



S.F. xxx

H.F. 1279
(Paymar)

Executive Summary of Commission Staff Materials

Affected Pension Plan(s): Correctional Employees Retirement Plan of the Minnesota State Retirement System (MSRS-Correctional)

Relevant Provisions of Law: Minnesota Statutes, Chapters 352 and 356

General Nature of Proposal: Implements a portion of the Governor's budget recommendations for the Department of Corrections and for the Department of Human Services

Date of Summary: March 12, 2009

Specific Proposed Change(s)

S.F. xxxx; H.F. 1279 (Paymar), Articles 3 and 4:

- amends Minnesota Statutes, Sections 352.72, Subd. 1, 352.90, 352.91, Subds. 1 and 3h, 352.93, Subd. 1, 2a, and 4, and by adding a subdivision, and 356.30, Subd. 1;
- repeals Minnesota Statutes 2008, Section 352.91, Subds. 2, 2a, 3c, 3d, 3e, 3f, 3g, 3i, 4a, 4b, and 5; and
- implements a portion of the Governor's budget recommendations for the Department of Corrections and for the Department of Human Services by reducing the number of employment positions covered by the MSRS-Correctional Retirement Plan and by increasing the service credit vesting requirement of the MSRS-Correctional Retirement Plan.

Policy Issues Raised by the Proposed Legislation

1. State General Fund budgetary impact.
2. Actuarial impact of the proposed MSRS-Correctional Retirement Plan membership reduction.
3. Appropriateness of reducing the retirement plan membership.
4. Appropriateness of plan membership changes for existing employees.
5. Consistency with Commission's Principles of Pension Policy.
6. Appropriateness of retirement vesting change to gain insurance benefit reform; intrusion into collectively bargained benefits.

Potential Amendments

No Commission staff amendments.



TO: Members of the Legislative Commission on Pensions and Retirement
FROM: Lawrence A. Martin, Executive Director *LAM*
RE: MSRS-Correctional Retirement Plan Changes Included in S.F. xxxx; H.F. 1279 (Paymar)
DATE: March 11, 2009

General Summary of Articles 3 and 4 of S.F. xxxx; H.F. 1279 (Paymar)

S.F. xxxx; H.F. 1279 (Paymar), Articles 3 and 4, amends Minnesota Statutes, Sections 352.72, Subdivision 1, 352.90, 352.91, Subdivisions 1 and 3h, 352.93, Subdivisions 1, 2a, and 4, and by adding a subdivision, and 356.30, Subdivision 1, repeals Minnesota Statutes 2008, Section 352.91, Subdivisions 2, 2a, 3c, 3d, 3e, 3f, 3g, 3i, 4a, 4b, and 5, and implements a portion of the Governor's budget recommendations for the Department of Corrections and for the Department of Human Services by making the following changes:

1. Covered Position Reductions. The current membership of the Correctional Employees Retirement Plan of the Minnesota State Retirement System (MSRS-Correctional Retirement Plan), based largely on the extent of regular direct inmate or patient contact (75 percent of employed time), would be reduced to a smaller number of employment positions that are considered to be "security" positions, with the "non-security" position employees transferred from the MSRS-Correctional Retirement Plan to the Minnesota State Retirement System General State Employees Retirement Plan (MSRS-General) for all future Department of Corrections or Department of Human Services employment (Article 3); and
2. Vesting Service Credit Requirement Increase/Medical Insurance Eligibility Reduction. The period of service credit required to vest for an MSRS-Correctional Retirement Plan retirement annuity would be increased from any combination of three years of Minnesota public employment including MSRS-Correctional Retirement Plan covered employment, to ten years solely of MSRS-Correctional Retirement Plan service credit, thereby reducing the number of early normal retirement age retirees who qualify for state-paid medical insurance from age 55 to age 62. MSRS-Correctional Retirement Plan members who terminate employment with less than ten years of MSRS-Correctional Retirement Plan service credit and who do not qualify for an MSRS-Correctional Retirement Plan retirement annuity would have their MSRS-Correctional Retirement Plan service transferred to MSRS-General with a refund to the employee of the amount by which MSRS-Correctional Retirement Plan member contributions exceeded the MSRS-General member contributions on the same salary plus six percent annual compound interest (Article 4).

Background Information on Relevant Topics

- **Attachment A** contains background information on the development of special retirement plan coverage for correctional and related employees of the State of Minnesota.
- **Attachment B** contains background information on Minnesota public pension plan allowable service credit and vesting requirements.

Discussion and Analysis

S.F. xxxx; H.F. 1279 (Paymar), Articles 3 and 4, relates to the membership in and vesting requirements of the Correctional Employees Retirement Plan of the Minnesota State Retirement System (MSRS-Correctional), and reduces the number of employment positions covered by the MSRS-Correctional Retirement Plan by 82 percent (constituting 42 percent of the total plan active membership) by restricting plan coverage to the various correctional officers employed by the Department of Corrections and to the security counselors employed by the Department of Human Services and by increasing the vesting period for the MSRS-Correctional Retirement Plan, either alone or in combination with any other Minnesota public retirement plan coverage through one of the two generally applicable portability mechanisms, from three years to ten years, with a transfer of service credit to MSRS-General and a refund of any contribution differential if the employment of the employee covered by the MSRS-Correctional Retirement Plan ends before achieving ten years.

The retirement-related portion of S.F. xxxx; H.F. 1279 (Paymar), Articles 3 and 4, raises a number of pension and related public policy issues for Commission consideration and potential Commission questions, as follows:

1. State General Fund Budgetary Impact. The policy issue is the extent of any State General Fund budgetary savings associated with the Correctional Employees Retirement Plan of the Minnesota State Retirement System (MSRS-Correctional Retirement Plan) membership reduction and retirement annuity vesting requirement increase. Based on the Governor's budget document (applicable portions attached), for the FY2010-FY2011 biennium, the recommendations are estimated to save \$6.1 million biennially for the Department of Corrections (\$5.2 million in retirement contributions and \$0.9 million in insurance premium costs) and \$4.5 million biennially for the Department of Human Services (\$4.4 million in retirement contributions and \$0.1 million in insurance premium costs). For the Department of Corrections, the recommended changes are a 0.61 percent budget reduction. Overall, the Department of Corrections budget for the FY2010-FY2011 biennium is not reduced. For the Department of Human Services, the recommended changes are a one percent of the Minnesota Sex Offender Program general fund budget reduction and a two percent Minnesota Security Hospital general fund budget reduction and are 0.32 percent of the Governor's recommended Department of Human Services \$1.4 billion biennial budget reduction.

2. Actuarial Impact of the Proposed MSRS-Correctional Retirement Plan Membership Reduction. The policy issue is the actuarial impact of the reduction in the membership of the MSRS-Correctional Retirement Plan (42 percent reduction of the plan membership and 82 percent reduction of the occupational titles covered by the retirement plan). Membership changes that are not de minimis in number have impacts on retirement plan funding, changing the composition of the membership group, which will change normal cost, and changing the total payroll, which will change the amortization requirement, since Minnesota amortizes most public pension plan unfunded actuarial accrued liabilities as a percentage of an assumed growing payroll. The most recent (7/1/2008) actuarial valuation results for MSRS-Correctional and the projected actuarial impact of the recommended changes estimated by the consulting actuary retained by the Minnesota State Retirement System (MSRS), Mercer, are as follows:

	2008 Valuation Results		Projected Impact of Recommendations	Resulting Actuarial Condition	
<u>Membership</u>					
Active Members		4,520	(1,478)		3,042
Service Retirees		1,293	---		1,293
Disabilitants		184	---		184
Survivors		123	---		123
Deferred Retirees		888	---		888
Nonvested Former Members		<u>548</u>	---		<u>548</u>
Total Membership		7,556	(1,478)		6,078
<u>Funded Status</u>					
Accrued Liability		\$760,363,000	\$15,000,000		\$775,363,000
Current Assets		<u>\$572,719,000</u>	---		<u>\$572,719,000</u>
Unfunded Accrued Liability		\$187,644,000	\$15,000,000		\$202,644,000
Funding Ratio	75.32%			73.86%	
<u>Financing Requirements</u>					
Covered Payroll		\$205,537,000	(\$71,936,000)		\$133,601,000
Benefits Payable		\$30,932,000	---		\$30,932,000
Normal Cost	18.24%	\$37,500,000	(1.10%)	17.14%	\$22,899,000
Administrative Expenses	<u>0.22%</u>	<u>\$452,000</u>	---	<u>0.22%</u>	<u>\$293,000</u>
Normal Cost & Expense	18.46%	\$37,952,000	(1.10%)	17.36%	\$23,192,000
Normal Cost & Expense	18.46%	\$37,952,000	(1.10%)	17.36%	\$23,192,000
Amortization	<u>5.20%</u>	<u>\$10,688,000</u>	<u>3.40%</u>	<u>8.60%</u>	<u>\$11,490,000</u>
Total Requirements	23.66%	\$48,640,000	2.30%	25.96%	\$34,682,000
Employee Contributions	7.00%	\$14,388,000		7.00%	\$9,352,000
Employer Contributions	10.10%	\$20,759,000		10.10%	\$13,494,000
Employer Add'l Cont.	0.00%	\$0		0.00%	\$0
Direct State Funding	0.00%	\$0		0.00%	\$0
Other Govt. Funding	0.00%	\$0		0.00%	\$0
Administrative Assessment	<u>0.00%</u>	<u>\$0</u>		<u>0.00%</u>	<u>\$0</u>
Total Contributions	17.10%	\$35,147,000		17.10%	\$22,846,000
Total Requirements	23.66%	\$48,640,000		25.96%	\$34,682,000
Total Contributions	<u>17.10%</u>	<u>\$35,147,000</u>		<u>17.10%</u>	<u>\$22,846,000</u>
Deficiency (Surplus)	6.56%	\$13,493,000		8.86%	\$11,836,000
Amortization Target Date	2038				
Actuary	Mercer				

MSRS did not supply comparable information on the likely impact of the membership change on MSRS-General, to which the former MSRS-Correctional Retirement Plan members will be transferred.

3. Appropriateness of Reducing the Retirement Plan Membership. The policy issue is the policy appropriateness of reducing the membership of the MSRS-Correctional Retirement Plan. The reduction of MSRS-Correctional Retirement Plan-covered membership positions essentially returns the plan to its original coverage group, which are the Department of Corrections and the Department of Human Services positions principally charged with institution security at the state's correctional facilities, the Minnesota Security Hospital, and the Minnesota Sex Offender Program. The intent expressed in the Governor's budget documents is to refocus the plan membership on security positions by eliminating the non-security positions from plan membership. As a quasi-public safety retirement plan, the structure of the benefit coverage of the plan generally replicates that of a police officer or firefighter retirement plan. To the extent that the plan membership does not closely resemble police officer and firefighter personnel and is not subject to the same or similar employment hazards and risks, plan members arguably may benefit inappropriately from enhanced benefits compared to those provided to general employees. For most MSRS-Correctional Retirement Plan-covered positions, plan membership eligibility largely has been a function of the extent of an employee's working time spent in direct contact or supervision of inmates or patients (at least 75 percent), without any qualitative evaluation of the danger inherent in the particular inmates involved. For instance, Department of Corrections employees who supervise inmates training to be pipefitters or boiler engineers may spend considerable portions of their employment time and duties with those presumably "model" inmates, but may not have as much inherent danger as a correctional officer who is responsible for maintaining order and discipline in a crowded cell hall or during mass inmate movements to or from the institution's dining halls, and both currently have MSRS-Correctional Retirement Plan coverage. Restricting the plan to the primary security personnel employed by the Department of Corrections and the Department of Human Services does concentrate the plan's coverage on the personnel with the broadest and deepest security duties. The refocusing of the plan's membership proposed by the Governor will eliminate the persistent demands that the Legislature has faced over time for inclusion of new personnel in the MSRS-Correctional Retirement Plan and will also eliminate the management abuses that reportedly sometimes have occurred with sham employment changes or demotions late in a career solely to gain MSRS-Correctional Retirement Plan membership upon reaching age 55 to gain entitlement for state-paid post-retirement health insurance coverage.
4. Appropriateness of Plan Membership Changes for Existing Employees. The policy issue is the appropriateness of applying the MSRS-Correctional Retirement Plan membership revisions proposed by the Governor to existing Department of Corrections and Department of Human Services employees. The change proposed to be imposed on existing MSRS-Correctional Retirement Plan members will be perceived by them as a benefit reduction and actually will work to provide them with a smaller and later retirement annuity. Combining the membership reduction with a 333 percent increase in the length of the vesting requirement of the MSRS-Correctional Retirement Plan is a very real benefit coverage diminution for current employees in non-security positions currently with less than ten years of service credit. The Minnesota Courts have given only very modest latitude to policymakers to revise pension benefit coverage if it causes any adverse impact on employees. If enacted, the proposed change will almost certainly become the subject of litigation over the latitude of the Legislature to affect retirement coverage by eliminating positions from retirement plan membership and by substantially increasing the length of service for vesting. The Commission should question the Minnesota Management and Budget Department or the Department of Corrections and the Department of Human Services representatives on the legal theory that the Executive Branch believes will be successful in defending the proposed changes in future litigation.
5. Consistency With Commission's Principles of Pension Policy. The policy issue is the extent to which the MSRS-Correctional Retirement Plan changes recommended by the Governor conform with the Principles of Pension Policy assembled by the Commission over the past 40 years. The substantial reduction in the membership of the MSRS-Correctional Retirement Plan affecting current plan members and the substantial increase in the vesting period for a retirement annuity from the MSRS-Correctional Retirement Plan also affecting current plan members appear to conflict with at least three portions of the Commission's assembled principles. The membership and vesting changes for new employees runs contrary to one of the primary purposes for having public employee retirement coverage, the assistance in the recruitment of new employees (Principle II.A.1.). The imposition of the membership and vesting changes on existing state employees is inconsistent with the primary purpose for a public pension plan in assisting the retention of existing employees (also Principle II.A.1.). The membership change indirectly conflicts with the goal of setting appropriate normal

retirement ages based on the employability limits of average employees (Principle II.C.4.). The two changes, applied to existing state employees, are clearly intended to produce a diminution in the ultimate benefits of a sizable portion of correctional employees, contrary to Principle II.C.22.

6. Appropriateness of Retirement Vesting Change to Gain Insurance Benefit Reform; Intrusion Into Collectively Bargained Benefits. The policy issue is the appropriateness of making a major retirement provision change in order to effect what is portrayed as a nonretirement insurance benefit reform and the appropriateness of legislation intruding into collectively bargained benefit packages. A major benefit of being included in the membership of the MSRS-Correctional Retirement Plan, beyond the particular retirement plan benefits of a greater benefit accrual rate and an earlier normal retirement age, is access to state-paid post-retirement health insurance coverage. According to prior testimony from the Minnesota Management and Budget Department, when the state-paid post-retirement health insurance benefit was bargained with the exclusive representatives of affected correctional employees, the vesting requirement for an MSRS-Correctional Retirement Plan retirement annuity was ten years and the drafters of that collective bargaining agreement apparently assumed that the ten-year vesting requirement would never change, consequently citing retirement annuity eligibility as an entitlement requirement rather than specifying a separate length of service vesting provision for the insurance benefit. Since the state has not been successful in comprehensively obtaining a separate ten-year vesting requirement for the state-paid post-retirement health insurance benefit, a change in the MSRS-Correctional Retirement Plan vesting requirement is being recommended to obtain the same and despite any adverse consequences the lengthening of the retirement plan vesting requirement may have for the retirement plan. Optimally, if the originally intended vesting period for the state-paid post-retirement health insurance benefit for correctional employees was ten years, correcting that flaw in the agreements would occur through direct collective bargaining rather than requesting that the Legislature intrude into the result of the collective bargaining process over state employment benefits.

Attachment A

Background Information on the Correctional State Employees Retirement Plan of the Minnesota State Retirement System

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 Retirement Plan) 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, the MSRS-Correctional Retirement Plan 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 the MSRS-Correctional Retirement Plan. 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 Retirement 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 Retirement 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 Retirement 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 Retirement 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 Retirement Plan membership.

5. 1980 Addition of MSRS-Correctional Retirement Plan Covered Position Administrative Certification Process. In 1980 (Laws 1980, Chapter 600, Sections 2 through 5), coverage by the MSRS-Correctional Retirement 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 Retirement 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 Retirement Plan member was transferred to the MSRS-Correctional Retirement 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 Retirement Plan coverage because the person was age 45 or older upon hiring were given the option to elect MSRS-Correctional Retirement 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 Retirement Plan Administrative Transfers. Before 1998, several transfers of retirement coverage to the MSRS-Correctional Retirement Plan 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 Retirement 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 Retirement 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 the MSRS-Correctional Retirement Plan were authorized to elect to transfer prior state service if that service would have been eligible for current MSRS-Correctional Retirement Plan coverage, with a deadline of December 31, 1997.
10. Post-1996 Administrative Transfers to the MSRS-Correctional Retirement 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 Retirement 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 the MSRS-Correctional Retirement Plan, 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 the MSRS-Correctional Retirement Plan. 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 the MSRS-Correctional Retirement Plan with the governing statutory provisions, indicated that there is a disparity between the MSRS-Correctional Retirement 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 Retirement 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 Retirement Plan) 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 MSRS-General to the MSRS Correctional Plan 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. 2008 MSRS-Correctional Retirement Plan Coverage Changes. In 2008 (Laws 2008, Chapter 349, Article 6, Sections 1 and 2), the positions “general maintenance worker lead” and “painter lead” were added to the positions eligible for Correctional Plan coverage providing the employee has at least 75 percent inmate or patient contact, with the painter lead position placed in the plan for prospective service only and with an eligible individual or individuals in the general maintenance worker lead position authorized to have the MSRS-Correctional Retirement Plan coverage back to December 1, 2007, if the individual elects that retroactive coverage and makes the contributions necessary to have that service transferred from MSRS-General to MSRS-Correctional.
19. Attraction of MSRS-Correctional Retirement Plan Membership and Transfer Demands. The attraction of the MSRS-Correctional Retirement 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 Retirement 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 Retirement 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 Retirement 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 Retirement Plan members are employees of the Department of Corrections and about 15 percent of MSRS-Correctional Retirement Plan members are employees of the Department of Human Services. The correctional facilities with the largest numbers of MSRS-Correctional Retirement 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 Retirement Plan Service Credit and Service Credit Purchases

1. Defined Benefit Plans. Most Minnesota public pension plans are defined benefit plans. In defined benefit plans, the pension benefit amount that is ultimately payable is predeterminable or fixed using a formula or comparable arrangement. The fixed element of the benefit amount leaves a variable element, which is the funding required to provide that benefit. The formula utilizes allowable service credit and salary credit in the calculation, averaging the salary amounts for the five successive years' average salary period that produces the highest amount for use as the base to which is applied a total percentage amount determined by assigning a percentage amount to each year of allowable service credit.
2. Historical Shift in Plan Types and to Salary-Based Plans. Minnesota's statewide retirement plans were not originally salary-related pension plans, with the predecessor to the Teachers Retirement Association (TRA) established in 1915 as a money purchase (defined contribution) plan, with the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General) established in 1929 as a set dollar amount (\$200 per month) plan, and with the General Employees Retirement Plan of the Public Employees Retirement Association (PERA-General) established in 1931 also as a set dollar amount (\$200 per month) plan. Conversion to salary-related pension plans occurred for MSRS-General and PERA-General in 1957, which was a recommendation of the initial interim predecessor to the Legislative Commission on Pensions and Retirement, and for TRA in 1969, which was a recommendation of the initial permanent predecessor to the Pension Commission. The first class city teacher retirement fund associations and Minneapolis Employees Retirement Fund (MERF) generally shifted to salary-related pension plans in the 1950s (the Duluth Teachers Retirement Fund Association (DTRFA) shifted in 1971).
3. Definition of Minnesota Defined Benefit Public Pension Plan Service Credit. Allowable service credit in Minnesota's statewide and major local defined benefit retirement plans generally includes many different service periods, which are:
 - a. Covered Current Service. Employment is a covered position with a covered employer for which member contributions have been deducted and transmitted to the retirement plan;
 - b. Historic Credit in Plan Records. Service credit as reflected in the records of the retirement plan that predates the plan's establishment or reformulation;
 - c. Military Service Leave. Periods of service in the U.S. Armed Forces during a leave of absence;
 - d. Temporary Disability Periods. Periods of leaves caused by a temporary disability;
 - e. Credit Reinstated by a Refund Repayment. Periods of service covered by a prior refund of member contributions which have been repaid subsequently;
 - f. Part-Time Employment. Periods where full service credit is granted for part-time employment;
 - g. Sabbatical Leaves and Other Leaves of Absence with Pay. Periods of an authorized leave of absence during which the member is paid a whole or a partial salary;
 - h. Extended Leaves of Absence Without Pay. Periods of an authorized leave of absence without pay;
 - i. Labor Union Employment or Elective Service. Periods of employment as an exclusive collective bargaining representative or as an elected official;
 - j. Parental or Family Leaves of Absence. Periods of leaves or breaks in service for parental or family reasons;
 - k. Strike Periods. Periods of a labor union strike; and
 - l. Out-of-State Teaching or Other Outside Service. Periods of teaching service, Peace Corps service, or VISTA service.
4. Purpose of Service Credit. Service credit in a Minnesota defined benefit retirement plan exists for three reasons, determining vesting rights, determining eligibility for an early normal retirement annuity, and determining the amount of a retirement annuity.

Vesting is the circumstance of possessing a non-forfeitable right to an eventual retirement annuity, even if covered employment is terminated before reaching retirement age. In virtually all Minnesota defined benefit retirement plans, the vesting period is three years of service credit, which need not be

consecutive periods of service and which may include service covered by more than one Minnesota defined benefit retirement plan.

Early normal retirement annuity eligibility in Minnesota defined benefit retirement plans generally means qualification for the "Rule of 85," where a member can retire with an unreduced retirement annuity when the sum of the person's age and service credit total at least 85, or for the Minneapolis Employees Retirement Fund (MERF), means qualification for the "30 and out" unreduced retirement annuity payable when a person has credit for at least 30 years of service credit.

Retirement annuity determination is the calculation of a member's defined benefit retirement annuity, using the plan's benefit accrual rate percentage (frequently 1.7 percent per year of service credit), multiplied by the member's service credit, and the total applied to the member's final average salary figure (highest five years' average salary).

Defined benefit retirement plans exist to provide a retirement annuity at the conclusion of an employee's normal working lifetime. Service credit allows for the retirement plan to bear its proportional share of the burden of the ultimate total retirement annuity amount.

5. Vesting Requirements. In 1915 (Laws 1915, Chapter 199, Section 9), when the predecessor of the Teachers Retirement Association (TRA), the Teachers Insurance Retirement Fund, was established, in 1919 (Laws 1919, Chapter 522, Section 7), when the predecessor to the current Minneapolis Employees Retirement Fund (MERF), the Minneapolis Municipal Employees Retirement Fund, was established, in 1929 (Laws 1929, Chapter 191, Section 11), when the predecessor of the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General), the State Employees Retirement Association, was established, and in 1931 (Laws 1931, Chapter 307, Section 11), when the General Employee Retirement Plan of the Public Employees Retirement Association (PERA-General) was established, the vesting requirement for a retirement annuity for all four retirement plans was 20 years. In 1931 (Laws 1931, Chapter 406, Section 9), when TRA replaced the defaulting Teachers Insurance and Retirement Fund, the vesting period was increased to 30 years of service or the attainment of age 55 with any length of service. In 1949 (Laws 1949, Chapter 644, Section 13), the State Employees Retirement Association vesting period was reduced to five years. In 1953, the MSRS-General vesting requirement was five years, the PERA-General vesting requirement was ten years, and the TRA vesting requirement was 30 years of service or the attainment of age 55. In 1957, based on the recommendations of the interim predecessor to the Legislative Commission on Pensions and Retirement, the vesting requirements were ten years of service for MSRS-General, PERA-General, and TRA. Cliff vesting (i.e. no right to any portion of a retirement annuity until the full vesting period service was credited) for the statewide retirement plans remained at ten years of service credit until 1987 (Laws 1987, Chapter 372, Article 9), when the vesting periods were reduced from ten years of service to five years of service. In 1987, the vesting period for the various statewide retirement plans and for the first class city teacher retirement fund associations was reduced from five years of service to three years of service (Laws 1989, Chapter 319, Article 13, Sections 5, 7, 12, 15, 16, 20, 22, 25, 27, 28, 31, 34, 37, 42, 45, 46, 49, 55, 56, 62, 64, 68, 70, 74, 76, 82, 83, and 89).

CORRECTIONS DEPT

Change Item: CERP Reduction

Fiscal Impact (\$000s)	FY 2010	FY 2011	FY 2012	FY 2013
General Fund				
Expenditures	\$(2,750)	\$(3,390)	\$(3,390)	\$(3,390)
Revenues	0	0	0	0
Other Fund				
Expenditures				
Revenues	0	0	0	0
Net Fiscal Impact	\$(2,750)	\$(3,390)	\$(3,390)	\$(3,390)

Recommendation

The Governor recommends the Department of Corrections (DOC) move non-security employees from the Corrections Early Retirement Plan (CERP), and place those employees into the state's general employees retirement plan. Non-security positions include all job classifications used by the DOC except Corrections Officer 1, Corrections Officer 2, Corrections Officer 3, Corrections Canine Officer, Corrections Lieutenant and Corrections Captain. Affected staff will immediately transfer to the general retirement plan and will not be eligible for paid medical insurance upon retirement.

Additionally, employees must accumulate at least ten years of continuous service in one or more job classifications covered by the CERP to become vested, and therefore eligible for state-paid health insurance upon retirement.

Background

The DOC currently employs 2,855 staff who are in the CERP, including 2,049 security staff and 806 non-security staff. Per M.S. 352.91, DOC employees in job classifications that routinely require at least 75% direct offender contact are placed into the CERP. The department's retirement contribution will be 11.1% (FY 2010) and 12.1% (FY 2011) of each employee's gross wage, compared to 4.75% (FY 2010) and 5.0% (FY 2011) for employees who belong to the general retirement plan. Employees are eligible to retire at age 55 with paid medical insurance until the retiree is eligible for Medicare, if certain conditions are met. The CERP provides a benefit that aids the department in recruiting and retaining quality employees. The plan began in 1973 and included coverage for correctional officers and special teachers, however the role of a special teacher has significantly changed over time and it is no longer considered a security position. Nurses were not provided coverage until 1996, and other job classifications were added beginning in 1997. Employees in security positions have the greatest potential for danger and are directly responsible for offender, staff, and public safety.

If non-security employees are converted from the CERP to the general retirement plan, the estimated savings for the department's annual retirement plan contributions is \$2.447 million in FY 2010 and \$2.784 million in FY 2011. Future costs will also be avoided, as the affected employees will not receive paid medical insurance upon retirement. Annual costs of approximately \$167,000 will be avoided if 16 non-security employees, who would have previously been eligible for state-paid medical insurance, retire each year.

Lastly, if the length of time to become vested increases from three years to ten years for retirees to be eligible for state-paid health insurance, future costs will be avoided. Annual costs of approximately \$136,000 will be avoided if 13 CERP employees retire each year that do not meet the ten-year requirement.

Estimated Savings (\$000s)

Fiscal Year	2010	2011
Retirement Plan Contributions	(\$2,447)	(\$2,784)
State-paid medical insurance		
- for non-security staff	(\$167)	(\$334)
- for security staff with less than 10 years in the CERP	(\$136)	(\$272)
Total	(\$2,750)	(\$3,390)

CORRECTIONS DEPT

Change Item CERP Reduction

Relationship to Base Budget

This change item represents a 0.61% reduction in the department's total general fund budget for the biennium.

Key Goals and Measures

Creating a respectful and diverse culture is a key goal related to this change item. Public safety is a key measure to be considered as recruitment and retention of qualified employees may be more difficult, however those concerns may be addressed with other strategies.

Statutory Change:

This change item will require a change to M.S. 352.91.

The provisions of this change item related to state-paid health insurance premiums for retirees will be subject to collective bargaining with AFSCME, MAPE, MMA, MNA, SRSEA and Commissioner's Plan representatives.

HUMAN SERVICES DEPT

Change Item MSOP/SOS Pension Reform

Fiscal Impact (\$000s)	FY 2010	FY 2011	FY 2012	FY 2013
General Fund				
Expenditures	\$(1,948)	\$(2,267)	\$(2,267)	\$(2,267)
Revenues	0	0	0	0
Other Fund				
Expenditures				
Revenues	0	0	0	0
Net Fiscal Impact	\$(1,948)	\$(2,267)	\$(2,267)	\$(2,267)

Recommendation

The Governor recommends that the Department of Human Services (DHS) move non-security employees from the Corrections Early Retirement Plan (CERP), and place those employees into the state's general employee's retirement plan. Non-security positions include all job classifications used by DHS except Security Counselor, Security Counselor Lead, Group Supervisor, and Group Supervisor Assistant in the Minnesota Security Hospital and the Minnesota Sex Offender Program. Affected staff will immediately transfer to the general retirement plan and will not be eligible for paid medical insurance upon retirement.

Additionally, employees must accumulate at least ten years of continuous service in one or more job classifications covered by the CERP to become vested, and therefore eligible for state-paid health insurance upon retirement.

Background

As presented in Figure 1.1 below, the DHS currently employs a total of 1,480 staff who are in the CERP.

Figure 1.1: Positions Affected

	METO	MSH	MSOP	TOTAL
Security	0	296	512	808
Non-Security	249	268	155	672
Total	249	564	667	1480

Of the 1,480 employees, 249 are employed at the Minnesota Extended Treatment Options (METO) in Cambridge, 667 are employed at the Minnesota Security Hospital (MSH) in St. Peter, and 564 are employed at the Minnesota Sex Offender Program (MSOP) in Moose Lake and St. Peter. In addition, 808 employees are security staff and 672 are non-security staff.

Per M.S. 352.91, DHS employees in job classifications that routinely require at least 75% of the employee's working time spent in the rehabilitation, treatment, custody, supervision, or direct contact with patients are placed into the CERP. For employees in the CERP, the department's retirement contribution will be 11.1% (FY 2010) and 12.1% (FY 2011) of each employee's gross wage, compared to 4.75% (FY 2010) and 5.0% (FY 2011) for employees who belong to the general retirement plan. CERP-eligible employees may retire at age 55 with paid medical insurance until the retiree is eligible for Medicare, if certain conditions are met. The CERP provides a benefit that aids the department in recruiting and retaining quality employees.

The CERP plan began in 1973 and included coverage for correctional officers and special teachers, however the role of a special teacher has significantly changed over time and is no longer considered a security position. Nurses were not provided coverage until 1996, and other job classifications were added beginning in 1997. Employees in security positions have the greatest potential for danger and are directly responsible for patient, staff, and public safety.

Proposal

Under this proposal the Department of Human Services will move non-security employees from the Corrections Early Retirement Plan (CERP) and place those employees into the state's general employee's retirement plan. Affected staff will immediately transfer to the general retirement plan and will not be eligible for paid medical

HUMAN SERVICES DEPT

Change Item: MSOP/SOS Pension Reform

insurance upon retirement as allowed for by the CERP. The proposal would also add a stipulation that requires employees in the CERP (security staff) to work at least ten consecutive years to be eligible for state-paid health insurance upon retirement.

Non-security positions include all job classifications used by the DHS except Security Counselor, Security Counselor Lead, Group Supervisor, and Group Supervisor Assistant in the Minnesota Security Hospital and the Minnesota Sex Offender Program.

As outlined in Figure 1.2, when non-security employees are converted from the CERP to the general retirement plan, the estimated savings for the department's annual retirement plan contributions is \$2.049 million in FY 2010 and \$2.291 million in FY 2011.

Figure 1.2: FY 2010 & 2011 Savings

	METO	MSH	MSOP	TOTAL
FY 2010 Savings	\$ 471,397	\$1,022,593	\$ 555,721	\$ 2,049,711
FY 2011 Savings	\$ 527,074	\$1,143,372	\$ 621,358	\$ 2,291,804
Total	\$ 998,471	\$2,165,965	\$1,177,079	\$ 4,341,515

Future costs will also be avoided, as the affected employees will not receive paid medical insurance upon retirement. As outlined in Figure 1.3, annual costs of approximately \$103,758 will be avoided if 10 non-security employees, who would have previously been eligible for state-paid medical insurance, retire each year.

Figure 1.3: Health Insurance for Retirees Cost Avoidance

	METO	MSH	MSOP	TOTAL
Average # of CERP Retirees each year in non-security positions	4	5	1	10
Costs Avoided Each Year	\$41,712	\$50,054	\$11,992	\$103,758

If a stipulation is added that requires employees in the CERP (security staff) to work at least ten consecutive years to be eligible for state-paid health insurance upon retirement, future costs will be avoided. As depicted in Figure 1.4 below, annual costs of approximately \$10,428 will be avoided if one CERP employee, who does not meet the ten-year requirement, retires each year.

Figure 1.4: Requiring a 10 Year Vesting Period

	METO	MSH	MSOP	TOTAL
Average # of CERP Retirees each year that have less than 10 years of continuous service	0	0	1	1
Costs Avoided Each Year	\$0	\$0	\$10,428	\$10,428

Relationship to Base Budget

This change item represents a 1% reduction in the MSOP total general fund budget and a 2% reduction in the MSH total general fund budget for the biennium.

Key Goals and Measures

Key goals for these programs include:

- ◆ *Our communities will be safe, friendly and caring.*
This goal is from Minnesota Milestones (<http://server.admin.state.mn.us/mm/goal.html>).
- ◆ *Develop effective and accountable mental health and chemical health systems.*

HUMAN SERVICES DEPT

Change Item: MSOP/SOS Pension Reform

This goal is from DHS' *Priority Plans* (<http://edocs.dhs.state.mn.us/lfservlet/legacy/DHS-4694-ENG>).

For additional DHS measures see: <http://www.departmentresults.state.mn.us/hs/index.html>

Statutory Change: M.S. 352.91.

10.1 under section 171.27. A handling charge may be imposed for each installment payment.
 10.2 Revenue from the handling charge is credited to the driver services operating account in
 10.3 the special revenue fund and is appropriated to the commissioner.

10.4 (g) Any person making installment payments under paragraph (f), whose driver's
 10.5 license subsequently expires, or is canceled, revoked, or suspended before payment of
 10.6 100 percent of the surcharge and fee, must pay the outstanding balance due for the initial
 10.7 reinstatement before the driver's license is subsequently reinstated. Upon payment of
 10.8 the outstanding balance due for the initial reinstatement, the person may pay any new
 10.9 surcharge and fee imposed under paragraph (b) in installment payments as provided
 10.10 under paragraph (f).

10.11 ARTICLE 3

10.12 CORRECTIONAL STATE EMPLOYEES RETIREMENT PLAN I

10.13 Section 1. Minnesota Statutes 2008, section 352.90, is amended to read:

10.14 352.90 POLICY.

10.15 It is the policy of the legislature to provide special retirement benefits for and special
 10.16 contributions by certain correctional employees who may be required to retire at an early
 10.17 age because they lose the mental or physical capacity required to maintain the safety,
 10.18 security, discipline, and custody of inmates at state correctional facilities ~~or~~, of patients at
 10.19 the Minnesota Security Hospital, or of patients in the Minnesota sex offender program, ~~or~~
 10.20 ~~of patients in the Minnesota extended treatment options program.~~

10.21 Sec. 2. Minnesota Statutes 2008, section 352.91, subdivision 1, is amended to read:

10.22 Subdivision 1. **Qualifying jobs.** "Covered correctional service" means service
 10.23 performed by a state employee, as defined in section 352.01, who is employed at a state
 10.24 correctional facility, the Minnesota Security Hospital, or the Minnesota sex offender
 10.25 program as:

- 10.26 (1) a corrections officer 1;
- 10.27 (2) a corrections officer 2;
- 10.28 (3) a corrections officer 3;
- 10.29 ~~(4) a corrections officer supervisor;~~
- 10.30 ~~(5)~~ (4) a corrections lieutenant;
- 10.31 ~~(6)~~ (5) a corrections captain;
- 10.32 ~~(7)~~ (6) a security counselor;
- 10.33 ~~(8)~~ (7) a security counselor lead; ~~or~~
- 10.34 ~~(9)~~ (8) a corrections canine officer;

11.1 (9) group supervisor; or

11.2 (10) group supervisor assistant.

11.3 Sec. 3. Minnesota Statutes 2008, section 352.91, subdivision 3h, is amended to read:

11.4 Subd. 3h. **Employment occupation name changes.** (a) If the occupational title of a
 11.5 state employee covered by the Minnesota correctional employees retirement plan changes
 11.6 from the applicable title listed in subdivision 1, ~~2, 2a, 3c, 3d, 3e, 3f, or 3g~~, qualification for
 11.7 coverage by the correctional state employees retirement plan continues until the July 1
 11.8 next following the title change if the commissioner of finance certifies to the executive
 11.9 director of the Minnesota State Retirement System and to the executive director of the
 11.10 Legislative Commission on Pensions and Retirement that the duties, requirements, and
 11.11 responsibilities of the new occupational title are substantially identical to the duties,
 11.12 requirements, and responsibilities of the prior occupational title.

11.13 (b) If the commissioner of finance does not certify a new occupational title under
 11.14 paragraph (a), eligibility for future correctional state employees retirement coverage
 11.15 terminates as of the start of the first payroll period next following the effective date of the
 11.16 occupational title change.

11.17 (c) For consideration by the Legislative Commission on Pensions and Retirement
 11.18 during the legislative session next following an occupational title change involving a state
 11.19 employee in covered correctional service, the commissioner of finance shall submit the
 11.20 applicable draft proposed legislation reflecting the occupational title change covered
 11.21 by this section.

11.22 Sec. 4. **REPEALER.**

11.23 Minnesota Statutes 2008, section 352.91, subdivisions 2, 2a, 3c, 3d, 3e, 3f, 3g, 3i,
 11.24 4a, 4b, and 5, are repealed.

11.25 Sec. 5. **EFFECTIVE DATE.**

11.26 Sections 1 to 4 are effective July 1, 2009.

11.27 **ARTICLE 4**

11.28 **CORRECTIONAL EMPLOYEES RETIREMENT PLAN II**

11.29 Section 1. Minnesota Statutes 2008, section 352.72, subdivision 1, is amended to read:

11.30 Subdivision 1. **Entitlement to annuity.** (a) Except as provided in paragraph (b), any
 11.31 person who has been an employee covered by a retirement system listed in paragraph ~~(b)~~

12.1 (c) is entitled when qualified to an annuity from each fund if total allowable service in all
 12.2 funds or in any two of these funds totals three or more years.

12.3 (b) If the combination of retirement plans includes the correctional state employees
 12.4 retirement plan of the Minnesota State Retirement System, no retirement annuity is
 12.5 payable from the correctional state employees retirement plan unless the person has credit
 12.6 for at least ten years of covered correctional service under section 352.91, although any
 12.7 covered correctional service may be used to establish eligibility for an annuity from
 12.8 another retirement plan and a service credit transfer under section 352.93, subdivision
 12.9 4a, may be elected.

12.10 (c) This section applies to the Minnesota State Retirement System, the Public
 12.11 Employees Retirement Association including the Public Employees Retirement
 12.12 Association police and fire fund, the Teachers Retirement Association, the State Patrol
 12.13 Retirement Association, or any other public employee retirement system in the state with
 12.14 a similar provision, except as noted in paragraph ~~(c)~~ (d).

12.15 ~~(c)~~ (d) This section does not apply to ~~other~~ funds providing benefits for police
 12.16 officers or firefighters under chapter 423A, 423B, or 424A.

12.17 ~~(d)~~ (e) No portion of the allowable service upon which the retirement annuity from
 12.18 one fund is based shall be again used in the computation for benefits from another fund.
 12.19 No refund may have been taken from any one of these funds since service entitling the
 12.20 employee to coverage under the system or the employee's membership in any of the
 12.21 associations last terminated. The annuity from each fund must be determined by the
 12.22 appropriate provisions of the law except that the requirement that a person must have at
 12.23 least three years allowable service in the respective system or association does not apply
 12.24 for the purposes of this section if the combined service in two or more of these funds
 12.25 equals three or more years.

12.26 Sec. 2. Minnesota Statutes 2008, section 352.93, subdivision 1, is amended to read:

12.27 Subdivision 1. **Basis of annuity; when to apply.** After separation from state
 12.28 service, an employee covered under section 352.91 who has reached age 55 years and
 12.29 has credit for at least ~~three~~ ten years of covered correctional service ~~or a combination~~
 12.30 ~~of covered correctional service and general employees state retirement plan service~~ is
 12.31 entitled upon application to a retirement annuity under this section, based only on covered
 12.32 correctional employees' service. Application may be made no earlier than 60 days before
 12.33 the date the employee is eligible to retire by reason of both age and service requirements.

12.34 Sec. 3. Minnesota Statutes 2008, section 352.93, subdivision 2a, is amended to read:

13.1 Subd. 2a. **Early retirement.** Any covered correctional employee who becomes at
13.2 least 50 years old and who has at least ~~three~~ ten years of ~~allowable~~ covered correctional
13.3 service is entitled upon application to a reduced retirement annuity equal to the annuity
13.4 calculated under subdivision 2, reduced by two-tenths of one percent for each month that
13.5 the correctional employee is under age 55 at the time of retirement.

13.6 Sec. 4. Minnesota Statutes 2008, section 352.93, subdivision 4, is amended to read:

13.7 Subd. 4. **Employee with regular and correctional service.** A former employee
13.8 who has both regular and correctional service shall, if the employee has at least ten years
13.9 of covered correctional service and is otherwise qualified, receive an annuity based on
13.10 both periods of service under applicable sections of law but no period of service shall be
13.11 used more than once in calculating the annuity.

13.12 Sec. 5. Minnesota Statutes 2008, section 352.93, is amended by adding a subdivision
13.13 to read:

13.14 Subd. 4a. **Service credit transfer and partial refund in certain instances.** An
13.15 employee covered under section 352.91 who has reached the age of 55 years and who has
13.16 credit for less than ten years of covered correctional service may, upon written application,
13.17 have that covered correctional service credited as allowable service credit in the general
13.18 state employees retirement plan and used to calculate a retirement annuity under sections
13.19 352.115 and 352.116, and receive, 30 days following retirement, a refund of that portion
13.20 of employee contributions during covered correctional service under section 352.92,
13.21 subdivision 1, that exceeds the employee contributions required under the general state
13.22 employees retirement plan under section 352.04, subdivision 2, for the same period, plus
13.23 annual compound interest on the partial refund amount from the date of each contribution
13.24 until the date of refund payment at the rate of six percent.

13.25 Sec. 6. Minnesota Statutes 2008, section 356.30, subdivision 1, is amended to read:

13.26 Subdivision 1. **Eligibility; computation of annuity.** (a) Notwithstanding any
13.27 provisions of the laws governing the retirement plans enumerated in subdivision 3, a
13.28 person who has met the qualifications of paragraph (b) may elect to receive a retirement
13.29 annuity from each enumerated retirement plan, other than the correctional state employees
13.30 retirement plan of the Minnesota State Retirement System, in which the person has at least
13.31 one-half year of allowable service, based on the allowable service in each plan, subject to
13.32 the provisions of paragraph (c).

- 14.1 (b) A person may receive, upon retirement, a retirement annuity from each
14.2 enumerated retirement plan, other than the correctional state employees retirement plan of
14.3 the Minnesota State Retirement System, in which the person has at least one-half year of
14.4 allowable service, and augmentation of a deferred annuity calculated at the appropriate
14.5 rate under the laws governing each public pension plan or fund named in subdivision 3,
14.6 based on the date of the person's initial entry into public employment from the date the
14.7 person terminated all public service if:
- 14.8 (1) the person has allowable service totaling an amount that allows the person to
14.9 receive an annuity in any two or more of the enumerated plans; and
- 14.10 (2) the person has not begun to receive an annuity from any enumerated plan or the
14.11 person has made application for benefits from each applicable plan and the effective
14.12 dates of the retirement annuity with each plan under which the person chooses to receive
14.13 an annuity are within a one-year period.
- 14.14 (c) The retirement annuity from each plan must be based upon the allowable service,
14.15 accrual rates, and average salary in the applicable plan except as further specified or
14.16 modified in the following clauses:
- 14.17 (1) the laws governing annuities must be the law in effect on the date of termination
14.18 from the last period of public service under a covered retirement plan with which the
14.19 person earned a minimum of one-half year of allowable service credit during that
14.20 employment;
- 14.21 (2) the "average salary" on which the annuity from each covered plan in which
14.22 the employee has credit in a formula plan must be based on the employee's highest five
14.23 successive years of covered salary during the entire service in covered plans;
- 14.24 (3) the accrual rates to be used by each plan must be those percentages prescribed by
14.25 each plan's formula as continued for the respective years of allowable service from one
14.26 plan to the next, recognizing all previous allowable service with the other covered plans;
- 14.27 (4) the allowable service in all the plans must be combined in determining eligibility
14.28 for and the application of each plan's provisions in respect to reduction in the annuity
14.29 amount for retirement prior to normal retirement age; ~~and~~
- 14.30 (5) the annuity amount payable for any allowable service under a nonformula plan
14.31 of a covered plan must not be affected, but such service and covered salary must be used
14.32 in the above calculation; and
- 14.33 (6) for a person who was a member of the correctional state employees retirement
14.34 plan, the person must have at least ten years of covered correctional service under section
14.35 352.91 in order to receive a retirement annuity from that plan, but may apply for a service
14.36 credit transfer and partial refund under section 352.93, subdivision 4a.

15.1 (d) This section does not apply to any person whose final termination from the last
15.2 public service under a covered plan was before May 1, 1975.

15.3 (e) For the purpose of computing annuities under this section, the accrual rates
15.4 used by any covered plan, except the public employees police and fire plan, the judges
15.5 retirement fund, and the State Patrol retirement plan, must not exceed the percent specified
15.6 in section 356.315, subdivision 4, per year of service for any year of service or fraction
15.7 thereof. The formula percentage used by the judges retirement fund must not exceed the
15.8 percentage rate specified in section 356.315, subdivision 8, per year of service for any
15.9 year of service or fraction thereof. The accrual rate used by the public employees police
15.10 and fire plan and the State Patrol retirement plan must not exceed the percentage rate
15.11 specified in section 356.315, subdivision 6, per year of service for any year of service or
15.12 fraction thereof. The accrual rate or rates used by the legislators retirement plan must not
15.13 exceed 2.5 percent, but this limit does not apply to the adjustment provided under section
15.14 3A.02, subdivision 1, paragraph (c).

15.15 (f) Any period of time for which a person has credit in more than one of the covered
15.16 plans must be used only once for the purpose of determining total allowable service.

15.17 (g) If the period of duplicated service credit is more than one-half year, or the person
15.18 has credit for more than one-half year, with each of the plans, each plan must apply its
15.19 formula to a prorated service credit for the period of duplicated service based on a fraction
15.20 of the salary on which deductions were paid to that fund for the period divided by the total
15.21 salary on which deductions were paid to all plans for the period.

15.22 (h) If the period of duplicated service credit is less than one-half year, or when
15.23 added to other service credit with that plan is less than one-half year, the service credit
15.24 must be ignored and a refund of contributions made to the person in accord with that
15.25 plan's refund provisions.

15.26 Sec. 7. **EFFECTIVE DATE.**

15.27 Sections 1 to 6 are effective July 1, 2009.

APPENDIX
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