



H.F. 3082
(Murphy, M.)

S.F. 2720
(Betzold)

Executive Summary of Commission Staff Materials

Affected Pension Plan(s): MSRS-Correctional
Relevant Provisions of Law: Minnesota Statutes, Section 352.91, Subdivision 3d
General Nature of Proposal: Adds two occupational positions to plan coverage
Date of Summary: March 3, 2008

Specific Proposed Changes

- Adds two occupational positions (one with an incumbent and one unfilled) in the Department of Corrections to the Correctional State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-Correctional) based on a statutory internal review process

Policy Issues Raised by the Proposed Legislation

1. Adequacy of MSRS-Correctional eligibility assessment/determination process.
2. Extent of actual inmate contact in the recommended inclusions.
3. Extent of compliance with other historic plan coverage eligibility requirements.
4. Actuarial condition of MSRS-Correctional; need for additional contribution increases.

Potential Amendments

H3082-1A would phase in additional needed contribution increases through 2010

H3082-2A would phase in additional needed contribution increases through 2012



TO: Members of the Legislative Commission on Pensions and Retirement
FROM: Lawrence A. Martin, Executive Director *JAM*
RE: H.F. 3082 (Murphy, M.); S.F. 2720 (Betzold): MSRS-Correctional; Department of Corrections Recommendations for Plan Coverage Expansion
DATE: March 3, 2008

Summary of H.F. 3082 (Murphy, M.); S.F. 2720 (Betzold)

H.F. 3082 (Murphy, M.); S.F. 2720 (Betzold) amends Minnesota Statutes 2007 Supplement, Section 352.91, Subdivision 3d, the specification of various Department of Corrections personnel for coverage by the Correctional State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-Correctional) by setting forth covered positions in separate numbered classes for ease of reference and citation, by adding two employment positions to plan coverage, involving one incumbent, and by authorizing the transfer of past qualifying Department of Corrections employment service credit in the MSRS General State Employees Retirement Plan (MSRS-General) to MSRS-Correctional for the transferred incumbent Department of Corrections employee.

Background Information

Relevant background information is set forth in the following attachments:

- A. Attachment A summarizes the development of the Correctional State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-Correctional).
- B. Attachment B summarizes the information generally available on the correctional facilities operated by the Department of Corrections.
- C. Attachment C contains Minnesota Statutes 2007 Supplement, Section 352.91, Subdivision 4b, the Department of Corrections procedure for recommending MSRS-Correctional Plan membership changes.
- D. Attachment D contains information on the 2007 MSRS-Correctional coverage change asset transfer and additional payment obligation legislation.

Discussion and Analysis

H.F. 3082 (Murphy, M.); S.F. 2720 (Betzold) would expand the coverage of the Correctional State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-Correctional) by two occupational positions and by one additional Department of Corrections employee, pending the filling of a newly created employment position, and permits the incumbent Department of Corrections employee to transfer past service credit for the person in the position in the MSRS General State Employees Retirement Plan (MSRS-General) with additional member and employer payments.

The proposed legislation raises numerous pension and related public policy issues for consideration and potential discussion by the Commission, as follows:

1. Adequacy of the Assessment/Determination Process. The policy issue is the adequacy of the process implemented by the Department of Corrections for identifying departmental employment positions for potential inclusion in the Correctional Employees Retirement Plan of the Minnesota State Retirement System (MSRS-Correctional) and its determination of positions for recommendation to the Legislature. Since the MSRS-Correctional Plan was first expanded beyond prison guards and security hospital guards in 1974, both explicit statutory requirements for coverage and historic requirements for coverage have been utilized by the Commission and by the Legislature to decide which occupational positions to include in the plan coverage. If the department has internalized both the statutory and the historic criteria and has seriously and rigorously implemented those criteria in making these recommendations, the Commission and the Legislature can rely on that process without any extensive or intensive scrutiny of the recommendations. This is the third year that the department has undertaken these formal reviews with a recommendation of statutory coverage changes, with the internal process still likely to be in its formative stages or subject to refinement. The process utilized by the Department of Corrections is governed by Minnesota Statutes, Section 352.91, Subdivision 4b, set forth in Attachment C. The

Commission should consider taking sufficient testimony from the department and collective bargaining representatives to gain a comfort level about the department's seriousness, rigor, and conformity to explicit and historic special retirement plan coverage standards in its process.

2. Extent of Actual Inmate Contact in the Recommended Inclusions. The policy issue is whether or not the two occupational positions (General Maintenance Worker Lead at MCF-Oak Park Heights and Painter Lead at MCF-Lino Lakes) and the one incumbent in the General Maintenance Worker Lead position recommended by the department actually engage in the required 75 percent of working time direct inmate contact requirement contained in Minnesota Statutes, Section 352.91. The Commission staff reviewed each supplied job description and assessed the job description percentage attribution elements for inmate contact. The Department of Corrections descriptions have improved since 2007, now including a specific indication of the extent of direct inmate contact for each employment responsibility element. While the Commission staff appraisal of the job descriptions is not a substitute for the rigorous process that the department was required to utilize in making its recommendations, the analysis does allow the Commission to focus on those recommendations that might be borderline qualified or actually unqualified. Based on the job description appraisal of the extent of inmate contact, the Commission staff recommends that the Commission take additional testimony or additional appropriate steps to verify the extent of actual contact for both recommended occupational positions.

For the General Maintenance Worker Lead position, there are five responsibility areas that appear to be particular to the position and four highly generalized responsibility areas (i.e., applicable 100 percent of employment time and without any inmate contact designation), with the particular responsibility areas indicating a percentage of total employment time with inmate contact and the percentage of total employment time without inmate contact. While the General Maintenance Worker Lead position job description indicates 80 percent inmate contact, the contact/non-contact percentages for responsibility areas 2 and 5 do not total correctly to the overall total percentage (i.e., area 2 indicates 75 percent of total time, with 70 percent inmate contact and no non-contact time and area 5 indicates 10 percent total time, with 10 percent inmate contact and 5 percent non-contact time) and the narrative for responsibility areas 2 and 5 are not necessarily consistent with the indicated inmate contact figure (i.e., area 2 has two of eight specified tasks with either no inmate contact or potentially nominal inmate contact and area 5 is a generic "other assigned duties as needed" without any specific inmate contact mentioned at all).

For the Painter Lead, where there is no incumbent and the job description is a prediction of the likely employee exposure, rather than any actual measurement of past occurrences or exposures, the job description indicates 80 percent inmate contact, with most inmate contact and most employment time involved in area 1, with some inmate contact assessed for each of the first four areas, but most of the narrative lacking any mention of inmate contact (i.e., for area 1, six of seven indicated tasks include no inmate references, for area 2, all three indicated tasks appear to involve paperwork duties solely, for area 3, all four indicated tasks are inventory or paperwork duties solely, and for area 4, all three indicated tasks are ordering or recordkeeping duties).

3. Extent of Compliance With Other Historic MSRS-Correctional Plan Coverage Requirements. The policy issue is the extent of compliance in its review by the Department of Corrections with the other coverage transfer requirements that the Commission has historically utilized. Since the Commission first reviewed demands from trades personnel and special teachers to be included in MSRS-Correctional Plan coverage in 1974, the Commission has considered as part of its consideration of potential MSRS-Correctional membership inclusion the questions of:
 - i. Intervention Responsibility. Whether or not the considered occupational position was responsible to intervene in the event of a facility incident;
 - ii. Employment Hazards – Workers Compensation Claim History. Whether or not the extent that workers' compensation claims support the notion that the hazards of the positions approximate that of a public safety position.
 - iii. Employment Hazards – Incumbent Related Time Lost History. Whether or not the extent that the position's duty days lost to incidents or employment hazards are consistent with a public-safety-like position.

The Commission staff requested from the Department of Corrections information on the compliance of the various occupational positions recommended for MSRS-Correctional Plan inclusion with these historic requirements. The Department of Corrections information indicated that both employment positions proposed for MSRS-Correctional inclusion have, as an employment requirement, the

obligation to intervene in the event of a facility incident. With respect to workers' compensation claims and with respect to lost work time from facility incidents or employment hazards, the department reported no workers' compensation claims and no lost employment time from incidents or employment hazards, because the General Maintenance Worker Lead incumbent has held the employment position only since mid-December, 2007, and the Painter Lead position is an unfilled position. Thus, the hazards of the employment positions are not independently substantiated and must be assessed from other indicators.

4. Actuarial Condition of MSRS-Correctional; Need for Additional Contribution Increases. The policy issue is the actuarial condition of the MSRS-Correctional Retirement Plan and any need for additional contribution increases to support the retirement plan. The following sets forth the July 1, 2005, July 1, 2006, and July 1, 2007, actuarial valuation results for the MSRS-Correctional Plan:

	2005		2006		2007	
<u>Membership</u>						
Active Members		3,607		3,910		4,332
Service Retirees		1,025		1,101		1,210
Disabilitants		150		168		174
Survivors		104		106		118
Deferred Retirees		738		817		851
Nonvested Former Members		<u>351</u>		<u>388</u>		<u>494</u>
Total Membership		5,975		6,490		7,179
<u>Funded Status</u>						
Accrued Liability		\$546,117,680		\$647,480,269		\$708,291,710
Current Assets		<u>\$503,573,272</u>		<u>\$535,356,819</u>		<u>\$583,318,116</u>
Unfunded Accrued Liability		\$42,544,408		\$112,123,450		\$124,973,594
Funding Ratio	92.21%		82.68%		82.36%	
<u>Financing Requirements</u>						
Covered Payroll		\$147,385,402		\$162,744,640		\$187,309,014
Benefits Payable		\$19,025,766		\$26,506,726		\$28,564,915
Normal Cost	15.01%	\$22,111,459	17.69%	\$28,786,714	17.68%	\$33,124,289
Administrative Expenses	<u>0.20%</u>	<u>\$294,771</u>	<u>0.21%</u>	<u>\$341,764</u>	<u>0.22%</u>	<u>\$412,080</u>
Normal Cost & Expense	15.21%	\$22,406,230	17.90%	\$29,128,478	17.90%	\$33,536,369
Normal Cost & Expense	15.21%	\$22,406,230	17.90%	\$29,128,478	17.90%	\$33,536,369
Amortization	<u>2.50%</u>	<u>\$3,684,635</u>	<u>5.44%</u>	<u>\$8,853,309</u>	<u>5.51%</u>	<u>\$10,320,727</u>
Total Requirements	17.71%	\$26,090,865	23.34%	\$37,981,787	23.41%	\$43,857,096
Employee Contributions	5.69%	\$8,386,229	5.69%	\$9,260,170	6.40%	\$11,987,777
Employer Contributions	7.98%	\$11,761,355	7.98%	\$12,987,022	9.10%	\$17,045,120
Employer Add'l Cont.	0.00%	\$0	0.00%	\$0	0.00%	\$0
Direct State Funding	0.00%	\$0	0.00%	\$0	0.00%	\$0
Other Govt. Funding	0.00%	\$0	0.00%	\$0	0.00%	\$0
Administrative Assessment	<u>0.00%</u>	<u>\$0</u>	<u>0.00%</u>	<u>\$0</u>	<u>0.00%</u>	<u>\$0</u>
Total Contributions	13.67%	\$20,147,584	13.67%	\$22,247,192	15.50%	\$29,032,897
Total Requirements	17.71%	\$26,090,865	23.34%	\$37,981,787	23.41%	\$43,857,096
Total Contributions	<u>13.67%</u>	<u>\$20,147,584</u>	<u>13.67%</u>	<u>\$22,247,192</u>	<u>15.50%</u>	<u>\$29,032,897</u>
Deficiency (Surplus)	4.04%	\$5,943,281	9.67%	\$15,734,595	7.91%	\$14,824,199

A phase-in of increased member and employer contributions was imposed over the period 2007-2010, but even with the contribution increases fully phased in, the plan has a contribution deficiency of some magnitude, as follows:

Normal Cost	17.68%	\$33,124,289
Administrative Expenses	0.22%	\$412,080
Amortization	<u>5.51%</u>	<u>\$10,320,727</u>
Total Requirements	23.41%	\$43,857,096
Employee Contributions	8.60%	\$16,108,575
Employer Contributions	<u>12.10%</u>	<u>\$22,664,391</u>
Total Contributions	20.70%	\$38,772,966
Total Requirements	23.41%	\$43,857,096
Total Contributions	<u>20.70%</u>	<u>\$38,772,966</u>
Deficiency (Surplus)	2.71%	\$5,084,130

To gain contribution equilibrium for the retirement plan, additional increases will be needed in the member and employer contribution rates to the retirement plan.

- **Amendment H3082-1A** would retain the current contribution increase phase-in period, until 2010, but increases each incremental increase to eliminate the contribution deficiency.
- **Amendment H3082-2A** would extend the contribution increase phase-in period from 2010 to 2012, with additional increments resulting in a sufficient total contribution in 2012.

Attachment A

Background and Historical Information on the Correctional State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-Correctional)

1. Pre-1973 Correctional State Employee Retirement Coverage. Before 1973, all employees of the Department of Corrections were covered by the State Employees Retirement Association (SERA) until 1967, and then by SERA's successor, the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General). MSRS-General's predecessor was established in 1929 (Laws 1929, Chapter 191).

MSRS-General has been a defined benefit plan since its creation 1929 and has been entirely coordinated with the federal Social Security program since 1957. At that time, coordination was available on an "all or none" basis. The then SERA members, by a majority vote on a Social Security referendum, chose coordination. At the same time, and on the same basis of all or none coverage, the other two statewide funds, the General Employee Retirement Plan of the Public Employees Retirement Association (PERA-General) and the Teachers Retirement Association (TRA), held similar referenda, which were rejected by the existing membership of those plans. TRA coordinated with Social Security in 1959 on a "split fund" basis, with the members who did not elect Social Security coverage placed in a phasing-out Basic program. In 1965-1967, PERA coordinated on a "split fund" basis.

The SERA/MSRS-General benefit plan has changed considerably since 1929. Significant plan changes have occurred in 1967, when retirement coverage and contributions were extended to a person's full salary (up to a limit of \$4,800 before 1965 and a limit of \$7,200 before 1967), in 1969, when the predecessor to the Minnesota Post Retirement Investment Fund was created, in 1973, when the calculation of retirement benefits shifted from a career average salary to the highest five successive years average salary and the benefit accrual rates were simplified and increased, in 1989, when the "Rule of 90" benefit tier was created, in 1992, when the Minnesota Post Retirement Investment Fund adjustment mechanism was revised, and in 1997, when the benefit accrual rates were increased to achieve "uniformity" among the various general employee retirement plans.

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 Manager
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 the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General), as was prior state employment as a houseparent, guard instructor, and guard farmer dairy. The identification of the state personnel for inclusion in the plan was made by the collective bargaining process and the administrations of the two affected departments. Although a separate retirement plan, MSRS-Correctional shared the State Employees Retirement Fund as its funding and investment mechanism until 1987, when a separate retirement fund was created for the MSRS-Correctional Retirement Plan. The creation of the MSRS-Correctional Retirement Plan, with an age 55 normal retirement age, coincided with the imposition of a statutory early mandatory retirement age for correctional personnel covered by MSRS-Correctional. Under Laws 1973, Chapter 653, Section 12, the previously applicable age 70 mandatory retirement age was reduced for correctional employees to age 65 as of July 1, 1974, to age 62 as of January 1, 1975, and phased down to age 55 as of July 1, 1976. The creation of the MSRS-Correctional Plan was part of 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. The initial active membership of the plan on July 1, 1973, was 677.

3. 1974 Membership Expansion of the MSRS-Correctional Retirement Plan. The initial expansion for the MSRS-Correctional Retirement Plan occurred in 1974 (Laws 1974, Chapter 520). Following Interim hearings by the Legislative Retirement Study Commission (renamed in 1975 the Legislative Commission on Pensions and Retirement) at the St. Cloud Reformatory and otherwise, 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 making it a conditional mandatory retirement age through age 65, with annual extensions beyond the mandatory age if a 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. Special teachers previously covered by the TRA Basic program had a TRA Basic program retirement annuity amount set as a floor benefit amount.

In 1978 (Laws 1978, Chapter 781, Section 2), institution educational administrators and institution educational supervisors at correctional facilities were included in MSRS-Correctional membership.

5. 1980 Addition of MSRS-Correctional Plan Covered Position Administrative Certification Process. In 1980 (Laws 1980, Chapter 600, Sections 2 through 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. Additionally, special authority was enacted for the Commissioner of Personnel (also renamed Employee Relations in 1980), upon the recommendation of the Commissioner of Corrections or the recommendation of the Commissioner of Public Welfare (subsequently renamed Human Services), whichever applies, the notification of and receipt of comments from the Legislative Commission on Pensions and Retirement, and the approval of the Legislative Advisory Committee, to certify additional civil service classifications in adult correctional facilities or in the Minnesota Security Hospital as covered by the MSRS-Correctional Retirement Plan. The provision was codified as Minnesota Statutes, Section 352.91, Subdivision 4. The provision was intended to allow for plan expansions between legislative sessions when there was an urgency to do so.
6. 1981-1987 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.

In 1987 (Laws 1987, Chapter 372, Article 1, Section 4), the 1980 administrative certification process for additional MSRS-Correctional Retirement Plan active members was amended to require both the Commissioner of Corrections and the Commissioner of Human Services to establish written criteria for basing a recommendation on certifying additional positions for MSRS-Correctional Retirement Plan membership to the Commissioner of Employee Relations.

7. 1980s MSRS-Correctional Plan Administrative Transfers. Before 1998, several transfers of retirement coverage to the Correctional State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-Correctional) were approved by the Commissioner of Employee Relations and implemented by MSRS without the receipt of Legislative Commission on Pensions and Retirement comments as required by Minnesota Statutes 1998, Section 352.91, Subdivision 4. Some or all of these past coverage changes may have been implemented without Legislative Advisory Commission approval also. Although the requested information was not gathered in a timely fashion, the Commission staff was provided with information for at least 48 recent retirement coverage transfers under Minnesota Statutes 1998, Section 352.91, Subdivision 4, that occurred without explicit Commission comment. The 48 transfers involved 19 employment classifications in six correctional facilities and two Department of Human Services' facilities.
8. 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, as follows:

Special Teacher in Juvenile Facilities	Dentist
Registered Nurse Senior	Electrician Supervisor
Registered Nurse	General Repair Worker
Registered Nurse-Principal	Library/Information Research Services Specialist
Licensed Practical Nurse 2	Plumber Supervisor
Baker	Psychologist 3
Chemical Dependency Counselor Supervisor	Recreation Therapist
Chief Cook	Recreation Therapist Coordinator
Cook	Recreation Program Assistant
Cook Coordinator	Recreation Therapist Senior
Corrections Behavior Therapist	Stores Clerk Senior
Corrections Behavior Therapist Specialist	Water Treatment Plant Operator
Corrections Parent Education Coordinator	Work Therapy Technician
Corrections Security Caseworker	Work Therapy Assistant
Corrections Security Caseworker Career	Work Therapy Program Coordinator
Corrections Teaching Assistant	

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. The transfer involved 54 special teachers, 70 nurses, and 277 other classifications of state employees. By July 1, 1996, the plan active membership had increased to 2,264.

9. 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.

10. Post-1996 Administrative Transfers to the MSRS-Correctional Plan. Under the 1980 administrative transfer provision, Minnesota Statutes 1998, Section 352.91, Subdivision 4, the Commission considered requests for the transfer of state employees to the MSRS-Correctional Retirement Plan on three instances – June 1998, June 1999, and December 1999. The June 1998 transfer request involved seven employees in five employment positions in four correctional facilities. The June 1999 transfer request involved a ratification of prior transfers of 51 employees in 20 employment positions in six correctional facilities and two Department of Human Services facilities and a transfer request that involved 39 employees in 10 employment positions and that involved 13 employment positions without incumbents in eight Department of Corrections facilities and two Department of Human Services facilities. The December 1999 transfer request involved 40 employees in 11 employment positions and one employment position without incumbents in eight Department of Corrections' facilities and two Department of Human Services' facilities. Except for the prospective transfers contained in the June 1999 transfer request, the Legislative Advisory Committee approved the transfers.
11. 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 were as follows:

- Behavior Analyst
- Human Services Support Specialist
- Mental Retardation Residential Program Lead
- Psychologist 2
- Recreation Therapist Senior
- Registered Nurse
- Skills Development Specialist
- Social Worker Senior

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 payment was made by the member, 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.

12. 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 were as follows:
- (a) registered nurse practitioner at a correctional facility or at the Minnesota Security Hospital;
 - (b) behavior analyst 2, licensed practical nurse 1, office and administrative specialist senior, psychologist 2, social worker specialist, behavior analyst 3, and social worker senior at the Minnesota Security Hospital or the Minnesota Sexual Psychopathic Personality Treatment Center;
 - (c) corrections discipline unit supervisor at Minnesota correctional facilities at Lino Lakes, Oak Park Heights, and St. Cloud;
 - (d) dental assistant registered, at Minnesota correctional facilities at Faribault, Lino Lakes, Moose Lake, Oak Park Heights, and Red Wing;
 - (e) dental hygienist, at the Minnesota correctional facility at Shakopee;
 - (f) psychologist 2, at the correctional facility at Faribault, Lino Lakes, Moose Lake, Oak Park Heights, Red Wing, St. Cloud, Shakopee, and Stillwater;

- (g) the sentencing-to-service crew chief leader involved with the inmate community work crew program at Faribault and Lino Lakes; and
- (h) director and assistant group supervisor of the former Phoenix/Pomiga treatment/behavioral change program at the Minnesota Correctional facility at St. Cloud.

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 must 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.

Additionally, Minnesota Statutes 1998, Section 352.94, Subdivision 4, which previously provided an administrative process for adding additional positions to the MSRS-Correctional Retirement Plan based on recommendations from the Commissioner of Human Services or Corrections, a review by the Legislative Commission on Pensions and Retirement, and approval by the Legislative Advisory Committee, was repealed.

13. 2003-2004 Interim Review of MSRS-Correctional Coverage Provisions. During the 2003-2004 Interim, the Commission staff made a detailed specific comparison of every employment position reported by MSRS as a member of MSRS-Correctional with the governing statutory provisions, indicated that there is a disparity between the MSRS-Correctional Plan membership eligibility provisions and the various Department of Corrections and Department of Human Services occupational positions then reported by MSRS as covered by the plan. The Commission staff analysis identified approximately five percent of the reported MSRS-Correctional Retirement Plan membership who lacked a clear statutory basis for inclusion in the plan. The problematic MSRS-Correctional Plan inclusions occurred where information on the employment position or employing facility was lacking, where there was no specific statutory inclusion authority, where there was ambiguous or unclear statutory authority for inclusion, where coverage authority for some employment positions was lacking for the Minnesota Sex Offender Program, where covered personnel were employed at a non-correctional/non-security facility, where reported job titles were incorrect, or where occupational titles have changed without statutory correction. The 2003-2004 Interim project resulted in the preparation of corrective legislation in 2004, which was not heard by the Commission due to opposition by affected employee organizations.
14. 2004 MSRS-Correctional Retirement Plan Coverage Changes. In 2004 (Laws 2004, Chapter 267, Article 1, Section 1), three additional positions in the Department of Corrections were included in the MSRS-Correctional Retirement Plan if the Commissioner of Corrections certified that at least 75 percent of the employee's working time was spent in direct inmate or patient contact. The positions were:
 - (a) corrections discipline unit supervisor at the Minnesota Correctional Facility-Rush City;
 - (b) dental hygienist at the Minnesota Correctional Facility-Rush City; and
 - (c) psychologist 2 at the Minnesota Correctional Facility-Rush City.

No transfer to the Correctional Employees Retirement Plan of the Minnesota State Retirement System (MSRS-Correctional) of any past service credit related to past employment in the affected position and covered by the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General) was permitted in the 2004 legislation, which resulted from a House Governmental Operations and Veterans Affairs Policy Committee amendment to the 2004 Omnibus Retirement Bill.

15. 2005 MSRS-Correctional Retirement Plan Coverage Transfer Request Process. In 2005 (First Special Session Laws 2005, Chapter 8, Article 4, Section 3), the Department of Corrections and the Department of Human Services were required to establish a procedure for recommending positions for Correctional Plan coverage, and for determining positions no longer qualified for inclusion under that plan. The evaluation must consider the extent of working time spent in direct contact with patients or inmates, the extent of the physical hazard, and the extent of intervention routinely expected by the employee in a facility incident. Positions may be recommended for inclusion if the individual routinely spends 75

percent of the employee's time in direct inmate contact and is regularly engaged in rehabilitation, treatment, custody, or supervision of inmates or patients. Any recommendations must be in the form of proposed legislation and be forwarded to the Chair of the Legislative Commission on Pensions and Retirement, the Executive Director of the Legislative Commission on Pensions and Retirement, the Chair of the House Government Operations and Veterans Affairs Policy Committee, and the Chair of the Senate Government Operations Committee. The recommendations must be received by January 15 to be considered during the upcoming Legislative Session. In the initial set of recommendations under the 2005 transfer request procedure, the Department of Corrections recommended the transfer of 11 positions, involving 36 employees, and the Department of Human Services recommended the transfer of 13 positions, involving 75 employees.

16. 2006 MSRS-Correctional Retirement Plan Coverage Changes. In 2006 (Laws 2006, Chapter 271, Article 2, Sections 2 through 12) 22 additional employment positions within the Department of Corrections or the Department of Human Services were added to Correctional Plan coverage. The corrections officer inclusion provision was updated to correct a reference to the Minnesota Sex Offender Program, to revise the correctional lieutenant title, and to add corrections canine officers. The maintenance and trades coverage provision was revised to add specific correctional industry personnel with a plan qualification requirement that 75 percent of the employee's working time be spent in inmate/patient contact. The nursing personnel inclusion provision was updated to correct the registered nurse advance practice title. The "other" correctional personnel inclusion provision was updated to correct title references for central services administrative specialist, intermediate, central services administrative specialists, principal, corrections program therapists 1, 2, and 3, and work therapy technician, and to add the positions of chaplain, corrections inmate program coordinator, corrections transition program coordinator, delivery van driver, general maintenance worker, laundry coordinator, library technician, psychologist 1, and sports medicine specialist. The Minnesota Extended Treatment Options Program covered personnel provision was expanded by adding the positions of behavior analysts 2 and 3, group supervisor, group supervisor assistant, social worker specialists, and speech pathology specialist. The Department Human Services covered personnel provision was expanded by adding the positions of behavior analyst 3, client advocate, dental assistant registered, group supervisor, group supervisor assistant, licensed practical nurse 1, occupational therapist, occupational therapist senior, skills development specialist, social worker specialist, social worker specialist senior, and speech pathology clinician, chemical dependency counselor senior, psychologist 1, psychologist 3, recreation program assistant, recreation therapist senior, rehabilitation counselor senior, work therapy assistant, and work therapy program coordinator. The Department of Corrections coverage provision was amended to make the positions of correctional discipline unit supervisor, dental assistant registered, dental hygienist, psychologist 2, and sentencing-to-service crew leader involved with the inmate community work crew program eligible for plan coverage, with 75 percent inmate contact, at all facilities. A procedure for retaining coverage following an occupational position name change and a procedure for retaining coverage following the transfer of personnel to a newly established correctional facility were established. The Department of Corrections procedure for recommending coverage changes was also codified. Past service credit was transferred for the laundry coordinators and delivery van drivers at the Minnesota Correctional Facility-Faribault and for the corrections discipline unit supervisor, dental hygienist, and psychologist 2 positions at the Minnesota Correctional Facility-Rush City.
17. 2007 MSRS-Correctional Retirement Plan Coverage Changes. In 2007 (Laws 2007, Chapter 134, Article 3), four ineligible Department of Corrections and one ineligible Department of Human Services occupational titles were removed from coverage and two Department of Corrections occupational titles (corrections program therapist 4 and plant maintenance engineer lead) and nine Department of Human Services Security Hospital or Sex Offender Program occupational positions (certified occupational therapy assistant 1, certified occupational therapy assistant 2, customer services specialist principal, human services support specialist, licensed alcohol and drug counselor, management analyst 3, recreation therapist lead, security supervisor, and special education program assistant) were added to plan coverage. An ongoing procedure was also established for transferring past service credit from the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General) to the MSRS Correctional State Employees Retirement Plan (MSRS-Correctional) and funding the additional actuarial liability resulting from the service credit transfer. An individual with service as a stores clerk from 1990 to 1994 at the Minnesota Correctional Facility-St. Cloud was authorized to transfer that past service from MSRS-General to MSRS-Correctional using the newly enacted transfer and payment process.
18. Attraction of MSRS-Correctional Retirement Plan Membership and Transfer Demands. The attraction of the MSRS-Correctional Plan for groups seeking this coverage is that the plan pays higher benefits

than a general employee plan and has an earlier normal retirement age. Because of the better benefits and earlier retirement age, the plan is more costly than a regular employee plan. The plan offers a hybrid of general employee plan and public safety plan features. MSRS-Correctional Plan members are coordinated members, unlike Public Employees Retirement Association Police and Fire Plan (PERA-P&F) members. Like a public safety plan, members can retire without a reduction for early retirement at age 55 or with a reduction at age 50. This annuity is computed using a 2.4 percent yearly service benefit accrual factor. Duty-related disability benefits are generous, typical of a public safety plan. The duty-related disability receives 50 percent of high five average salary, plus 2.4 percent of high five average salary for each year in excess of 20 years of allowable service. Also like a public safety plan, the MSRS-Correctional Plan uses an occupational definition of disability rather than the total impairment disability definition used by the MSRS-General Plan.

The premise for coverage by the MSRS-Correctional Plan is that certain employment positions in correctional or analogous security hospital or psychopathic personality treatment center service are sufficiently hazardous and there is sufficient need for a particularly vigorous workforce in these specific positions to warrant a separate plan with larger retirement benefits payable at an earlier normal retirement age.

Historically, about 85 percent of MSRS-Correctional Plan members are employees of the Department of Corrections and about 15 percent of MSRS-Correctional Plan members are employees of the Department of Human Services. The correctional facilities with the largest numbers of MSRS-Correctional Plan members are MCF-Stillwater, MCF-Lino Lakes, MCF-St. Cloud, and MCF-Faribault. The plan currently has 3,249 members in approximately 100 employment classifications. Correctional officers comprise the largest single occupational group covered by the plan.

Attachment B

Background Information on Department of Corrections Correctional Facilities in General

The Minnesota Department of Corrections was created in 1959 to consolidate state correctional functions into one agency. A service and regulatory agency, the department has a broad scope of activities and responsibilities.

The department currently operates ten correctional facilities, including eight for adults and two for juveniles. For adult offenders, a five-level classification system reflects the necessary level of control for offenders classified in each designation. Adult prison populations total approximately 9,200 inmates and juvenile residents number around 200. Department agents supervise nearly 17,000 adult and juvenile offenders on probation, supervised release, and parole. Through the state Community Corrections Act, the department also administers subsidy funds to units of local government for corrections program. The department is organized into three divisions:

- 1) The Facility Services Division, which oversees Health Services, MINNCOR Industries, Safety, Special Investigations, Government Relations, and Finance Services.
- 2) The Community Services Division, which oversees Administrative Services, Field Services, Information & Technology, and Policy & Legal Services.
- 3) The Support Services Division, which oversees the Office of Diversity, Strategic Planning, Restorative Justice, Best Practices, Employee Development, and Human Resource Management.

The department has approximately 4,000 employees working in facilities, field offices, the central office, and MINNCOR Industries.

All of the department's correctional institutions meet standards established by the American Correctional Association (ACA). The standards relate to all aspects of institutional operation. The department's central office, adult and juvenile release functions, and adult and juvenile field services also meet ACA standards.

Inmates in state facilities have access to a variety of work, education, and other program activities. MINNCOR Industries provides positive activities for inmates while they are incarcerated and develops work skills they can use in productive employment after release. Education programs focus on basic literacy instruction. Programs are also provided for sex offenders and chemically dependent inmates.

The adult inmate profile of the Department of Corrections as of June 2006 and as of June 2007 was as follows:

	2006		2007	
<u>Population</u>				
Males	8,466	93.96%	8,639	93.8%
Females	544	6.04%	575	6.2%
Total	9,010		9,214	
<u>Types of Offenses</u>				
Offense to Person	4,370	48.5%	4,486	48.7%
Drugs	2,039	22.6%	1,887	20.5%
Property	1,164	12.9%	1,186	12.9%
Weapons	412	4.6%	443	4.8%
DWI	525	5.8%	624	6.8%
Other/Not Reported	500	5.5%	588	6.3%
Total	9,010		9,214	
Average Age (in Years)	35.13		35.14	
Current Inmates Age 50 or Older	796	8.8%	866	9.4%
Current Inmates Under Age 18	11	0.1%	11	0.1%
MINNCOR Industry-Inmates Employed	1,218	13.5%	1,378	15.0%
<u>Race</u>				
White	5,211	57.8%	5,250	57.0%
Black	2,891	32.1%	3,004	32.6%
Indian	704	7.8%	740	8.0%
Asian	202	2.2%	215	2.3%
Unknown	2	0.0%	5	< 0.1%
Total	9,010		9,214	

Note: 625 of Hispanic ethnicity in 2006 and 653 of Hispanic ethnicity in 2007

	2006		2007	
<u>Education Level</u>				
Grades 0-8	439	4.9%	455	4.9%
Grades 9-11	2,175	24.1%	2,144	23.3%
High School Graduate	1,563	17.3%	1,487	16.1%
GED	2,234	24.8%	2,069	22.5%
College and Up	783	8.7%	807	8.8%
Other/Unknown	1,816	20.2%	2,252	24.4%
Total	9,010		9,214	
<u>Marital Status</u>				
Single	6,248	69.3%	6,497	70.5%
Married	1,278	14.2%	1,282	13.9%
Divorced/Separated	1,240	13.8%	1,226	13.3%
Other/Unknown	244	2.7%	209	2.3%
Total	9,010		9,214	
<u>County of Commitment</u>				
Hennepin	2,177	24.2%	2,285	24.8%
Ramsey	1,435	15.9%	1,391	15.1%
Dakota	397	4.4%	436	4.7%
St. Louis	838	4.3%	406	4.4%
Olmsted	323	3.6%	340	3.7%
Anoka	348	3.9%	362	3.9%
Other	3,947	43.8%	3,994	43.3%
Total	9,465		9,214	

Background Information: MCF-Oak Park Heights

The Minnesota Correctional Facility-Oak Park Heights opened in 1982, receives offenders transferred primarily from other adult male institutions who are classified as maximum custody or extreme risks to the public. The level five, maximum-security institution has a population of 440 (7/2007). The facility has nine self-contained complexes that can operate independently. Six are designed to house 52 inmates each where inmates participate in highly-structured programming including industry, education, and institutional housekeeping. The remaining three complexes contain the mental health, transitional health care, and administrative control units that serve adult male offenders departmentwide.

The MCF-Oak Park Heights warden is Jessica Symmes.

Background Information: MCF-Lino Lakes

The Minnesota Correctional Facility-Lino Lakes opened in 1963 and originally served as a juvenile facility. In 1978, the institution was remodeled and converted to a level three, medium-security facility for adult males transferred from the state's higher-security locations that are housed inside a secure perimeter. A level one, minimum-security unit is located outside the perimeter. The institution population is 1,284 (7/2007). The facility also is the primary department treatment center for sex offenders and provides prerelease programming for sex offenders released to the community. Chemical dependency programming is provided in TRIAD, a 290-bed therapeutic community. Additional programming is offered through educational and vocational classes, and work opportunities are available through support services. Lino Lakes is also the site of the InnerChange Freedom Initiative, a faith-based program funded and operated by Prison Fellowship through a partnership with the corrections department.

The MCF- Lino Lakes warden is Robert Feneis.

