**S.F. 1676**

(Nienow)

H.F. 1928

(Nelson, P.)

Executive Summary of Commission Staff Materials

Affected Pension Plan(s): MSRS-Correctional

Relevant Provisions of Law:

General Nature of Proposal: Transfer of Past Service Credit to MSRS-Correctional;
MCF-Rush City Psychologist 2, Correctional Discipline Unit
Supervisor, Dental Hygienist

Date of Summary: January 23, 2006

Specific Proposed Changes

- Allows individuals at the Minnesota Correctional Facility at Rush City in the psychologist 2, correctional discipline unit supervisor, and dental hygienist positions to transfer similar past service to the MSRS-Correctional Plan for the period prior to the inclusion of the position in the MSRS-Correctional Plan on August 1, 2004.

Policy Issues Raised by the Proposed Legislation

1. Need for change.
2. Lack of Commission review of the initial transfer of prospective service.
3. Consistency with recent prior policy.
4. Implication of continuing recent policy given MSRS-Correctional plan condition.
5. Cost.
6. Possible other positions warranting correctional plan coverage.

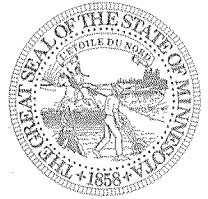
Potential Amendments

LCPR-S1676-A1 can be used if the Commission chooses to depart from the past policy of charging six percent interest on the employee contribution to receive the past service credit (the differential between the employee contribution in the General and Correctional plans during the applicable period).

LCPR-S1676-A2 is an effort to avoid harming the funding condition of MSRS-Correctional due to these transfers.

LCPR-S1676-A3, an alternative to LCPR-S1676-A2, sets the employer contribution proposed by the amendment at a level that would fund the new liabilities created by the transfer at the same level as the existing funding level.

LCPR-S1676-A4 removes the corrections discipline unit supervisor and the dental hygienist positions from the bill.



TO: Members of the Legislative Commission on Pensions and Retirement

FROM: Ed Burek, Deputy Director *EB*

RE: S.F. 1676 (Nienow); H.F. 1928 (Nelson, P.): MSRS-Correctional; Transfer of Past Service Credit to MSRS-Correctional; MCF-Rush City Psychologist 2, Correctional Discipline Unit Supervisor, Dental Hygienist

DATE: January 19, 2006

Summary of S.F. 1676 (Nienow); H.F. 1928 (Nelson, P.)

S.F. 1676 (Nienow); H.F. 1928 (Nelson, P) would allow individuals at the Minnesota Correctional Facility at Rush City in the psychologist 2, correctional discipline unit supervisor, and dental hygienist positions to transfer similar past service to the MSRS-Correctional Plan for the period prior to the inclusion of the position in the MSRS-Correctional Plan on August 1, 2004. The transfer of past service is authorized if the Commissioner of Corrections certifies that the past service was comparable to that now included under the plan. To receive the service credit, the individual must make a contribution to the Correctional Plan equal to the difference between the employee contributions required by the MSRS-Correctional Plan compared to the MSRS-General Plan for the applicable period, plus six percent interest.

General Background

The bill stems from a bill introduced in 2004 by Senator Nienow (S.F. 1578), which would have placed the psychologist 2 position at Rush City in the MSRS-Correctional Plan, prospectively, and allowed similar past service to be transferred from MSRS-General to MSRS-Correctional. The Legislative Commission on Pensions and Retirement did not hear the bill during the legislative session, but amendments were added to the Omnibus Pension Bill in the House Ways and Means Committee and in the Senate Finance Committee which placed several positions at Rush City (corrections discipline unit supervisor, dental hygienist, and psychologist 2) in MSRS-Correctional prospectively. The issue of transferring similar past service credit to the Correctional Plan was not addressed in those amendments or in the final resulting legislation.

MSRS-Correctional: Plan Purpose, Historical Overview

The creation of the MSRS-Correctional Plan in 1973 reflected an initiative to accelerate the retirement of the prior cadre of Minnesota prison guards, to upgrade the function and reliability of the security personnel at the State's correctional facilities, reflected in the renaming of the prison guards as correctional officers, to increase the pre-employment educational attainment of correctional personnel to match their upgraded job responsibilities, and to reduce the amount of contraband that was then entering correctional facilities from correctional employees.

MSRS-Correctional provides access to unreduced retirement benefits at much earlier ages than MSRS-General, provides a higher level of benefits than would occur under MSRS-General, and at least in more recent years, retirees of the MSRS-Correctional Plan are provided with employer-paid healthcare after retirement. By July 1976, MSRS-Correctional had an age 55 normal retirement age, coinciding with the imposition of a statutory early mandatory retirement age for correctional personnel covered by MSRS-Correctional. In contrast, the normal retirement age for MSRS-General was age 65.

The generous provisions of the MSRS-Correctional Plan create a strong motivation by employees to seek coverage by this plan rather than by MSRS-General, which leads to legislative pressure to expand the Correctional Plan. Since MSRS-Correctional was created in 1973, many positions have been added to the plan through legislation, and also through an authorized administrative process which permitted Commissioners in state government agencies to place positions in the Correctional Plan, following approval by the Legislative Advisory Commission and with input and review by the Legislative Commission on Pensions and Retirement. When the plan was created the initial plan membership was 677 active members. The most recent available information indicates there currently are 3,262 active members. A sizable portion of that growth reflects positions shifted to the plan over time, rather than general employment growth.

The MSRS-Correctional Plan was expanded to include additional positions in 1974, 1975, 1978, 1980, 1981, 1986, 1996, 1997, 1999, 2000, and 2004. The 2004 additions were due to amendments added to the Omnibus Pension Bill in the House Ways and Means Committee and in the Senate Finance Committee. These placed several positions at MCF-Rush City (corrections discipline unit supervisor, dental hygienist, and psychologist 2) in MSRS-Correctional prospectively. The issue of transferring similar past service credit to the Correctional Plan was not addressed in those amendments or in the resulting legislation.

More extensive information about the plan and its growth over time is provided in Attachment A.

Summary of the MSRS-Correctional Retirement Plan Benefit Plan

The Correctional State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-Correctional) is coordinated on a total plan basis with Social Security, a residual aspect of its history as an outgrowth of the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General). MSRS-Correctional is the first public safety retirement plan to be coordinated with Social Security and the benefit plan initially was built around that feature. To be coordinated with Social Security means that the individual pays into the Social Security Old Age Insurance Program for the correctional service, and when the individual eventually retires, the individual can expect to receive Social Security benefits in addition to any benefits from the applicable state retirement plan.

Because the individual has Social Security coverage for the given employment, the applicable state retirement plan for coordinated members tends to provide a lower benefit than for workers who do not have Social Security Old Age Insurance coverage, but the contribution requirements to the plan are also correspondingly lower. This plan design is in recognition that the individual will have an additional income source, from Social Security, in retirement. Thus, the benefit provided by MSRS-Correctional, which is coordinated, is lower than those provided by, for example, the State Patrol Retirement Plan, which provides coverage to State Patrol officers and which is not coordinated. However, MSRS-Correctional provides a considerably higher benefit than MSRS-General and other coordinated general employee plans. This is in recognition for the more hazardous service presumably provided by the Correctional Plan-covered employee, and to provide an adequate benefit prior to the commencement of Social Security benefits at age 62 or later. One issue, though, with the plan is whether it provides an overly generous benefit after age 62, when benefit payments from Social Security commence. Until 1997, the MSRS-Correctional Plan provided a considerable benefit until age 62, and then a somewhat lower benefit after that age to coincide with the start of Social Security benefits. In 1997 this tiered formula approach was ended, although the policy justification for the change is less than clear.

Under existing law, MSRS-Correctional retirement benefits provide a fixed portion of the high-five average salary for each year of covered service. That portion, called an accrual rate, is set in statute at 2.4 percent. Thus, to compute the benefit, the high-five average salary (the average salary for the five consecutive years that provides the highest average), is multiplied by the years of service and by the accrual rate. If a retiring plan member is age 55, the normal retirement age for this plan, and has a high-five average salary of \$48,000 with 25 years of service, then the annual retirement benefit is \$28,800 (which is equal to $\$48,000 \times 25 \times 2.4\%$). An individual seeking to retire from MSRS-General at age 55 (which is the earliest permitted retirement age under the General Plan), with the same years of service and the same salary, would have a much lower benefit. Much lower accrual rates would be used to compute the benefits, at most 1.7 percent per year of service rather than 2.4 percent. Also, a sizable further reduction would be taken under MSRS-General to compensate for the longer period during which the annuity would be paid compared to an individual who retires at age 65 or 66, the normal retirement age for the General Plan.

MSRS-Correctional Actuarial Condition

Transfers of past coverage into MSRS-Correctional, like that proposed by the bill, is likely to negatively impact the plan by adding more liabilities to the plan than the plan gains in assets. Although this impact may not be significant if a few individuals have coverage transferred, the Commission may be concerned about the continuing long-term trend, which began in the early 1970s, of transferring additional positions into this plan.

The MSRS-Correctional Plan's actuarial condition according to the July 1, 2005, actuarial report is shown below. According to that report, the plan is about 92 percent funded, but to keep the fund healthy and to retire all unfunded obligations by the full funding date the contribution rate would need to be increased by 4.04 percent of payroll. Although the information below does indicate that the contribution rates for this fund are not sufficient to keep the fund healthy in the long term, the amount of the shortfall is

considerably understated. Based on a recent experience study for the plan, the Commission recently approved revised actuarial assumptions for this plan. That approval occurred too late to be used for the 2005 actuarial study. The revised assumptions assume less turnover than previously, longer life expectancies, and more disability, all factors leading to increased liabilities and increased contribution rate requirements. In part based on that studies results, the Commission recently heard S.F. 997 (Betzold, by request); H.F. 1753 (Wardlow), which if enacted would increase employee and employer contribution rates by a combined total of 7.03 percent of payroll.

MSRS-Correctional

	2005	
<u>Membership</u>		
Active Members		3,607
Service Retirees		1,025
Disabilitants		150
Survivors		104
Deferred Retirees		738
Nonvested Former Members		<u>351</u>
Total Membership		5,975
<u>Funded Status</u>		
Accrued Liability		\$546,117,680
Current Assets		<u>\$503,573,272</u>
Unfunded Accrued Liability		\$42,544,408
Funding Ratio	92.21%	
<u>Financing Requirements</u>		
Covered Payroll		\$147,385,402
Benefits Payable		\$19,025,766
Normal Cost	15.01%	\$22,111,459
Administrative Expenses	<u>0.20%</u>	<u>\$294,771</u>
Normal Cost & Expense	15.21%	\$22,406,230
Normal Cost & Expense	15.21%	\$22,406,230
Amortization	<u>2.50%</u>	<u>\$3,684,635</u>
Total Requirements	17.71%	\$26,090,865
Employee Contributions	5.69%	\$8,386,229
Employer Contributions	7.98%	\$11,761,355
Employer Add'l Cont.	0.00%	\$0
Direct State Funding	0.00%	\$0
Other Govt. Funding	0.00%	\$0
Administrative Assessment	<u>0.00%</u>	<u>\$0</u>
Total Contributions	13.67%	\$20,147,584
Total Requirements	17.71%	\$26,090,865
Total Contributions	<u>13.67%</u>	<u>\$20,147,584</u>
Deficiency (Surplus)	4.04%	\$5,943,281
Amortization Target Date	2020	
Actuary	Segal	

Policy Issues

S.F. 1676 (Nienow); H.F. 1928 (Nelson) would allow individuals in psychologist 2, correctional discipline unit supervisor, and dental hygienist positions at Rush City to transfer similar past service to the MSRS-Correctional Plan for the period prior to the inclusion of the position in the MSRS-Correctional Plan on August 1, 2004. The transfer of past service is authorized if the Commissioner of Corrections certifies that the past service was comparable to that now included under the plan. To receive the service credit, the individual must make a contribution to the Correctional Plan equal to the difference between the employee contributions required by the MSRS-Correctional Plan compared to the MSRS-General Plan for the applicable period, plus six percent interest. In addition, the bill transfers from MSRS-General the funded portion of the MSRS-General benefit that had accrued.

Some policy issues raised by the bill are:

1. Need for Change. The issue is whether there is sufficient need to consider this issue. The Commission staff understanding is that the positions stated in the bills need revision, and that the only position to be considered is the psychologist 2 position. That would limit the bill coverage to a single individual and the amount of service credit to be transferred is also minimal, a few years. Because the individual is covered by MSRS-General for that service, the difference the bill would provide is that the individual would have MSRS-Correctional coverage rather than MSRS-General coverage for those few years. The Commission may conclude that minimal harm would occur if no action is taken.
2. Lack of Commission Review of the Initial Transfer of Prospective Service. The individuals covered by the current bill were placed in the MSRS-Correctional Plan due to amendments to the 2004 Omnibus Pension Bill in House Ways and Means and the Senate Finance committees. The bills were informally conferenced. The full Commission did not review and act on the specific proposal that placed these positions in the MSRS-Correctional Plan. Commission members may wish to consider whether the 2004 action to place this position in the MSRS-Correctional plan reflected good policy. If members have reservations about that coverage change, they might choose to not allow transfer past service to that plan.
3. Consistency with Recent Prior Policy. The issue is whether the treatment proposed in the bill is consistent with procedures used in similar past situations. The proposed treatment is generally consistent with recent prior policy. The review of past transfers of positions into MSRS-Correctional indicates that individuals often were authorized to transfer past service to MSRS-Correctional if that service was comparable to the service which is now covered by the plan. Requiring the employee to pay the differential between the MSRS-Correctional Plan employee contribution rate for those years and the corresponding MSRS-General rate has been used in several recent transfers, as indicated in the attachment to this memo. Also consistent with recent transfer legislation (for instance, the 1999 and 2000 legislation discussed in the attachment), upon payment of the additional employee contribution amount, assets equal to the funded portion of an individual's present value of benefits in MSRS-General relating to that past service are required to transfer to MSRS-Correctional.
4. Implication of Continuing Recent Policy Given MSRS-Correctional Plan Condition. While the proposed treatment in the bill is consistent with that which is generally used in similar situations in recent years, the Commission may wish to decide whether it wishes to continue that policy given the deteriorating MSRS-Correctional Plan actuarial condition. The transfers from MSRS-General seem designed to ensure that the General Plan is largely unchanged by the transfer, neither harming nor receiving any windfall gain. But the amount of that transfer (the funded portion of the individual's MSRS-General benefit) plus the additional employee contribution is unlikely to equal the additional liability that is created in the Correctional Plan because the Correctional Plan provides a higher benefit per year of service than the General Plan. Thus, additional unfunded liability is created. An alternative, provided by amendment LCPR-S1676-A2, is to add an employer charge so that total transfers plus payments equal the liability that is created. Fully covering these liabilities now avoids creation of unfunded liabilities.

The Commission may also wish to reconsider the continued use of six percent interest on the additional employee contribution amount. While use of six percent interest is consistent with recent prior practice with coverage transfers to MSRS-Correctional, it is less than the assumed 8.5 percent investment return of the retirement funds. In related situations, when the Commission has heard bills for individuals who were denied service credit in a plan due to employer error, the Commission has generally charged the employee with 8.5 percent interest on the additional employee contribution, while the employer was required to pay the remainder of the full actuarial value. The Commission may choose to be guided by the 8.5 percent interest approach in dealing with additional employee contributions for coverage transfers between the MSRS-General and MSRS-Correctional plans.

5. Cost. The issue is the cost in the form of additional liabilities to MSRS-Correctional which are unlikely to be covered by the assets received. The Commission may wish to hear brief testimony from the Dave Bergstrom, Executive Director of the Minnesota State Retirement System (MSRS), to determine whether he has concerns about the process.
6. Possible Other Positions Warranting Correctional Plan Coverage. The Commission may wish to consider if there are other positions at the Rush City correctional facility which ought to have Correctional Plan coverage. A concern raised in 2004 was that the Department of Corrections had not systematically reviewed MCF-Rush City positions to determine which positions ought to be covered

by MSRS-Correctional. If there are other Rush City positions that ought to be in MSRS-Correctional, the Commission may prefer to deal with those in a single action next year, rather than handling several legislative requests over the next several years.

Amendments

LCPR-S1676-A1. This amendment can be used if the Commission chooses to depart from the past policy of charging six percent interest on the employee contribution to receive the past service credit (the differential between the employee contribution in the General and Correctional plans during the applicable period). Under the amendment, the individual would pay 8.5 percent interest rather than six percent interest. This 8.5 percent rate is the assumed rate of return on retirement plan assets.

LCPR-S1676-A2. This amendment is an effort to avoid harming the funding condition of MSRS-Correctional due to these transfers. Under the amendment, an employer contribution is added, so that with this employer payment, plus the asset transfer and the employee contribution required under the bill, the Correctional Plan will receive the full actuarial value of the service credit purchase. This employer contribution would be paid by the Department of Corrections.

An argument can be made that the procedure proposed in this amendment will overcompensate the fund if the fund is less than fully funded. If the fund were 80 percent funded, then the fund has sufficient assets to cover 80 percent of the liabilities, but under this amendment, the fund will receive additional assets to fully fund the additional liability created due to the transfer. The funding ratio of the fund as a whole, therefore, is incrementally improved under this process.

LCPR-S1676-A3. This amendment is an alternative to LCPR-S1676-A2. Under LCPR-S1676-A3, the employer contribution proposed by the amendment is set at a level that would fund the new liabilities created by the transfer at the same level as the existing funding level. If the benefits for the fund's active members are 80 percent funded, the employer would pay an additional contribution only if the assets received through the employee contribution plus the asset transfer from the General Plan are insufficient to fund 80 percent of the liabilities created by the transfer.

A policy issue with both LCPR-S1676-A2 and LCPR-S1676-A3 are that by creating an employer contribution, they will place some financial burden on the employing unit.

We were told after the April 1, 2005, Commission meeting that an amendment may be needed to restrict coverage under the bill to the psychologist 2 position. This can be done using the following amendment.

LCPR-S1676-A4. This amendment removes the corrections discipline unit supervisor and the dental hygienist positions from the bill.

Attachment A

MSRS-Correctional Plan History and Development

1. Pre-1973 Correctional State Employee Retirement Coverage. Before 1973, all employees of the Department of Corrections were covered by a general employee plan, the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General). MSRS-General is a defined benefit plan and is coordinated with the federal Social Security program since 1957. This means that individuals pay into the Social Security Old Age Insurance Program for the MSRS-General-covered service and when they retire they expect to be eligible for Social Security benefits in addition to any MSRS-General benefit to which they are entitled.
2. 1973 Creation of the MSRS-Correctional Retirement Plan. The Correctional State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-Correctional) was established in 1973 as a result of collective bargaining by the State of Minnesota with the American Federation of State, County and Municipal Employees, Council 6, and the resulting implementing legislation (Laws 1973, Chapter 653, Sections 39 to 44). The membership of the 1973 plan was limited to a small number of employees of the Department of Corrections or of the Department of Public Welfare (now Human Services), as follows:

Attendant Guard	Director of Attendant Guards
Attendant Guard Supervisor	Guard Farmer Garden
Correctional Captain	License Plant Manger
Correctional Counselor I	Prison Industry Foreman
Correctional Counselor II	Prison Industry Supervisor
Correctional Counselor III	Food Service Manager
Correctional Counselor IV	Prison Farmer Supervisor
Correctional Lieutenant	Prison Farmer Assistant Supervisor
Correctional Officer	Rehabilitation Therapist
Correctional Sergeant	

Pre-July 1, 1973, service in a covered position was generally transferred from MSRS-General.

3. 1974 Membership Expansion of the MSRS-Correctional Retirement Plan. The first MSRS-Correctional Plan expansion occurred in 1974 (Laws 1974, Chapter 520). Following Legislative Commission on Pensions and Retirement interim hearings, the Legislature authorized an expansion in the plan membership to include special teachers, trades personnel, and maintenance personnel at the Minnesota Correctional Facility-Stillwater, the Minnesota Correctional Facility-St. Cloud, and the Minnesota Correctional Facility-Shakopee. The special teachers, trades personnel, and maintenance personnel transferred to coverage by the MSRS-Correctional Retirement Plan were those certified by the then newly created Commissioner of Personnel (now Commissioner of Employee Relations) as being regularly engaged in the rehabilitation, treatment, custody, or supervision of inmates. Credit for past applicable correctional employment, including employment as a special schools counselor or a shop instructor, was transferred to the MSRS-Correctional Retirement Plan. For correctional teachers covered by TRA, a transfer of past member, employer regular, and employer additional contributions from TRA accompanied the service credit transfer.

The Commission hearings leading to the 1974 expansion focused primarily on the safety hazards reportedly suffered by these State employees from inmates and the public safety-related rationale of the need to maintain a particularly vigorous workforce through emphasizing an early age normal retirement. The 1974 expansion of the plan increased its active membership by 60, to 737.

4. 1975-1978 MSRS-Correctional Retirement Plan Coverage Changes. In 1975 (Laws 1975, Chapter 230, Section 1), following complaints from correctional personnel facing imminent early retirement, the mandatory retirement age for MSRS-Correctional Plan active members was modified by allowing individuals who reached age 55 to remain employed and covered by the plan if medical examination supports the extension. The amendment reflected considerable disgruntlement by MSRS-Correctional Plan active members approaching the mandatory retirement age because the 1974 recession considerably reduced the second career employment prospects of the early retirees, especially when those members believed that they retained a physical capacity to continue to perform the employment position responsibilities.

Also in 1975 (Laws 1975, Chapter 368, Section 35), allowable service credit for prior State employment at a correctional facility as a farmer or a farmer manager by an MSRS-Correctional Plan

active member on July 1, 1973, was transferred to the plan. In 1978 (Laws 1978, Chapter 781, Section 2), institution educational administrators and institution educational supervisors at correctional facilities were included in the MSRS-Correctional Plan membership.

5. 1980 Additions. In 1980 (Laws 1980, Chapter 600, Sections 2, 3, 4, and 5), coverage by the MSRS-Correctional Plan was classified as applicable only to employees in adult correctional facilities, and post-June 1, 1980, employment as a special teacher, a tradesperson, or a maintenance person at the Minnesota Correctional Facility-Lino Lakes was included in MSRS-Correctional Plan coverage.
6. 1981-1986 MSRS-Correctional Retirement Plan Coverage Changes. In 1981 (Laws 1981, Chapter 297, Sections 3 and 4), service credit for pre-1981 State employment as a security guard by an MSRS-Correctional Plan member was transferred to the MSRS-Correctional Plan, with the payment of an additional contribution amount.

In 1986 (Laws 1986, Chapter 458, Sections 31 and 32), service credit for correctional employment rendered between 1973 and 1980, that was excluded from MSRS-Correctional Plan coverage because the person was age 45 or older upon hiring were given the option to elect MSRS-Correctional Plan coverage with the payment of an additional contribution amount.

7. 1996 MSRS-Correctional Retirement Plan Coverage Expansion. In 1996 (Laws 1996, Chapter 408, Article 8, Sections 10-17), various positions providing service at a correctional facility or the state security hospital were made newly eligible for Correctional Plan coverage, providing the employee has at least 75 percent inmate or patient contact. The groups added to the MSRS-Correctional Retirement Plan coverage were in 31 job classifications, including various special teachers, nurses, and individuals in a psychologist 3 position.

Incumbents in the State employment positions that were newly included in plan coverage were permitted to waive the coverage change and retain their prior coverage and incumbents were permitted to transfer any prior applicable State employment with the payment of an additional contribution amount. The MSRS-Correctional Plan member and employer contribution rates were increased to cover the cost of the coverage expansion. By July 1, 1996, the plan active membership had increased to 2,264.

8. 1997 MSRS-Correctional Retirement Plan Coverage Changes. In 1997 (Laws 1997, Chapter 239, Article 9, Sections 40 and 41; Laws 1997, Chapter 241, Article 11), certain individuals at the Minnesota sexual psychopathic personality treatment center and individuals in certain employment classifications at the Minnesota correctional facility at Red Wing (auto mechanic lead, electrician, electrician master of record, groundskeeper intermediate, or plumber master) were added to an uncoded 1996 coverage election law authorizing a prospective coverage by the MSRS-Correctional Plan rather than continued MSRS-General coverage, with the deadline for making an election set at December 31, 1997. The individuals who transferred prospective coverage to MSRS-Correctional were authorized to elect to transfer prior state service if that service would have been eligible for current MSRS-Correctional coverage, with a deadline of December 31, 1997.
9. 1999 MSRS-Correctional Retirement Plan Coverage Changes. In 1999 (Laws 1999, Chapter 222, Article 13), nine positions in the Minnesota Extended Treatment Options Program (METO), located at the Cambridge Regional Treatment Center and operated by the Department of Human Services, were included in MSRS-Correctional Retirement Plan coverage if the positions are certified by the Commissioner of Human Services as having at least 75 percent direct patient contact. The Minnesota Extended Treatment Options Program is a statewide program for adults who have developmental disabilities and who exhibit severe behaviors that present a risk to public safety. The nine job classifications added to MSRS-Correctional Retirement Plan coverage included the psychologist 2 position in the METO program.

Individuals who gained prospective MSRS-Correctional Plan coverage were allowed to elect to transfer past METO service to MSRS-Correctional, back to July 1, 1997, providing that the service was in one of the specified positions and the 75 percent inmate contact requirement was met. To transfer past service coverage, the employee was required to pay the difference between the employee contribution paid to MSRS-General and the employee contribution that would have been paid to MSRS-Correctional, if coverage by that plan had been provided during that time period, plus six percent interest. If the member made payment, MSRS was required to transfer from MSRS-General to MSRS-Correctional the funded portion of the benefit that accrued during that period. The transfer involved 115 State employees, including 90 Human Services Support Specialists. The 1999 METO

transfer also involved the transfer of several part-time employees to MSRS-Correctional Retirement Plan coverage, which was perhaps the first large-scale introduction of part-time employees into Minnesota public safety retirement plan coverage.

10. 2000 MSRS-Correctional Retirement Plan Coverage Changes. In 2000 (Laws 2000, Chapter 461, Article 6, Sections 1 to 4 and 6), several positions in the Department of Corrections and the Department of Human Services were included in the MSRS-Correctional Retirement Plan if the applicable Commissioner certified that at least 75 percent of the employee's working time was spent in direct inmate or patient contact. The applicable positions included psychologist 2 positions at the Faribault, Lino Lakes, Moose Lake, Oak Park Heights, Red Wing, Saint Cloud, Shakopee, and Stillwater correctional facilities.

Individuals who newly gained MSRS-Correctional Retirement Plan coverage were permitted to have comparable past service, if continuous and if performed after June 20, 1975, transferred to MSRS-Correctional. To transfer the past service credit, the individuals were required to have paid in a lump sum by June 30, 2002, the difference for the applicable period between the MSRS-Correctional employee contribution and the employee contributions paid to MSRS-General, plus six percent interest. Upon payment, assets equal to the individual's present value of benefits in MSRS-General were required to be transferred to MSRS-Correctional. The Department of Corrections and the Department of Human Services were required to cover the expense of computing the proper transfer amounts. The transferred positions were the various Department of Corrections and Department of Human Services employees who were recommended for administrative transfer during 1999, who were formally reviewed by the Legislative Commission on Pensions and Retirement in December 1999, but who were not subsequently approved by the Legislative Advisory Commission.

11. 2004 MSRS-Correctional Plan Coverage Changes. Amendments were added to the Omnibus Pension Bill in the House Ways and Means Committee and in the Senate Finance Committee placing several positions at Rush City (corrections discipline unit supervisor, dental hygienist, and psychologist 2) in the Correctional Plan prospectively. The issue of transferring similar past service credit to the Correctional Plan was not addressed in those amendments or in the resulting legislation.
12. Administrative Process for Adding Positions. In 1980 an administrative process was created which could place positions in the plan. The provision was intended to allow for plan expansions between legislative sessions when there was an urgency to do so. Over time, considerably over 100 positions were added to the plan through this process. Some of the bills mentioned above served to add to statute some of the positions that had previously been included in the plan through this administrative process.

The process, which was coded as Minnesota Statutes, Section 352.91, Subdivision 4, authorized the Commissioner of Employee Relations to certify additional positions to the MSRS-Correctional Plan. To be eligible for inclusion, the position had to be recommended to the Commissioner of Employee Relations for inclusion by the Commissioner of Corrections or the Commissioner of Human Services, whichever applies, the Commission had to be notified of the proposed change and provide comments on the proposal, and the Legislative Advisory Committee had to provide approval.

This administrative provision was problematic. Later reviews indicated that the process specified in law was not properly followed. The Corrections and Human Services commissioners were not using consistent standards for inclusion, and various positions recommended by the Commissioners for inclusion seemed inconsistent with the notion that this retirement plan should be limited to individuals who were at high risk due to their employment. In the laws governing the plan, this is generally reflected, although quite imperfectly, through a requirement that the included position must have direct contact with inmates for at least 75 percent of working time. The Legislature attempted to address these issues in 1987, when the law was amended to require that the Commissioner of Human Services and Commissioner of Corrections establish written criteria for basing a recommendation for plan inclusion. This may have helped but did not resolve all problems. Another issue that arose was that numerous positions were added to the plan without Commission review or commentary, and in some cases possibly without Legislative Advisory Commission approval. A review of the situation indicated 50 cases where the Commission was not notified. Positions that were added to the plan through this administrative process without the required Commission input included the first psychologist 2 positions added to the plan. In 2000, this administrative provision was repealed, although there remains some current interest in reviving the process.

- 1.1 M moves to amend S.F. No. 1676, H.F. No. 1928, as follows:
- 1.2 Page 2, line 22, delete "six" and insert "8.5".

1.1 M moves to amend S.F. No. 1676, H.F. No. 1928, as follows:

1.2 Page 3, after line 21, insert:

1.3 "Subd. 6. **Required employer payment.** If an eligible employee pays the amount
1.4 required under subdivision 2, the executive director shall determine the full actuarial value
1.5 of the service credit transfer, under assumptions specified in section 356.551. From this
1.6 full actuarial value amount, the executive director shall subtract the amount paid by the
1.7 eligible individual under subdivision 2, and subtract the amount of the asset transfer under
1.8 subdivision 3. The remainder, if a positive amount, shall be billed to the Department of
1.9 Corrections, which must pay this amount within 30 days of notification by the executive
1.10 director."

1.1 M moves to amend S.F. No. 1676, H.F. No. 1928, as follows:

1.2 Page 3, after line 21, insert:

1.3 "Subd. 6. **Required employer payment.** If an eligible employee pays the amount
1.4 required under subdivision 2, the executive director shall determine the full actuarial value
1.5 of the service credit transfer, under assumptions specified in section 356.551. This full
1.6 actuarial value amount must be multiplied by the accrued liability funding ratio for active
1.7 correctional plan employees. From this amount, the executive director shall subtract
1.8 the amount paid by the eligible individual under subdivision 2, and subtract the amount
1.9 of the asset transfer under subdivision 3. The remainder, if a positive amount, shall be
1.10 billed to the Department of Corrections, which must pay this amount within 30 days of
1.11 notification by the executive director."

- 1.1 M moves to amend S.F. No. 1676, H.F. No. 1928, as follows:
- 1.2 Page 1, line 15, delete "corrections discipline unit"
- 1.3 Page 1, line 16, delete "supervisor, dental hygienist, or"
- 1.4 Amend the title accordingly

Senator Nienow introduced--

S.F. No. 1676: Referred to the Committee on State and Local Government Operations.

1 A bill for an act

2 relating to retirement; authorizing purchase of prior
3 service credit in the correctional employees
4 retirement plan of the Minnesota State Retirement
5 System for prior corrections discipline unit
6 supervisor, dental hygienist, and psychologist 2
7 service at the Minnesota Correctional Facility-Rush
8 City.

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

10 Section 1. [PURCHASE OF PRIOR SERVICE CREDIT FOR SELECTED
11 RUSH CITY POSITIONS.]

12 Subdivision 1. [PURCHASE OF PRIOR SERVICE CREDIT.] (a) An
13 employee who has retirement coverage under the correctional
14 employees retirement plan of the Minnesota State Retirement
15 System for employment as a corrections discipline unit
16 supervisor, dental hygienist, or psychologist 2 at the Minnesota
17 Correctional Facility-Rush City, under Minnesota Statutes 2004,
18 section 352.91, subdivision 3g, may elect to purchase prior
19 service credit for eligible state service with the Department of
20 Corrections as defined in paragraph (b) performed before the
21 first day of the first full pay period beginning on or after
22 August 1, 2004. If an eligible employee elects to purchase
23 prior service credit under this section, all eligible prior
24 service credit must be purchased.

25 (b) For purposes of this section, eligible state service
26 with the Department of Corrections is any prior period of
27 continuous service performed as an employee of the Department of

Corrections that would have been eligible for correctional employees retirement plan coverage under Minnesota Statutes 2004, section 352.91, subdivision 3g, if that prior service had been performed after the first day of the first full pay period beginning after August 1, 2004, rather than before that date. Service is continuous if there has been no period of discontinuation of eligible state service for a period greater than 180 calendar days.

(c) The commissioner of corrections shall certify eligible state service, if any, under this section to the executive director of the Minnesota State Retirement System.

(d) An eligible employee under this section is entitled to purchase the applicable prior service credit if the department certifies that the employee met the eligibility requirements for coverage.

Subd. 2. [REQUIRED EMPLOYEE CONTRIBUTION.] (a) An eligible employee electing to purchase prior service credit under subdivision 1 must pay an additional employee contribution for that prior service credit. The additional member contribution is the contribution differential percentage applied to the actual salary paid to the employee during the period of the prior eligible state service, plus interest at the rate of six percent per annum, compounded annually. The contribution differential percentage is the difference between the employee contribution rate of the correctional employees retirement plan and the applicable employee contribution rate of the general state employees retirement plan during the prior eligible state service period.

(b) The additional member contribution must be paid only in a lump sum. Payment must accompany the election to obtain prior service credit. No election of payment may be made by the person or accepted by the executive director after June 30, 2006.

Subd. 3. [TRANSFER OF ASSETS.] If full payment is made under subdivisions 1 and 2, assets must be transferred from the general employees retirement plan to the correctional employees retirement plan, in an amount equal to the present value of

benefits earned under the general employees retirement plan for each applicable eligible employee transferring to the correctional employees retirement plan for the period being transferred, multiplied by the accrued liability funding ratio for active general plan employees, as determined by the actuary retained under Minnesota Statutes, section 356.214, and in accordance with Minnesota Statutes, section 356.215. The transfer of assets must be made within 45 days after the eligible employee elects under this section to transfer prior service to the correctional employees retirement plan.

Subd. 4. [EFFECT OF THE ASSET TRANSFER.] Upon transfer of assets in subdivision 3, applicable service credit in the general state employees plan of the Minnesota State Retirement System is forfeited and may not be reinstated. The service credit and transferred assets must be credited to the correctional employees retirement plan.

Subd. 5. [PAYMENT OF ACTUARIAL CALCULATION COSTS.] The expense of the actuary retained under Minnesota Statutes, section 356.214, attributable to the calculations under subdivision 3, must be paid by the Department of Corrections within 30 days after the request for payment by the actuary.

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective on the day following final enactment.