, late in their careers as retirement is approaching, between the MSRS-General defined benefit plan and MSRS-Unclassified, a defined contribution plan. With MSRS-Unclassified, the value is determined by the sum of the employee and employer contributions made to the plan plus the investment earnings. With MSRS-General, the benefit will be determined solely by the individual's high-five average salary, the accrual rate or rates used by the plan, and the years of covered service. It is reasonable that an employee would initially select MSRS-Unclassified coverage when he or she is hired. If the markets have provided normal or above average returns and the individual has invested reasonably and with discipline, the Unclassified Program account value may be worth more than the value of the MSRS-General benefit. If not, then it is economically rational for the individual to transfer to MSRS-General late in his or her career.

MSRS Executive Director David Bergstrom has on several past occasions mentioned that this provision in MSRS-Unclassified law creates adverse selection against MSRS-General, and that at some point MSRS would request legislation to remove the ten-year transfer authority, either for all employees including existing employees, or for new hires. The current bill is that legislative effort, aimed at removing the authority for new hires. Mr. Bergstrom's concern is that individuals use this transfer right only when the value of their MSRS-Unclassified account is worth less than the value of the MSRS-General benefit, which creates a loss for MSRS-General and increases the MSRS-General plan cost above what it would otherwise be. One can argue that it is unfair that MSRS-General Plan members and the employing units should have to cover this liability being imposed by those who transfer from MSRS-Unclassified. However, a counter argument is that there is no net impact on state government employers as a whole and possibly not on employees either. The additional amounts paid by employing units through additional employer contributions to MSRS-General to cover the value of this transfer right is equal to the added salaries or other benefits that would otherwise have to be offered to new employees covered by MSRS-Unclassified to compensation for this lost right. Similarly, there may be no real negative impact on all or most employees who are paying employee contributions to MSRS-General. Employees care about the amount of their take-home pay. Salary and benefits are collectively bargained or are tied, formally or informally, to collectively bargained salary and benefits. To the extent that the MSRS-Unclassified transfer right adds incrementally to the MSRS-General employee contribution requirement, that same amount is added to the wages which the employing units must offer to settle the contracts. Thus, there may be no real harm to MSRS-General employing units and employees, only the perception of harm.

4. Negligible Impact of Current System. Even if one were to accept an argument that the current system creates harm to MSRS-General, the harm seems too minimal to warrant any legislative action. Information from the most recent MSRS-General actuarial valuation suggests that the contingent liabilities created by the MSRS-Unclassified ten-year transfer right is an amount equal to about one-tenth of one percent of MSRS-General total liabilities. In recent years, MSRS has included a special exhibit in the MSRS-General actuarial report noting the Unclassified Program contingent liabilities imposed on MSRS-General. Attached to this memo are the applicable pages from the 2006, 2007, and 2008 MSRS-General actuarial valuations. For these three years there is some contingent liability which could be imposed on MSRS-General, but the estimated amount vary considerably from year to year, and is impossible to predict contingent liability amounts with any certainty going forward. There is contingent liability if the aggregate value of all MSRS-Unclassified accounts is less than the value of the MSRS-General benefits individuals could receive. If the aggregate value of all MSRS-Unclassified accounts is equal to the value of the MSRS-General benefits there is no contingent liability. The contingent liability estimates vary depending upon investment results. Strong investment years will considerably increase the value of MSRS-Unclassified accounts which will lessen or could even eliminate any contingent liabilities. The attached information for 2006 through 2008 indicates a computed contingent liability in 2006 of \$18.6 million, while the 2007 estimate was much higher at \$64.8 million, and the 2008 estimate fell to \$10.3 million. Going forward, all that is clear is that the contingent liability results will be variable and could be negligible or non-existent if there is a strong economic recovery. In any event, these contingent liabilities are negligible compared to MSRS-General total liabilities. According to the 2008 actuarial valuation, the MSRS-General total liability was \$9.994 billion. The 2008 contingent liability of \$10.3 million is one tenth of one percent (0.1 percent) of the total liability amount.
5. Lack of Transfer Rights in Other Defined Contribution Plans. An argument for eliminating the ten-year transfer right is that this benefit is unique to the MSRS-Unclassified Program. In enacting newer other defined contribution plans, notable the Higher Education Individual Retirement Account Plan (IRAP), and the IRAP for the Historical Society, Arts Board, and Humanities Commission, the Legislature chose not to include a ten-year transfer right. The existence of a transfer right in MSRS-

Unclassified may not represent the best policy, and it may at some point encourage representatives of the IRAP plans to try to establish a transfer right into a defined benefit plan. This has been an issue for Higher Education IRAP. Whenever markets fall, various individuals express a desire to revise general law, or to have special law legislation, allowing them to becoming a Teachers Retirement Association (TRA) member.

6. Lack of Effective Dates; Appropriate Effective Dates. The bill lacks effective dates. Presumably, effective date provisions should be added, but a further question is what those dates should be. The bill was drafted assuming it would be acted upon by the 2009 Legislature and that the termination of transfer authority for employees hired after June 30, 2009, would not harm anyone currently employed. This avoids the implications of negatively impacting the pension provisions applicable to existing current employees. If the Commission wishes to take action on this bill, it may wish to consider using a June 30, 2010, effective date for the provisions and change the internal references to be consistent with this new date.
7. Unclear Implication of Start of Coverage Provision. The issue is the unclear implications of the state-of-coverage provision found on lines 9.34 to 10.3. As drafted, only for persons hired before July 1, 2009, will past contributions transfer to MSRS-Unclassified upon electing coverage by that program. But this contradicts new language appearing on lines 8.24 to 8.34 for post June 30, 2009, hires. The Commission may wish to consider leaving existing law unchanged by dropping this provision from the bill, or consider repealing it. It does not seem necessary since the needed transfer procedure is stated elsewhere.
8. Drafting Issue, Section 3. Section 3 is an attempt to change the MSRS-Unclassified chapter definition of General Fund into a General Employees Retirement Plan definition. However, the term “general fund” is used in Chapter 352D and transforming the definition will leave that term undefined. It may be better to leave a general fund definition in place and to create a new separate definition of general employees retirement plan.
9. Inconsistencies Between Bills. The issue is inconsistent revisions to the same provisions of statute appearing in this bill and in another bill on the agenda, S.F. 1180 (Betzold); H.F. 1774 (Nelson): Revisions to the State Deferred Compensation Program and MSRS-Unclassified, in the form of Delete-Everything Amendment S1180-1A. Sections 11 and 13 in the current bill also appear in the delete-everything amendment to S.F. 1180/H.F. 1774, but the language is different. Mr. Bergstrom has indicated that he is comfortable with the drafting of S1180-1A. Therefore, if the Commission recommends S1180-1A to pass, it may wish to delete sections 11 and 13 from the current bill. If the Commission does not choose to use S1180-1A, it may wish to replace sections 11 and 13 in the current bill with language for those sections lifted from S1180-1A.

Potential Amendments for Commission Consideration

- S0889-1A reinstates the definition of “general fund” with technical revisions and adds as a new subdivision a definition of “general employees retirement plan.”
- S0889-2A creates consistent use of an 8.5 percent interest on transfers permitted under the bill rather than 6.5 percent.
- S0889-3A continues the use of an 8.5 percent annual interest on transfers for employees first hired prior to the effective date in situations where 8.5 percent interest is permitted under existing law.
- S0889-4A adds June 30, 2010, effective dates to the bill sections, and uses that same date within the sections whenever authority is to differ between existing employees and new employees. If the Commission wishes to use a year other than 2010, a verbal amendment could be used to replace “2010” wherever it appears with a different date.
- S0889-5A removes the “start of coverage” provision starting on line 9.34 of the bill if the Commission concludes that section is unnecessary. The provision conflicts with other treatment specified in the bill and could be deleted without harm.
- S0889-6A, an alternative to Amendment S0889-5A, would repeal the “start of coverage” provision. This can be justified because the provision appears to be unnecessary and duplicative since transfer provisions are specified elsewhere in the bill and in existing law.

- S0889-7A deletes Section 11, the MSRS-Unclassified investment option provision, and Section 13, the MSRS-Unclassified administrative fees provision. The Commission may wish to use this amendment if it concludes that the changes proposed in these sections should not occur, or if the Commission has already addressed these sections by adopting delete-everything amendment S1180-1A to S.F. 1180 (Betzold); H.F. 1774 (Nelson), Revisions to the State Deferred Compensation Plan and MSRS Unclassified, which also revises these provisions.
- S0889-8A, an alternative to Amendment S0889-7A, could be used if the Commission does not adopt the delete-everything amendment to S.F. 1180 (Betzold); H.F. 1774 (Nelson) (S1180-1A), but the Commission prefers the language for these two sections found in that delete-everything amendment rather than the language for those sections found in the current bill. This amendment duplicates the language for these two sections from Delete-Everything Amendment S1180-1A. The Commission would need to insert an effective date on lines 1.33 and 2.7 of the amendment.

**Minnesota State Retirement System
State Employees Retirement Fund**

Actuarial Valuation and Review as of July 1, 2006 (Segal):

SECTION 3: Supplemental Information for the State Employees Retirement Fund

EXHIBIT L (continued)

Special Groups – Unclassified Plan Contingent Liability Calculation

Section 352D.02 of Chapter 352D of Minnesota Statutes provides that employees credited with employee shares in the unclassified program may elect to terminate participation in the unclassified plan and be covered by the regular plan prior to termination of covered employment.

To recognize the effect of the option to elect coverage under the regular plan, we have assumed that all eligible Unclassified Plan members will elect coverage under the regular plan if such election provides the member with a greater economic present value than the accumulated contribution balance under the Unclassified Plan. The liabilities were measured using the actuarial assumptions that are applied to the State Employees Retirement Fund.

| | For Year Ended June 30, 2006 |
|--|---------------------------------|
| 1. Number of active participants | 1,616 |
| 2. Account balances for active participants | \$170,356,487 |
| 3. Accrued liability for active participants | 192,154,293 |
| 4. Number of inactive participants | 1,635 |
| 5. Account balances for inactive participants | \$109,391,679 |
| 6. Net assets held in trust for Unclassified Plan participants | 282,911,449 |
| 7. Contingent liability: (3) + (5) – (6) | 18,634,523 |
| 8. Projected annual earnings for active participants | 105,000,110 |
| 9. Normal cost | |
| (a) Dollar amount | \$9,662,462 |
| (b) Percent of payroll | 9.20% |

Actuarial Valuation and Review as of July 1, 2007 (Segal):

SECTION 3: Supplemental Information for the State Employees Retirement Fund

EXHIBIT L (continued)

Special Groups – Unclassified Plan Contingent Liability Calculation

Section 352D.02 of Chapter 352D of Minnesota Statutes provides that employees credited with employee shares in the unclassified program may elect to terminate participation in the unclassified plan and be covered by the regular plan prior to termination of covered employment.

To recognize the effect of the option to elect coverage under the regular plan, we have assumed that all eligible Unclassified Plan members will elect coverage under the regular plan if such election provides the member with a greater economic present value than the accumulated contribution balance under the Unclassified Plan. The liabilities were measured using the actuarial assumptions that are applied to the State Employees Retirement Fund.

| | For Year Ended June 30, 2007 |
|--|---------------------------------|
| 1. Number of active participants | 1,726 |
| 2. Account balances for active participants | \$235,034,961 |
| 3. Accrued liability for active participants | 241,860,747 |
| 4. Number of inactive participants | 1,606 |
| 5. Account balances for inactive participants | \$140,383,965 |
| 6. Net assets held in trust for Unclassified Plan participants | 317,400,267 |
| 7. Contingent liability: (3) + (5) – (6) | 64,844,445 |
| 8. Projected annual earnings for active participants | 108,761,644 |
| 9. Normal cost | |
| (a) Dollar amount | \$9,688,232 |
| (b) Percent of payroll | 8.91% |

Actuarial Valuation Report as of July 1, 2008 (Mercer):

Development of Costs

Special Groups - Unclassified Plan Contingent Liability Calculation (Dollars in Thousands)

Section 352D.02 of Chapter 352D of Minnesota Statutes provides that employees credited with employee shares in the unclassified program may elect to terminate participation in the unclassified plan and be covered by the regular plan prior to termination of covered employment.

To recognize the effect of the option to elect coverage under the regular plan, we have assumed that all eligible Unclassified Plan members will elect coverage under the regular plan if such election provides the member with a greater economic present value than the accumulated contribution balance under the Unclassified Plan. The liabilities were measured using the actuarial assumptions that are applied to the State Employees Retirement Fund.

| | Year Ending June 30, 2008 |
|--|------------------------------|
| A. Number of active participants | 1,567 |
| B. Account balances for active participants | \$ 170,880 |
| C. Accrued liability for active participants | 188,452 |
| D. Number of inactive participants | 1,766 |
| E. Account balances for inactive participants | \$ 111,074 |
| F. Net assets held in trust for Unclassified Plan participants | 289,205 |
| G. Contingent liability (C. + E. - F.) | 10,321 |
| H. Projected annual earnings for active participants | 111,387 |
| I. Normal cost | |
| 1. Dollar amount | \$ 11,305 |
| 2. Percent of payroll | 10.15% |

MSRS-General Actuarial Valuation Results

| | 2008* | 2007* | 2007** | 2006 |
|-------------------------------|----------------------------|----------------------------|----------------------------|----------------------------|
| Membership | | | | |
| Active Members | 48,823 | 48,379 | 48,379 | 48,000 |
| Service Retirees | 21,736 | 20,880 | 20,880 | 19,903 |
| Disabilitants | 1,620 | 1,547 | 1,547 | 1,508 |
| Survivors | 3,090 | 2,919 | 2,919 | 2,793 |
| Deferred Retirees | 14,951 | 14,751 | 14,751 | 14,217 |
| Nonvested Former Memb. | <u>6,865</u> | <u>7,007</u> | <u>7,007</u> | <u>6,828</u> |
| Total Membership | 97,085 | 95,483 | 95,483 | 93,249 |
| Funded Status | | | | |
| Accrued Liability | \$9,994,602,000 | \$9,627,304,704 | \$9,627,304,704 | \$8,819,160,917 |
| Current Assets | <u>\$9,013,456,000</u> | <u>\$8,904,516,772</u> | <u>\$9,171,066,094</u> | <u>\$8,486,756,016</u> |
| Unfunded Accrued Liability | \$981,146,000 | \$722,787,932 | \$456,238,610 | \$332,404,901 |
| Funding Ratio | 90.18% | 92.49% | 95.26% | 96.23% |
| Financing Requirements | | | | |
| Covered Payroll | \$2,378,816,000 | \$2,241,738,286 | \$2,241,738,286 | \$2,157,579,057 |
| Benefits Payable | \$418,757,000 | \$392,058,387 | \$392,058,387 | \$366,797,030 |
| Normal Cost | 7.78% \$185,140,000 | 8.40% \$188,716,922 | 8.40% \$188,716,922 | 8.52% \$183,605,603 |
| Administrative Expenses | 0.23% \$5,471,000 | 0.23% \$5,155,998 | 0.23% \$5,155,998 | 0.21% \$4,530,916 |
| Amortization | 4.38% <u>\$104,192,000</u> | 3.13% \$70,166,408 | 1.98% \$44,386,418 | 1.38% \$29,774,591 |
| Total Requirements | 12.39% \$294,803,000 | 11.76% \$264,039,328 | 10.61% \$238,259,338 | 10.11% \$217,911,110 |
| Employee Contributions | 4.50% \$107,047,000 | 4.25% \$95,273,877 | 4.25% \$95,273,877 | 4.00% \$86,303,162 |
| Employer Contributions | 4.50% \$107,047,000 | 4.25% \$95,273,877 | 4.25% \$95,273,877 | 4.00% \$86,303,162 |
| Employer Add'l Cont. | 0.00% \$0 | 0.00% \$0 | 0.00% \$0 | 0.00% \$0 |
| Direct State Funding | 0.00% \$0 | 0.00% \$0 | 0.00% \$0 | 0.00% \$0 |
| Other Govt. Funding | 0.00% \$0 | 0.00% \$0 | 0.00% \$0 | 0.00% \$0 |
| Administrative Assessment | <u>0.00%</u> \$0 | <u>0.00%</u> \$0 | <u>0.00%</u> \$0 | <u>0.00%</u> \$0 |
| Total Contributions | 9.00% \$214,094,000 | 8.50% \$190,547,754 | 8.50% \$190,547,754 | 8.00% \$172,606,324 |
| Total Requirements | 12.39% \$294,803,000 | 11.76% \$264,039,328 | 10.61% \$238,259,338 | 10.11% \$217,911,110 |
| Total Contributions | 9.00% <u>\$214,094,000</u> | 8.50% <u>\$190,547,754</u> | 8.50% <u>\$190,547,754</u> | 8.00% <u>\$172,606,324</u> |
| Deficiency (Surplus) | 3.39% \$80,709,000 | 3.26% \$73,491,574 | 2.11% \$47,711,584 | 2.11% \$45,304,786 |
| Amortization Target Date | 2020 | 2020 | 2020 | 2020 |
| Actuary | Mercer | Segal | Segal | Segal |

* Reflects 2007 Asset Valuation Method change

** Current Assets and Amortization results do not reflect the 2007 Asset Valuation Method change

Attachment A

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

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.

- a. Establishment and Membership. 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 on a mandatory or optional basis.

The following positions are members of the program on a mandatory basis:

1. the governor, the lieutenant governor, the secretary of state, the state auditor, and the attorney general;
2. legislators first elected after June 30, 1997; and
3. judges, for service in excess of 24 years (Minnesota Statutes, Section 490.121, Subdivision 22).

The following group was permitted to choose between the Legislators Plan and the MSRS-Unclassified Plan:

1. legislators first elected before July 1, 1997.

The remaining positions 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):

1. an employee of the State Board of Investment;
2. the head of a department, division, or agency created by statute in the unclassified service;
3. a permanent, full-time unclassified employee of the legislature or a commission or an agency of the legislature;
4. the regional administrator or executive director of the Metropolitan Council, general counsel, division directors, operations managers, and other positions as designated by the council;
5. the executive director, associate executive director of the Higher Education Services Office in the unclassified service;
6. the clerk of the Appellate Court;
7. the chief executive officers of correctional facilities, hospitals, and nursing homes;
8. an employee of the state ceremonial house;
9. an employee of the Minnesota Educational Computing Corporation;
10. an employee of the World Trade Center board;
11. an employee of the State Lottery board;
12. an employee of Minnesota Technology Incorporated;
13. Minnesota State Colleges and Universities System (MnSCU) employees employed by the former state university system or community college system before May 1, 1995, or other MnSCU unclassified administrators in service before July 1, 1995, who elected MSRS-Unclassified coverage.

- b. Plan Governance and Administration. An 11-member board, the Minnesota State Retirement System (MSRS) Board of Directors is chaired by a board member and performs the policymaking function of the MSRS-Unclassified Plan. The MSRS administrative staff and the Minnesota State Board of Investment carry out the general administration of the MSRS-Unclassified Plan. The MSRS staff 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.

- c. Contribution Rates and Collection. The contribution rate to the MSRS-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 MSRS-Unclassified Plan. 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.

- d. 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.
- e. 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.
- f. Plan Communication, New Member Processing, and Benefit Counseling. MSRS provides information to plan members through newsletters, 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, and the tax impact on the benefit if the participant either opts for a lump sum payment or an annuity. An annuity may be purchased at age 55 or older.
- g. Option to Switch to Defined Benefit Plan Coverage. Under Minnesota Statutes, Section 352D.02, Subdivision 3, a participant in the MSRS-Unclassified Program with at least ten years of state service is permitted up to one month following termination of employment 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 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.
- h. Actuarial Impact. The option to transfer coverage from MSRS-Unclassified to defined benefit plan coverage by MSRS-General has an actuarial cost for MSRS-General. The July 1, 2004, MSRS-General actuarial valuation was the first which calculated the actuarial liability for the active members of MSRS-Unclassified under the MSRS-Unclassified Program asset value or the present value of the MSRS-General benefit, whichever is greater. As of July 1, 2008, the MSRS-General transfer provision creates a \$10.3 million unfunded actuarial accrued liability in MSRS-General. The normal cost under the MSRS-General defined benefit plan for the MSRS-Unclassified active participants was 10.15 percent of covered pay, compared to the normal cost for MSRS-General active members of 7.8 percent of covered pay.

1.1 moves to amend S.F. No. 889; H.F. No., as follows:

1.2 Page 6, line 1, reinstate the stricken language and delete the new language

1.3 Page 6, line 2, delete "retirement plan" and reinstate "fund" and delete "plan"

1.4 Page 6, line 3, strike " except the moneys for the unclassified program"

1.5 Page 6, after line 3, insert:

1.6 "Subd. 4a. **General employees retirement plan.** "General employees retirement

1.7 plan" means the general state employees retirement plan under chapter 352."

1.1 moves to amend S.F. No. 889; H.F. No., as follows:

1.2 Page 8, line 21, strike "six" and insert "8.5" and after "interest" insert ", compounded
1.3 annually,"

1.4 Page 8, line 33, delete "six" and insert "8.5"

1.5 Page 10, line 7, strike "a"

1.6 Page 10, strike lines 8 and 9 and insert "for an employee exercising an option under
1.7 section 352D.02, an amount equal to the employee and employer contributions"

1.8 Page 10, line 10, strike "at"

1.9 Page 10, line 11, delete "six" and insert "plus 8.5"

1.1 moves to amend S.F. No. 889; H.F. No., as follows:

1.2 Page 10, line 6, before "Unless" insert "(a) "

1.3 Page 10, line 7, strike "a"

1.4 Page 10, strike lines 8 to 10 and insert "for an employee exercising an option under
1.5 section 352D.02, an amount equal to the employee and employer contributions for the
1.6 employment period plus"

1.7 Page 10, line 11, delete "six percent" and before "must" insert "at the rate specified
1.8 in paragraph (b)"

1.9 Page 10, after line 13 insert:

1.10 "(b) If the person is first hired before the effective date of this section, the interest
1.11 rate is 8.5 percent. If the person is first hired on or after the effective date of this section,
1.12 the interest rate is six percent."

1.1 moves to amend S.F. No. 889; H.F. No., as follows:

1.2 Page 3, after line 2, insert:

1.3 "EFFECTIVE DATE. This section is effective June 30, 2010."

1.4 Page 5, after line 33, insert:

1.5 "EFFECTIVE DATE. This section is effective June 30, 2010."

1.6 Page 6, after line 3, insert:

1.7 "EFFECTIVE DATE. This section is effective June 30, 2010."

1.8 Page 6, lines 5, 15, and 21, delete "2009" and insert "2010"

1.9 Page 8, after line 4, insert:

1.10 "EFFECTIVE DATE. This section is effective June 30, 2010."

1.11 Page 8, after line 10, insert:

1.12 "EFFECTIVE DATE. This section is effective June 30, 2010."

1.13 Page 8, lines 13 and 24, delete "2009" and insert "2010"

1.14 Page 8, after line 34, insert:

1.15 "EFFECTIVE DATE. This section is effective June 30, 2010."

1.16 Page 9, lines 3 and 14, delete "2009" and insert "2010"

1.17 Page 9, after line 11, insert:

1.18 "EFFECTIVE DATE. This section is effective June 30, 2010."

1.19 Page 9, after line 33, insert:

1.20 "EFFECTIVE DATE. This section is effective June 30, 2010."

1.21 Page 10, line 1, delete "2009" and insert "2010"

1.22 Page 10, after line 3, insert:

1.23 "EFFECTIVE DATE. This section is effective June 30, 2010."

1.24 Page 10, after line 13, insert:

1.25 "EFFECTIVE DATE. This section is effective June 30, 2010."

1.26 Page 11, after line 6, insert:

1.27 "EFFECTIVE DATE. This section is effective June 30, 2010."

1.28 Page 11, after line 18, insert:

1.29 "EFFECTIVE DATE. This section is effective June 30, 2010."

1.30 Page 11, after line 25, insert:

1.31 "EFFECTIVE DATE. This section is effective June 30, 2010."

1.1 moves to amend S.F. No. 889; H.F. No., as follows:

1.2 Page 9, delete section 9

1.3 Page 11, after line 25, insert:

1.4 "Sec. 13. **REPEALER.**

1.5 Minnesota Statutes 2008, section 352D.02, subdivision 4, is repealed."

1.6 Renumber the sections in sequence

1.7 Amend the title accordingly

- 1.1 moves to amend S.F. No. 889; H.F. No., as follows:
- 1.2 Page 10, delete section 11
- 1.3 Page 11, delete section 13
- 1.4 Renumber the sections in sequence
- 1.5 Amend the title accordingly

- 1.1 moves to amend S.F. No. 889; H.F. No., as follows:
- 1.2 Page 10, delete section 11
- 1.3 Page 11, delete section 13
- 1.4 Renumber the sections in sequence
- 1.5 Amend the title accordingly

1.1 moves to amend S.F. No. 889; H.F. No., as follows:

1.2 Page 10, delete section 11 and insert:

1.3 "Sec. 11. Minnesota Statutes 2008, section 352D.04, subdivision 1, is amended to read:

1.4 Subdivision 1. **Investment options.** (a) A person exercising an option to participate
1.5 in the retirement program provided by this chapter may elect to purchase shares in one or
1.6 a combination of the income share account, the growth share account, the international
1.7 share account, the money market account, the bond market account, the fixed interest
1.8 account, or the common stock index account established in section 11A.17. The person
1.9 may elect to participate in one or more of the investment accounts in the fund by
1.10 specifying, ~~on a form provided~~ in a manner prescribed by the executive director, the
1.11 percentage of the person's contributions provided in subdivision 2 to be used to purchase
1.12 shares in each of the accounts.

1.13 (b) A participant may ~~indicate in writing on forms provided,~~ in a manner prescribed
1.14 ~~by the Minnesota State Retirement System a choice of options~~ executive director, choose
1.15 their investment allocation for subsequent purchases of shares. Until a different written
1.16 indication is made by the participant, the executive director shall purchase shares in the
1.17 supplemental fund as selected by the participant. If no initial option is chosen, 100 percent
1.18 income shares must be purchased for a participant. A change in choice of investment
1.19 option is effective ~~no later than the first pay date first occurring after 30 days following the~~
1.20 ~~receipt of the request for a change~~ at the end of the most recent United States investment
1.21 market day.

1.22 (c) ~~Shares in the fixed interest account attributable to any guaranteed investment~~
1.23 ~~contract as of July 1, 1994, may not be withdrawn from the fund or transferred to another~~
1.24 ~~account until the guaranteed investment contract has expired, unless the participant~~
1.25 ~~qualifies for withdrawal under section 352D.05 or for benefit payments under sections~~
1.26 ~~352D.06 to 352D.075.~~

1.27 (d) (c) A participant or former participant may also change the investment options
1.28 selected for all or a portion of the participant's shares previously purchased in accounts,
1.29 subject to the ~~provisions of paragraph (c) concerning the fixed interest account. Changes~~
1.30 ~~in investment options for the participant's shares must be effected as soon as cash flow to~~
1.31 ~~an account practically permits, but not later than six months after the requested change~~
1.32 trading restrictions imposed on the investment option.

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

1.34 Page 11, delete section 13 and insert:

1.35 "Sec. 13. Minnesota Statutes 2008, section 352D.09, subdivision 7, is amended to read:

2.1 Subd. 7. **Administrative fees.** The board of directors shall establish a budget
 2.2 and charge participants a fee to pay the administrative expenses of the unclassified
 2.3 program. Fees cannot be charged on contributions and investment returns attributable to
 2.4 contributions made before July 1, 1992. ~~Annual total fees charged for plan administration~~
 2.5 ~~cannot exceed 10/100 of one percent of the contributions and investment returns~~
 2.6 ~~attributable to contributions made on or after July 1, 1992.~~

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

2.8 Renumber the sections in sequence

2.9 Amend the title accordingly

Senator Betzold introduced--

S.F. No. 889: Referred to the Committee on State and Local Government Operations and Oversight.

1.1 A bill for an act
 1.2 relating to retirement; amending the Minnesota State Retirement System
 1.3 unclassified program; amending Minnesota Statutes 2008, sections 352.01,
 1.4 subdivisions 2a, 2b; 352D.015, subdivision 4; 352D.02, subdivisions 1, 1c, 1d,
 1.5 2, 3, 4; 352D.03; 352D.04, subdivision 1; 352D.05, subdivision 4; 352D.09,
 1.6 subdivision 7.

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

1.8 Section 1. Minnesota Statutes 2008, section 352.01, subdivision 2a, is amended to read:

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

1.10 (1) employees of the Minnesota Historical Society;

1.11 (2) employees of the State Horticultural Society;

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

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

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

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

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

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

2.4 (9) employees of the Minnesota Safety Council;

2.5 (10) any employees on authorized leave of absence from the Transit Operating
2.6 Division of the former Metropolitan Transit Commission who are employed by the
2.7 labor organization which is the exclusive bargaining agent representing employees of
2.8 the Transit Operating Division;

2.9 (11) employees of the Metropolitan Council, Metropolitan Parks and Open Space
2.10 Commission, Metropolitan Sports Facilities Commission, Metropolitan Mosquito Control
2.11 Commission, or Metropolitan Radio Board unless excluded or covered by another public
2.12 pension fund or plan under section 473.415, subdivision 3;

2.13 (12) judges of the Tax Court;

2.14 (13) personnel employed on June 30, 1992, by the University of Minnesota in the
2.15 management, operation, or maintenance of its heating plant facilities, whose employment
2.16 transfers to an employer assuming operation of the heating plant facilities, so long as the
2.17 person is employed at the University of Minnesota heating plant by that employer or by its
2.18 successor organization;

2.19 (14) seasonal help in the classified service employed by the Department of Revenue;

2.20 (15) persons employed by the Department of Commerce as a peace officer in
2.21 the Insurance Fraud Prevention Division under section 45.0135 who have attained the
2.22 mandatory retirement age specified in section 43A.34, subdivision 4;

2.23 (16) employees of the University of Minnesota unless excluded under subdivision
2.24 2b, clause (3);

2.25 (17) employees of the Middle Management Association whose employment began
2.26 after July 1, 2007, and to whom section 352.029 does not apply; ~~and~~

2.27 (18) employees of the Minnesota Government Engineers Council to whom section
2.28 352.029 does not apply; and

2.29 (19) employees who have elected to transfer past service to the general employees
2.30 retirement plan under section 352D.02, subdivision 1d, paragraph (a), or who have not
2.31 elected to transfer to the unclassified program under section 352D.02, subdivision 1d,
2.32 paragraph (b).

2.33 (b) Employees specified in paragraph (a), clause (13), are included employees under
2.34 paragraph (a) if employer and employee contributions are made in a timely manner in the
2.35 amounts required by section 352.04. Employee contributions must be deducted from
2.36 salary. Employer contributions are the sole obligation of the employer assuming operation

3.1 of the University of Minnesota heating plant facilities or any successor organizations to
3.2 that employer.

3.3 Sec. 2. Minnesota Statutes 2008, section 352.01, subdivision 2b, is amended to read:

3.4 Subd. 2b. **Excluded employees.** "State employee" does not include:

3.5 (1) students employed by the University of Minnesota, or the state colleges and
3.6 universities, unless approved for coverage by the Board of Regents of the University of
3.7 Minnesota or the Board of Trustees of the Minnesota State Colleges and Universities,
3.8 whichever is applicable;

3.9 (2) employees who are eligible for membership in the state Teachers Retirement
3.10 Association, except employees of the Department of Education who have chosen or may
3.11 choose to be covered by the general state employees retirement plan of the Minnesota
3.12 State Retirement System instead of the Teachers Retirement Association;

3.13 (3) employees of the University of Minnesota who are excluded from coverage by
3.14 action of the Board of Regents;

3.15 (4) officers and enlisted personnel in the National Guard and the naval militia who
3.16 are assigned to permanent peacetime duty and who under federal law are or are required to
3.17 be members of a federal retirement system;

3.18 (5) election officers;

3.19 (6) persons who are engaged in public work for the state but who are employed
3.20 by contractors when the performance of the contract is authorized by the legislature or
3.21 other competent authority;

3.22 (7) officers and employees of the senate, or of the house of representatives, or of a
3.23 legislative committee or commission who are temporarily employed;

3.24 (8) receivers, jurors, notaries public, and court employees who are not in the judicial
3.25 branch as defined in section 43A.02, subdivision 25, except referees and adjusters
3.26 employed by the Department of Labor and Industry;

3.27 (9) patient and inmate help in state charitable, penal, and correctional institutions
3.28 including the Minnesota Veterans Home;

3.29 (10) persons who are employed for professional services where the service is
3.30 incidental to their regular professional duties and whose compensation is paid on a per
3.31 diem basis;

3.32 (11) employees of the Sibley House Association;

3.33 (12) the members of any state board or commission who serve the state intermittently
3.34 and are paid on a per diem basis; the secretary, secretary-treasurer, and treasurer of those
3.35 boards if their compensation is \$5,000 or less per year, or, if they are legally prohibited

4.1 from serving more than three years; and the board of managers of the State Agricultural
4.2 Society and its treasurer unless the treasurer is also its full-time secretary;

4.3 (13) state troopers and persons who are described in section 352B.01, subdivision 2,
4.4 clauses (2) to (6);

4.5 (14) temporary employees of the Minnesota State Fair who are employed on or
4.6 after July 1 for a period not to extend beyond October 15 of that year; and persons who
4.7 are employed at any time by the state fair administration for special events held on the
4.8 fairgrounds;

4.9 (15) emergency employees who are in the classified service; except that if an
4.10 emergency employee, within the same pay period, becomes a provisional or probationary
4.11 employee on other than a temporary basis, the employee shall be considered a "state
4.12 employee" retroactively to the beginning of the pay period;

4.13 (16) temporary employees in the classified service, and temporary employees in the
4.14 unclassified service who are appointed for a definite period of not more than six months
4.15 and who are employed less than six months in any one-year period;

4.16 (17) interns hired for six months or less and trainee employees, except those listed in
4.17 subdivision 2a, clause (8);

4.18 (18) persons whose compensation is paid on a fee basis or as an independent
4.19 contractor;

4.20 (19) state employees who are employed by the Board of Trustees of the Minnesota
4.21 State Colleges and Universities in unclassified positions enumerated in section 43A.08,
4.22 subdivision 1, clause (9);

4.23 (20) state employees who in any year have credit for 12 months service as teachers
4.24 in the public schools of the state and as teachers are members of the Teachers Retirement
4.25 Association or a retirement system in St. Paul, Minneapolis, or Duluth, except for
4.26 incidental employment as a state employee that is not covered by one of the teacher
4.27 retirement associations or systems;

4.28 (21) employees of the adjutant general who are employed on an unlimited
4.29 intermittent or temporary basis in the classified or unclassified service for the support of
4.30 Army and Air National Guard training facilities;

4.31 (22) chaplains and nuns who are excluded from coverage under the federal Old
4.32 Age, Survivors, Disability, and Health Insurance Program for the performance of service
4.33 as specified in United States Code, title 42, section 410(a)(8)(A), as amended, if no
4.34 irrevocable election of coverage has been made under section 3121(r) of the Internal
4.35 Revenue Code of 1986, as amended through December 31, 1992;

5.1 (23) examination monitors who are employed by departments, agencies,
5.2 commissions, and boards to conduct examinations required by law;

5.3 (24) persons who are appointed to serve as members of fact-finding commissions or
5.4 adjustment panels, arbitrators, or labor referees under chapter 179;

5.5 (25) temporary employees who are employed for limited periods under any state or
5.6 federal program for training or rehabilitation, including persons who are employed for
5.7 limited periods from areas of economic distress, but not including skilled and supervisory
5.8 personnel and persons having civil service status covered by the system;

5.9 (26) full-time students who are employed by the Minnesota Historical Society
5.10 intermittently during part of the year and full-time during the summer months;

5.11 (27) temporary employees who are appointed for not more than six months, of
5.12 the Metropolitan Council and of any of its statutory boards, if the board members are
5.13 appointed by the Metropolitan Council;

5.14 (28) persons who are employed in positions designated by the Department of
5.15 Finance as student workers;

5.16 (29) members of trades who are employed by the successor to the Metropolitan
5.17 Waste Control Commission, who have trade union pension plan coverage under a
5.18 collective bargaining agreement, and who are first employed after June 1, 1977;

5.19 (30) off-duty peace officers while employed by the Metropolitan Council;

5.20 (31) persons who are employed as full-time police officers by the Metropolitan
5.21 Council and as police officers are members of the public employees police and fire fund;

5.22 (32) persons who are employed as full-time firefighters by the Department of Military
5.23 Affairs and as firefighters are members of the public employees police and fire fund;

5.24 (33) foreign citizens with a work permit of less than three years, or an H-1b/JV visa
5.25 valid for less than three years of employment, unless notice of extension is supplied which
5.26 allows them to work for three or more years as of the date the extension is granted, in
5.27 which case they are eligible for coverage from the date extended; ~~and~~

5.28 (34) persons who are employed by the Board of Trustees of the Minnesota State
5.29 Colleges and Universities and who elected to remain members of the Public Employees
5.30 Retirement Association or the Minneapolis Employees Retirement Fund, whichever
5.31 applies, under Minnesota Statutes 1994, section 136C.75-; and

5.32 (35) employees who have elected to transfer service to the unclassified program
5.33 under section 352D.02, subdivision 1d, paragraph (b).

5.34 Sec. 3. Minnesota Statutes 2008, section 352D.015, subdivision 4, is amended to read:

6.1 Subd. 4. **General ~~fund~~ employees retirement plan.** "General ~~fund~~ employees
6.2 retirement plan" means the general state employees retirement ~~fund~~ plan under chapter
6.3 352 except the moneys for the unclassified program.

6.4 Sec. 4. Minnesota Statutes 2008, section 352D.02, subdivision 1, is amended to read:

6.5 Subdivision 1. **Coverage.** (a) Employees hired before July 1, 2009, enumerated
6.6 in paragraph (c), clauses (2), ~~(3)~~, to (4), (6) to (14), and (16) to (18), if they are in the
6.7 unclassified service of the state or Metropolitan Council and are eligible for coverage
6.8 under the general state employees retirement plan under chapter 352, are participants
6.9 in the unclassified program under this chapter unless the employee gives notice to the
6.10 executive director of the Minnesota State Retirement System within one year following
6.11 the commencement of employment in the unclassified service that the employee desires
6.12 coverage under the general state employees retirement plan. For the purposes of this
6.13 chapter, an employee who does not file notice with the executive director is deemed to
6.14 have exercised the option to participate in the unclassified program. Employees hired after
6.15 June 30, 2009, enumerated in paragraph (c), clauses (2) to (4), (6) to (14), and (16) to (18),
6.16 if they are in the unclassified service of the state or Metropolitan Council and are eligible
6.17 for coverage under the general state employees retirement plan under chapter 352 are
6.18 members of the general state employees retirement plan unless the elect coverage in the
6.19 unclassified program under section 352D.02, subdivision 1d, paragraph (b).

6.20 (b) Persons referenced in paragraph (c), clause (5), and first elected before July 1,
6.21 2009, are participants in the unclassified program under this chapter unless the person was
6.22 eligible to elect different coverage under section 3A.07 and elected retirement coverage by
6.23 the applicable alternative retirement plan. Persons referenced in paragraph (c), clause (15),
6.24 are participants in the unclassified program under this chapter for judicial employment in
6.25 excess of the service credit limit in section 490.121, subdivision 22.

6.26 (c) Enumerated employees and referenced persons are:

6.27 (1) the governor, the lieutenant governor, the secretary of state, the state auditor,
6.28 and the attorney general;

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

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

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

6.35 (5) a member of the legislature;

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

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

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

7.13 (9) the executive director, associate executive director, and not to exceed nine
7.14 positions of the Minnesota Office of Higher Education in the unclassified service, as
7.15 designated by the Minnesota Office of Higher Education before January 1, 1992, or
7.16 subsequently redesignated with the approval of the board of directors of the Minnesota
7.17 State Retirement System, unless the person has elected coverage by the individual
7.18 retirement account plan under chapter 354B;

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

7.22 (11) the chief executive officers of correctional facilities operated by the Department
7.23 of Corrections and of hospitals and nursing homes operated by the Department of Human
7.24 Services;

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

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

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

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

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

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

8.1 (18) a person employed by the Minnesota State Colleges and Universities who
8.2 was employed in state service before July 1, 1995, who subsequently is employed in an
8.3 eligible unclassified administrative position as defined in section 354B.20, subdivision
8.4 6, and who elects coverage by the unclassified program.

8.5 Sec. 5. Minnesota Statutes 2008, section 352D.02, subdivision 1c, is amended to read:

8.6 Subd. 1c. **Transfer of contributions.** An employee covered by the ~~regular general~~
8.7 employees retirement plan who is subsequently employed as a full-time unclassified
8.8 employee of the legislature or any commission or agency of the legislature without a
8.9 limit on the duration of the employment may elect to transfer accumulated employee and
8.10 matching employer contributions, as provided in section 352D.03.

8.11 Sec. 6. Minnesota Statutes 2008, section 352D.02, subdivision 1d, is amended to read:

8.12 Subd. 1d. **Election of program participation.** (a) An employee hired before July
8.13 1, 2009, who is a participant in the unclassified program by virtue of employment in a
8.14 position listed in subdivision 1 may elect to remain in the unclassified program upon
8.15 subsequent employment in an unlimited, full-time unclassified position that is not listed
8.16 in subdivision 1. To elect participation in the unclassified program, the employee must
8.17 give notice to the executive director of the Minnesota State Retirement System within
8.18 one year of the commencement of employment in an unclassified position that is not
8.19 listed in subdivision 1. Upon receipt of the notice, the executive director shall transfer
8.20 to the employee's account in the unclassified program an amount equal to the employer
8.21 and employee contributions with six percent interest to the ~~regular general employees~~
8.22 retirement plan on the employee's behalf from the commencement of employment in the
8.23 position not listed in subdivision 1 to the receipt of the notice by the executive director.

8.24 (b) An employee hired after June 30, 2009, who is able to elect coverage in the
8.25 unclassified program by virtue of employment in a position listed in subdivision 1 is
8.26 a member of the general employees retirement plan unless they make an irrevocable
8.27 election to switch to the unclassified program. An employee may make an election to
8.28 switch from the general employees retirement plan to the unclassified program any time
8.29 within the first three years of service. To elect participation in the unclassified program,
8.30 the employee must give written notice to the executive director of the Minnesota State
8.31 Retirement System. Upon receipt of the notice, the executive director shall transfer to the
8.32 employee's unclassified program account an amount equal to the employer and employee
8.33 contributions with six percent interest compounded annually from the general employees
8.34 retirement plan.

9.1 Sec. 7. Minnesota Statutes 2008, section 352D.02, subdivision 2, is amended to read:

9.2 Subd. 2. **Coverage upon employment change.** A person becoming a participant
9.3 in the unclassified program prior to July 1, 2009, by virtue of employment in a position
9.4 specified in subdivision 1, clause (4), and remaining in the unclassified service shall
9.5 remain a participant in the program even though the position the person occupies is
9.6 deleted from any of the sections referenced in subdivision 1, clause (4), by subsequent
9.7 amendment, except that a person shall not be eligible to elect the unclassified program
9.8 after separation from unclassified service if on the return of the person to service, that
9.9 position is not specified in subdivision 1, clause (4). Any person employed in a position
9.10 specified in subdivision 1 shall cease to participate in the unclassified program in the event
9.11 the position is placed in the classified service.

9.12 Sec. 8. Minnesota Statutes 2008, section 352D.02, subdivision 3, is amended to read:

9.13 Subd. 3. **Transfer to general employees retirement plan.** (a) An employee
9.14 hired before July 1, 2009, credited with employee shares in the unclassified program,
9.15 after acquiring credit for ten years of allowable service and not later than one month
9.16 following the termination of covered employment, may elect to terminate participation
9.17 in the unclassified program and be covered by the general employees retirement plan by
9.18 filing a written election with the executive director. The executive director shall then
9.19 redeem the employee's total shares and shall credit to the employee's account in the
9.20 general employees retirement plan the amount of contributions that would have been so
9.21 credited had the employee been covered by the general employees retirement plan during
9.22 the employee's entire covered employment. The balance of money so redeemed and not
9.23 credited to the employee's account shall be transferred to the general employees retirement
9.24 plan retirement fund, except that (1) the employee contribution paid to the unclassified
9.25 program must be compared to (2) the employee contributions that would have been paid to
9.26 the general employees retirement plan for the comparable period, if the individual had
9.27 been covered by that plan. If clause (1) is greater than clause (2), the difference must be
9.28 refunded to the employee as provided in section 352.22. If clause (2) is greater than
9.29 clause (1), the difference must be paid by the employee within six months of electing
9.30 general employees retirement plan coverage or before the effective date of the annuity,
9.31 whichever is sooner.

9.32 (b) An election under paragraph (a) to transfer coverage to the general employees
9.33 retirement plan is irrevocable during any period of covered employment.

9.34 Sec. 9. Minnesota Statutes 2008, section 352D.02, subdivision 4, is amended to read:

10.1 Subd. 4. **Start of coverage.** When any person hired before July 1, 2009, elects
 10.2 participation in the unclassified program all contributions from the time first eligible to
 10.3 make such an election shall be covered by the program.

10.4 Sec. 10. Minnesota Statutes 2008, section 352D.03, is amended to read:

10.5 **352D.03 TRANSFER OF ASSETS.**

10.6 Unless an eligible employee enumerated in section 352D.02, subdivision 1, has
 10.7 elected coverage under the individual retirement account plan under chapter 354B, a
 10.8 sum of money representing the assets credited to each employee exercising the option
 10.9 contained in section 352D.02, plus an equal employer contribution together with interest
 10.10 for the employment period at ~~the applicable preretirement interest actuarial assumption~~
 10.11 ~~rate during this period~~ six percent interest, compounded annually, must be used for the
 10.12 purchase of shares on behalf of each employee in the accounts of the supplemental
 10.13 retirement fund established by section 11A.17.

10.14 Sec. 11. Minnesota Statutes 2008, section 352D.04, subdivision 1, is amended to read:

10.15 Subdivision 1. **Investment options.** (a) A person exercising an option to participate
 10.16 in the retirement program provided by this chapter may elect to purchase shares in one or a
 10.17 combination of the income share account, the growth share account, the international share
 10.18 account, the money market account, the bond market account, the fixed interest account, or
 10.19 the common stock index account established in section 11A.17. The person may elect to
 10.20 participate in one or more of the investment accounts in the fund by specifying, ~~on a form~~
 10.21 in a manner provided by the executive director, the percentage of the person's contributions
 10.22 provided in subdivision 2 to be used to purchase shares in each of the accounts.

10.23 (b) A participant may indicate in ~~writing on forms~~ a manner provided by the
 10.24 Minnesota State Retirement System a choice of options for subsequent purchases of
 10.25 shares. Until a different written indication is made by the participant, the executive
 10.26 director shall purchase shares in the supplemental fund as selected by the participant. If no
 10.27 initial option is chosen, 100 percent income shares must be purchased for a participant.
 10.28 A change in choice of investment option is effective no later than the first pay date first
 10.29 occurring after 30 days following the receipt of the request for a change.

10.30 ~~(c) Shares in the fixed interest account attributable to any guaranteed investment~~
 10.31 ~~contract as of July 1, 1994, may not be withdrawn from the fund or transferred to another~~
 10.32 ~~account until the guaranteed investment contract has expired, unless the participant~~
 10.33 ~~qualifies for withdrawal under section 352D.05 or for benefit payments under sections~~
 10.34 ~~352D.06 to 352D.075.~~

11.1 ~~(d)~~ (c) A participant or former participant may also change the investment options
11.2 selected for all or a portion of the participant's shares previously purchased in accounts,
11.3 subject to the ~~provisions of paragraph (c) concerning the fixed interest account. Changes~~
11.4 ~~in investment options for the participant's shares must be effected as soon as cash flow to~~
11.5 ~~an account practically permits, but not later than six months after the requested change~~
11.6 trading restrictions imposed on the investment option.

11.7 Sec. 12. Minnesota Statutes 2008, section 352D.05, subdivision 4, is amended to read:

11.8 Subd. 4. **Repayment of refund.** (a) A participant in the unclassified program may
11.9 repay regular refunds taken under section 352.22, as provided in section 352.23.

11.10 (b) A participant in the unclassified program or an employee covered by the general
11.11 employees retirement plan who has withdrawn the value of the total shares may repay
11.12 the refund taken and thereupon restore the service credit, rights and benefits forfeited by
11.13 paying into the fund the amount refunded plus interest at an annual rate of 8.5 percent
11.14 compounded annually from the date that the refund was taken until the date that the refund
11.15 is repaid. If the participant had withdrawn only the employee shares as permitted under
11.16 prior laws, repayment must be pro rata.

11.17 (c) Except as provided in section 356.441, the repayment of a refund under this
11.18 section must be made in a lump sum.

11.19 Sec. 13. Minnesota Statutes 2008, section 352D.09, subdivision 7, is amended to read:

11.20 Subd. 7. **Administrative fees.** The board of directors shall establish a budget
11.21 and charge participants a fee to pay the administrative expenses of the unclassified
11.22 program. ~~Fees cannot be charged on contributions and investment returns attributable to~~
11.23 ~~contributions made before July 1, 1992. Annual total fees charged for plan administration~~
11.24 ~~cannot exceed 10/100 of one percent of the contributions and investment returns~~
11.25 ~~attributable to contributions made on or after July 1, 1992.~~